

[amending this section and sections 41743, 44302, 44303, 47107, 47115, 47141, and 49108 of this title and provisions set out as notes under sections 41731 and 47109 of this title] shall take effect on October 1, 2009.”

Pub. L. 111-12, §5(j), Mar. 30, 2009, 123 Stat. 1458, provided that: “The amendments made by this section [amending this section and sections 44302, 44303, 47107, 47115, 47141, and 49108 of this title and provisions set out as a note under section 47109 of this title] shall take effect on April 1, 2009.”

EFFECTIVE DATE OF 2008 AMENDMENT

Pub. L. 110-330, §5(l), Sept. 30, 2008, 122 Stat. 3719, provided that: “The amendments made by this section [amending this section, sections 41743, 44302, 44303, 47107, 47115, 47141, and 49108 of this title, and provisions set out as notes under sections 41731 and 47109 of this title] shall take effect on October 1, 2008.”

Amendment by Pub. L. 110-253 effective July 1, 2008, see section 3(d) of Pub. L. 110-253, set out as a note under section 9502 of Title 26, Internal Revenue Code.

EFFECTIVE DATE OF 2003 AMENDMENT

Amendment by Pub. L. 108-176 applicable only to fiscal years beginning after Sept. 30, 2003, except as otherwise specifically provided, see section 3 of Pub. L. 108-176, set out as a note under section 106 of this title.

EFFECTIVE DATE OF 2000 AMENDMENT

Amendment by Pub. L. 106-181 applicable only to fiscal years beginning after Sept. 30, 1999, see section 3 of Pub. L. 106-181, set out as a note under section 106 of this title.

EFFECTIVE DATE OF 1996 AMENDMENT

Except as otherwise specifically provided, amendment by Pub. L. 104-264 applicable only to fiscal years beginning after Sept. 30, 1996, and not to be construed as affecting funds made available for a fiscal year ending before Oct. 1, 1996, see section 3 of Pub. L. 104-264, set out as a note under section 106 of this title.

GUIDANCE

Pub. L. 108-176, title I, §121(d), Dec. 12, 2003, 117 Stat. 2500, provided that: “The Secretary, in consultation with the Administrator of the Environmental Protection Agency, shall issue guidance determining eligibility of projects, and how benefits to air quality must be demonstrated, under the amendments made by this section [amending this section].”

ELIGIBILITY OF AIRPORT GROUND ACCESS TRANSPORTATION PROJECTS

Pub. L. 108-176, title I, §123(e), Dec. 12, 2003, 117 Stat. 2502, provided that: “Not later than 60 days after the enactment of this Act [Dec. 12, 2003], the Administrator of the Federal Aviation Administration shall publish in the Federal Register the current policy of the Administration, consistent with current law, with respect to the eligibility of airport ground access transportation projects for the use of passenger facility fees under section 40117 of title 49, United States Code.”

COMPETITION PLANS

Pub. L. 106-181, title I, §155(a), Apr. 5, 2000, 114 Stat. 88, provided that: “The Congress makes the following findings:

“(1) Major airports must be available on a reasonable basis to all air carriers wishing to serve those airports.

“(2) 15 large hub airports today are each dominated by one air carrier, with each such carrier controlling more than 50 percent of the traffic at the hub.

“(3) The General Accounting Office [now Government Accountability Office] has found that such levels of concentration lead to higher air fares.

“(4) The United States Government must take every step necessary to reduce those levels of concentration.

“(5) Consistent with air safety, spending at these airports must be directed at providing opportunities for carriers wishing to serve such facilities on a commercially viable basis.”

LIMITATION ON STATUTORY CONSTRUCTION OF SUBSECTION (e)(2)(D)

Pub. L. 103-305, title II, §204(a)(2), Aug. 23, 1994, 108 Stat. 1583, provided that: “The amendment made by paragraph (1) [amending this section] shall not be construed as requiring any person to refund any fee paid before the date of the enactment of this Act [Aug. 23, 1994].”

§ 40118. Government-financed air transportation

(a) **TRANSPORTATION BY AIR CARRIERS HOLDING CERTIFICATES.**—A department, agency, or instrumentality of the United States Government shall take necessary steps to ensure that the transportation of passengers and property by air is provided by an air carrier holding a certificate under section 41102 of this title if—

(1) the department, agency, or instrumentality—

(A) obtains the transportation for itself or in carrying out an arrangement under which payment is made by the Government or payment is made from amounts provided for the use of the Government; or

(B) provides the transportation to or for a foreign country or international or other organization without reimbursement;

(2) the transportation is authorized by the certificate or by regulation or exemption of the Secretary of Transportation; and

(3) the air carrier is—

(A) available, if the transportation is between a place in the United States and a place outside the United States; or

(B) reasonably available, if the transportation is between 2 places outside the United States.

