

## HISTORICAL AND REVISION NOTES—CONTINUED

<i>Revised Section</i>	<i>Source (U.S. Code)</i>	<i>Source (Statutes at Large)</i>
44717(b) .....	49 App.:1421 (note).	Oct. 28, 1991, Pub. L. 102-143, § 402(b)(2), (3), 105 Stat. 951.
44717(c) .....	49 App.:1421 (note).	Oct. 28, 1991, Pub. L. 102-143, § 403, 105 Stat. 952.
44717(d) .....	49 App.:1421 (note).	Oct. 28, 1991, Pub. L. 102-143, § 404, 105 Stat. 952.

In subsections (a) and (c), before clause (1), the words “Not later than 180 days after the date of the enactment of this title” are omitted as obsolete.

In subsection (a), before clause (1), the text of section 405 of the Department of Transportation and Related Agencies Appropriations Act, 1992 (Public Law 102-143, 105 Stat. 952) is omitted as surplus because the complete name of the Administrator of the Federal Aviation Administration is used the first time the term appears in a section. The word “regulations” is substituted for “rule” because the terms are synonymous. In clauses (2)–(4), the words “required by the rule” are omitted as surplus. In clause (2), the words “structure, skin, and other” are omitted as surplus. In clause (3), the words “inspection, maintenance, and other” are omitted as surplus.

In subsection (c)(1), the word “Administrator” is substituted for “Federal Aviation Administration” for consistency in the revised title.

In subsection (d)(1), before clause (A), the words “governments of foreign countries” are substituted for “foreign governments” for consistency in the revised title and with other titles of the United States Code.

#### § 44718. Structures interfering with air commerce or national security

(a) NOTICE.—By regulation or by order when necessary, the Secretary of Transportation shall require a person to give adequate public notice, in the form and way the Secretary prescribes, of the construction, alteration, establishment, or expansion, or the proposed construction, alteration, establishment, or expansion, of a structure or sanitary landfill when the notice will promote—

(1) safety in air commerce;

(2) the efficient use and preservation of the navigable airspace and of airport traffic capacity at public-use airports; or

(3) the interests of national security, as determined by the Secretary of Defense.

(b) STUDIES.—

(1) IN GENERAL.—Under regulations prescribed by the Secretary, if the Secretary decides that constructing or altering a structure may result in an obstruction of the navigable airspace, an interference with air or space navigation facilities and equipment or the navigable airspace, or, after consultation with the Secretary of Defense, an adverse impact on military operations and readiness, the Secretary of Transportation shall conduct an aeronautical study to decide the extent of any adverse impact on the safe and efficient use of the airspace, facilities, or equipment. In conducting the study, the Secretary shall—

(A) consider factors relevant to the efficient and effective use of the navigable airspace, including—

(i) the impact on arrival, departure, and en route procedures for aircraft operating under visual flight rules;

(ii) the impact on arrival, departure, and en route procedures for aircraft operating under instrument flight rules;

(iii) the impact on existing public-use airports and aeronautical facilities;

(iv) the impact on planned public-use airports and aeronautical facilities;

(v) the cumulative impact resulting from the proposed construction or alteration of a structure when combined with the impact of other existing or proposed structures;

(vi) the impact on launch and reentry for launch and reentry vehicles arriving or departing from a launch site or reentry site licensed by the Secretary of Transportation; and

(vii) other factors relevant to the efficient and effective use of navigable airspace; and

(B) include the finding made by the Secretary of Defense under subsection (f).

(2) REPORT.—On completing the study, the Secretary of Transportation shall issue a report disclosing the extent of the—

(A) adverse impact on the safe and efficient use of the navigable airspace that the Secretary finds will result from constructing or altering the structure; and

(B) unacceptable risk to the national security of the United States, as determined by the Secretary of Defense under subsection (f).

(3) SEVERABILITY.—A determination by the Secretary of Transportation on hazard to air navigation under this section shall remain independent of a determination of unacceptable risk to the national security of the United States by the Secretary of Defense under subsection (f).

(c) BROADCAST APPLICATIONS AND TOWER STUDIES.—In carrying out laws related to a broadcast application and conducting an aeronautical study related to broadcast towers, the Administrator of the Federal Aviation Administration and the Federal Communications Commission shall take action necessary to coordinate efficiently—

(1) the receipt and consideration of, and action on, the application; and

(2) the completion of any associated aeronautical study.

(d) LIMITATION ON CONSTRUCTION OF LANDFILLS.—

(1) IN GENERAL.—No person shall construct or establish a municipal solid waste landfill (as defined in section 258.2 of title 40, Code of Federal Regulations, as in effect on the date of the enactment of this subsection) that receives putrescible waste (as defined in section 257.3-8 of such title) within 6 miles of a public airport that has received grants under chapter 471 and is primarily served by general aviation aircraft and regularly scheduled flights of aircraft designed for 60 passengers or less unless the State aviation agency of the State in which the airport is located requests that the Administrator of the Federal Aviation Administration exempt the landfill from the application of this subsection and the Administrator determines that such exemption would have no adverse impact on aviation safety.

(2) LIMITATION ON APPLICABILITY.—Paragraph (1) shall not apply in the State of Alaska and shall not apply to the construction, establishment, expansion, or modification of, or to any other activity undertaken with respect to, a municipal solid waste landfill if the construction or establishment of the landfill was commenced on or before the date of the enactment of this subsection.

(e) REVIEW OF AERONAUTICAL STUDIES.—The Administrator of the Federal Aviation Administration shall develop procedures to allow the Department of Defense and the Department of Homeland Security to review and comment on an aeronautical study conducted pursuant to subsection (b) prior to the completion of the study.