(b) **TRANSPORTATION BY FOREIGN AIR CARRIERS.**—This section does not preclude the transportation of passengers and property by a foreign air carrier if the transportation is provided under a bilateral or multilateral air transportation agreement to which the Government and the government of a foreign country are parties if the agreement—

(1) is consistent with the goals for international aviation policy of section 40101(e) of this title; and

(2) provides for the exchange of rights or benefits of similar magnitude.

(c) **PROOF.**—The Administrator of General Services shall prescribe regulations under which agencies may allow the expenditure of an appropriation for transportation in violation of this section only when satisfactory proof is presented showing the necessity for the transportation.

(d) **CERTAIN TRANSPORTATION BY AIR OUTSIDE THE UNITED STATES.**—Notwithstanding subsections (a) and (c) of this section, any amount appropriated to the Secretary of State or the Administrator of the Agency for International Development may be used to pay for the transportation of an officer or employee of the Department of State or one of those agencies, a dependent of the officer or employee, and accom-

panying baggage, by a foreign air carrier when the transportation is between 2 places outside the United States.

(e) RELATIONSHIP TO OTHER LAWS.—This section does not affect the application of the anti-discrimination provisions of this part.

(f) PROHIBITION OF CERTIFICATION OR CONTRACT CLAUSE.—(1) No certification by a contractor, and no contract clause, may be required in the case of a contract for the transportation of commercial items in order to implement a requirement in this section.

(2) In paragraph (1), the term “commercial item” has the meaning given such term in section 103 of title 41, except that it shall not include a contract for the transportation by air of passengers.

(Pub. L. 103-272, §1(e), July 5, 1994, 108 Stat. 1116; Pub. L. 103-355, title VIII, §8301(h), Oct. 13, 1994, 108 Stat. 3398; Pub. L. 104-287, §5(68), Oct. 11, 1996, 110 Stat. 3395; Pub. L. 104-316, title I, §127(d), Oct. 19, 1996, 110 Stat. 3840; Pub. L. 105-277, div. G, subdiv. A, title XII, §1225(h), title XIII, §1335(p), title XIV, §1422(b)(6), Oct. 21, 1998, 112 Stat. 2681-775, 2681-789, 2681-793; Pub. L. 108-176, title VIII, §806, Dec. 12, 2003, 117 Stat. 2588; Pub. L. 111-350, §5(o)(8), Jan. 4, 2011, 124 Stat. 3854.)

HISTORICAL AND REVISION NOTES
PUB. L. 103-272

Revised Section	Source (U.S. Code)	Source (Statutes at Large)
40118(a)	49 App.:1517(a), (b).	Aug. 23, 1958, Pub. L. 85-726, 72 Stat. 731, §1117; added Jan. 3, 1975, Pub. L. 93-623, §5(a), 88 Stat. 2104; re-stated Feb. 15, 1980, Pub. L. 96-192, §21, 94 Stat. 43.
	49 App.:1551(b)(1)(E).	Aug. 23, 1958, Pub. L. 85-726, 72 Stat. 731, §1601(b)(1)(E); added Oct. 4, 1984, Pub. L. 98-443, §3(e), 98 Stat. 1704.
40118(b)	49 App.:1517(c).	
40118(c)	49 App.:1517(d) (1st sentence).	
40118(d)	49 App.:1518.	Oct. 7, 1978, Pub. L. 95-426, §706, 92 Stat. 992.
40118(e)	49 App.:1517(d) (last sentence).	

In this section, the word “passengers” is substituted for “persons” for consistency in the revised title. The words “(and their personal effects)” are omitted as being included in “property”.

In subsection (a), before clause (1), the words “Except as provided in subsection (c) of this section” are omitted as surplus. The words “department, agency, or instrumentality” are substituted for “agency” for consistency in the revised title and with other titles of the United States Code. The words “or agencies” are omitted because of 1:1. In clause (1), before subclause (A), the words “executive” and “other” are omitted as surplus. In subclause (A), the words “procure, contract for, or otherwise” are omitted as surplus. The words “for itself or in carrying out an arrangement under which payment is made by the Government or payment is made from amounts provided for the use of the Government” are substituted for “in furtherance of the purposes or pursuant to the terms of any contract, agreement, or other special arrangement made or entered into under which payment is made by the United States or payment is made from funds appropriated, owned, controlled, granted, or conditionally granted or utilized by or otherwise” for clarity and to eliminate unnecessary words. In subclause (B), the word “country” is substituted for “nation” for consistency in the revised title and with other titles of the Code. The words “international or other organization” are sub-

stituted for “international agency, or other organization, of whatever nationality” to eliminate unnecessary words. The words “provisions for” are omitted as surplus.

In subsection (b), before clause (1), the words “government of a foreign country” are substituted for “foreign government” for consistency in the revised title and with other titles of the Code. The words “or governments” are omitted because of 1:1.

In subsection (c), the words “for payment for personnel or cargo transportation” are omitted as surplus.

In subsection (d), the words “the limitations established by” are omitted as surplus. The words “after October 7, 1978” are omitted as executed. The words “Secretary of State” are substituted for “Department of State” because of 22:2651. The words “Director of the United States Information Agency” are substituted for “International Communication Agency” in section 706 of the Act of October 7, 1978 (Public Law 95-426, 92 Stat. 992), because of section 2 of Reorganization Plan No. 2 of 1977 (eff. July 1, 1978, 91 Stat. 1636) and section 303(b) of the United States Information Agency Authorization Act, Fiscal Year 1982 and 1983 (Public Law 97-241, 96 Stat. 291). The words “Director of the United States International Development Cooperation Agency” are substituted for “Agency for International Development (or any successor agency)” in section 706 because of section 6(a)(3) of Reorganization Plan No. 2 of 1979 (eff. October 1, 1979, 93 Stat. 1379). The words “a foreign air carrier” are substituted for “air carriers which do not hold certificates under section 1371 of this Appendix” for clarity. See H. Conf. Rept. No. 95-1535, 95th Cong., 2d Sess., p. 45 (1978).

In subsection (e), the word “affect” is substituted for “prevent” for clarity. The words “to such traffic” are omitted as surplus.

PUB. L. 104-287, §5(68)(A)

This amends the catchline for 49:40118(d) to make a clarifying amendment.

PUB. L. 104-287, §5(68)(B)

This amends 49:40118(f)(1) to make a clarifying amendment.

AMENDMENTS

2011—Subsec. (f)(2). Pub. L. 111-350 substituted “section 103 of title 41” for “section 4(12) of the Office of Federal Procurement Policy Act (41 U.S.C. 403(12))”.

2003—Subsec. (f)(2). Pub. L. 108-176 inserted “, except that it shall not include a contract for the transportation by air of passengers” before period at end.

1998—Subsec. (d). Pub. L. 105-277, §1422(b)(6), substituted “or the Administrator of the Agency for International Development” for “the Director of the United States International Development Cooperation Agency”.

Pub. L. 105-277, §1335(p), struck out “, the Director of the United States Information Agency,” after “Secretary of State”.

Pub. L. 105-277, §1225(h), struck out “, or the Director of the Arms Control and Disarmament Agency” before “may be used to pay”.

1996—Subsec. (c). Pub. L. 104-316 substituted “Administrator of General Services shall prescribe regulations under which agencies may” for “Comptroller General shall”.

Subsec. (d). Pub. L. 104-287, §5(68)(A), substituted “CERTAIN TRANSPORTATION BY AIR OUTSIDE THE UNITED STATES” for “TRANSPORTATION BY FOREIGN AIR CARRIERS” in heading.

Subsec. (f). Pub. L. 104-287, §5(68)(B), inserted heading.

1994—Subsec. (f). Pub. L. 103-355 added subsec. (f).

EFFECTIVE DATE OF 1994 AMENDMENT

For effective date and applicability of amendment by Pub. L. 103-355, see section 10001 of Pub. L. 103-355, set out as a note under section 2302 of Title 10, Armed Forces.

EFFECTIVE DATE OF 2003 AMENDMENT

Amendment by Pub. L. 108-176 applicable only to fiscal years beginning after Sept. 30, 2003, except as otherwise specifically provided, see section 3 of Pub. L. 108-176, set out as a note under section 106 of this title.

EFFECTIVE DATE OF 1998 AMENDMENT

Amendment by section 1225(h) of Pub. L. 105-277 effective on earlier of Apr. 1, 1999, or date of abolition of the United States Arms Control and Disarmament Agency pursuant to reorganization plan described in section 6601 of Title 22, Foreign Relations and Intercourse, see section 1201 of Pub. L. 105-277, set out as an Effective Date note under section 6511 of Title 22.

Amendment by section 1335(p) of Pub. L. 105-277 effective on earlier of Oct. 1, 1999, or date of abolition of the United States Information Agency pursuant to reorganization plan described in section 6601 of Title 22, Foreign Relations and Intercourse, see section 1301 of Pub. L. 105-277, set out as an Effective Date note under section 6531 of Title 22.

Amendment by section 1422(b)(6) of Pub. L. 105-277 effective on earlier of Apr. 1, 1999, or date of abolition of the United States International Development Cooperation Agency pursuant to reorganization plan described in section 6601 of Title 22, Foreign Relations and Intercourse, see section 1401 of Pub. L. 105-277, set out as an Effective Date note under section 6561 of Title 22.

EFFECTIVE DATE OF 1994 AMENDMENT

For effective date and applicability of amendment by Pub. L. 103-355, see section 10001 of Pub. L. 103-355, set out as a note under section 251 of Title 41, Public Contracts.

§ 40119. Security and research and development activities

(a) GENERAL REQUIREMENTS.—The Under Secretary of Transportation for Security and the Administrator of the Federal Aviation Administration each shall conduct research (including behavioral research) and development activities appropriate to develop, modify, test, and evaluate a system, procedure, facility, or device to protect passengers and property against acts of criminal violence, aircraft piracy, and terrorism and to ensure security.

(b) DISCLOSURE.—(1) Notwithstanding section 552 of title 5 and the establishment of a Department of Homeland Security, the Secretary of Transportation shall prescribe regulations prohibiting disclosure of information obtained or developed in ensuring security under this title if the Secretary of Transportation decides disclosing the information would—

- (A) be an unwarranted invasion of personal privacy;
- (B) reveal a trade secret or privileged or confidential commercial or financial information; or
- (C) be detrimental to transportation safety.

(2) Paragraph (1) of this subsection does not authorize information to be withheld from a committee of Congress authorized to have the information.

(3) Nothing in paragraph (1) shall be construed to authorize the designation of information as sensitive security information (as defined in section 15.5 of title 49, Code of Federal Regulations)—

- (A) to conceal a violation of law, inefficiency, or administrative error;
- (B) to prevent embarrassment to a person, organization, or agency;

(C) to restrain competition; or

(D) to prevent or delay the release of information that does not require protection in the interest of transportation security, including basic scientific research information not clearly related to transportation security.

(4) Section 552a of title 5 shall not apply to disclosures that the Administrator may make from the systems of records of the Administration to any Federal law enforcement, intelligence, protective service, immigration, or national security official in order to assist the official receiving the information in the performance of official duties.

(c) TRANSFERS OF DUTIES AND POWERS PROHIBITED.—Except as otherwise provided by law, the Under Secretary may not transfer a duty or power under this section to another department, agency, or instrumentality of the United States Government.

(Pub. L. 103-272, §1(e), July 5, 1994, 108 Stat. 1117; Pub. L. 107-71, title I, §101(e), Nov. 19, 2001, 115 Stat. 603; Pub. L. 107-296, title XVI, §1601(a), Nov. 25, 2002, 116 Stat. 2312; Pub. L. 111-83, title V, §561(c)(2), Oct. 28, 2009, 123 Stat. 2182; Pub. L. 112-95, title VIII, §801, Feb. 14, 2012, 126 Stat. 118.)

HISTORICAL AND REVISION NOTES

Revised Section	Source (U.S. Code)	Source (Statutes at Large)
40119(a)	49 App.:1357(d)(1).	Aug. 23, 1958, Pub. L. 85-726, 72 Stat. 731, §316(d)(1), (e)(1); added Aug. 5, 1974, Pub. L. 93-366, §202, 88 Stat. 417.
40119(b)	49 App.:1357(d)(2).	Aug. 23, 1958, Pub. L. 85-726, 72 Stat. 731, §316(d)(2); added Aug. 5, 1974, Pub. L. 93-366, §202, 88 Stat. 417; Nov. 5, 1990, Pub. L. 101-508, §9121, 104 Stat. 1388-370.
40119(c)	49 App.:1357(e)(1).	

In this section, the word “Administrator” in section 316(d) and (e) of the Federal Aviation Act of 1958 (Public Law 85-726, 72 Stat. 731) is retained on authority of 49:106(g).

In subsection (a), the words “as he may deem” and “aboard aircraft in air transportation or intrastate air transportation” are omitted as surplus.

In subsection (b)(1), before clause (A), the words “relating to freedom of information”, “as he may deem necessary”, and “in the conduct of research and development activities” are omitted as surplus. In clause (A), the words “(including, but not limited to, information contained in any personnel, medical, or similar file)” are omitted as surplus. In clause (B), the words “obtained from any person” are omitted as surplus. In clause (C), the word “traveling” is omitted as surplus.

In subsection (b)(2), the word “duly” is omitted as surplus. The words “to have the information” are added for clarity.

AMENDMENTS

2012—Subsec. (b)(4). Pub. L. 112-95 added par. (4).

2009—Subsec. (b)(3). Pub. L. 111-83 added par. (3).

2002—Subsec. (a). Pub. L. 107-296, §1601(a)(1), inserted “and the Administrator of the Federal Aviation Administration each” after “for Security” and substituted “criminal violence, aircraft piracy, and terrorism and to ensure security” for “criminal violence and aircraft piracy”.

Subsec. (b)(1). Pub. L. 107-296, §1601(a)(2)(A), (B), in introductory provisions, substituted “and the establishment of a Department of Homeland Security, the