(f) NATIONAL SECURITY FINDING.—As part of an aeronautical study conducted under subsection (b) and in accordance with section 183a(e) of title 10, the Secretary of Defense shall—

(1) make a finding on whether the construction, alteration, establishment, or expansion of a structure or sanitary landfill included in the study would result in an unacceptable risk to the national security of the United States; and

(2) transmit the finding to the Secretary of Transportation for inclusion in the report required under subsection (b)(2).

(g) SPECIAL RULE FOR IDENTIFIED GEOGRAPHIC AREAS.—In the case of a proposed structure to be located within a geographic area identified under section 183a(d)(2)(B) of title 10, the Secretary of Transportation may not issue a determination pursuant to this section until the Secretary of Defense issues a finding under section 183a(e) of title 10, the Secretary of Defense advises the Secretary of Transportation that no finding under section 183a(e) of title 10 will be forthcoming, or 180 days have lapsed since the project was filed with the Secretary of Transportation pursuant to this section, whichever occurs first.

(h) DEFINITIONS.—In this section, the following definitions apply:

(1) ADVERSE IMPACT ON MILITARY OPERATIONS AND READINESS.—The term “adverse impact on military operations and readiness” has the meaning given the term in section 183a(h)(1) of title 10.

(2) UNACCEPTABLE RISK TO THE NATIONAL SECURITY OF THE UNITED STATES.—The term “unacceptable risk to the national security of the United States” has the meaning given the term in section 183a(h)(7)<sup>1</sup> of title 10.

(Pub. L. 103–272, §1(e), July 5, 1994, 108 Stat. 1200; Pub. L. 104–264, title XII, §1220(a), Oct. 9, 1996, 110 Stat. 3286; Pub. L. 106–181, title V, §503(b), Apr. 5, 2000, 114 Stat. 133; Pub. L. 112–81, div. A, title III, §332, Dec. 31, 2011, 125 Stat. 1369; Pub. L. 114–248, §1(a), Nov. 28, 2016, 130 Stat. 998; Pub. L. 114–328, div. A, title III, §341(a)(1)–(4)(A), Dec. 23, 2016, 130 Stat. 2079–2081; Pub. L. 115–91, div. A, title III, §311(b)(2), (3), (e), Dec. 12, 2017, 131 Stat. 1347, 1348; Pub. L. 115–232, div. A, title X, §1081(e)(2), Aug. 13, 2018, 132 Stat. 1986; Pub. L. 115–254, div. B, title V, §539(h), Oct. 5, 2018, 132 Stat. 3371.)

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

HISTORICAL AND REVISION NOTES

Revised Section	Source (U.S. Code)	Source (Statutes at Large)
44718(a) .....	49 App.:1501(a).	Aug. 23, 1958, Pub. L. 85–726, §1101, 72 Stat. 797; re-stated Dec. 30, 1987, Pub. L. 100–223, §206 (less (b)), 101 Stat. 1521; Oct. 31, 1992, Pub. L. 102–581, §203(a), 106 Stat. 4890.
44718(b) .....	49 App.:1501(b).	
44718(c) .....	49 App.:1501(c).	

In subsection (a), before clause (1), the words “(hereinafter in this section referred to as the ‘Secretary’)” and “where necessary” are omitted as surplus.

In subsection (b)(1), before clause (A), the word “thoroughly” is omitted as surplus.

REFERENCES IN TEXT

The date of the enactment of this subsection, referred to in subsec. (d), probably means the date of enactment of Pub. L. 106–181, which amended subsec. (d) generally, and which was approved Apr. 5, 2000.

Section 183a(h)(7) of title 10, referred to in subsec. (h)(2), was redesignated as section 183a(h)(9) of title 10 by Pub. L. 116–92, div. A, title III, §371(5)(A), Dec. 20, 2019, 133 Stat. 1329.

AMENDMENTS

2018—Subsec. (b)(1). Pub. L. 115–254, §539(h)(1), substituted “air or space navigation facilities and equipment” for “air navigation facilities and equipment” in introductory provisions.

Subsec. (b)(1)(A)(vi), (vii). Pub. L. 115–254, §539(h)(2), added cl. (vi) and redesignated former cl. (vi) as (vii).

Subsec. (h)(1). Pub. L. 115–232, §1081(e)(2)(A), substituted “section 183a(h)(1) of title 10” for “section 183a(g) of title 10”.

Subsec. (h)(2). Pub. L. 115–232, §1081(e)(2)(B), substituted “section 183a(h)(7) of title 10” for “section 183a(g) of title 10”.

2017—Subsec. (f). Pub. L. 115–91, §311(b)(2), inserted “and in accordance with section 183a(e) of title 10” after “conducted under subsection (b)” in introductory provisions.

Subsec. (g). Pub. L. 115–91, §311(e)(2), added subsec. (g). Former subsec. (g) redesignated (h).

Pub. L. 115–91, §311(b)(3), substituted “183a(g) of title 10” for “211.3 of title 32, Code of Federal Regulations, as in effect on January 6, 2014” in pars. (1) and (2).

Subsec. (h). Pub. L. 115–91, §311(e)(1), redesignated subsec. (g) as (h).

2016—Pub. L. 114–328, §341(a)(4)(A), inserted “or national security” after “air commerce” in section catchline.

Subsec. (a)(3). Pub. L. 114–328, §341(a)(1), added par. (3).

Subsec. (b). Pub. L. 114–328, §341(a)(2), amended subsec. (b) generally. Prior to amendment, subsec. (b) related to studies by Secretary to determine obstruction of airspace by newly constructed or altered structures.

Subsec. (b)(1). Pub. L. 114–248, §1(a)(1), substituted “air or space navigation facilities and equipment” for “air navigation facilities and equipment” in introductory provisions.

Subsec. (b)(1)(F). Pub. L. 114–248, §1(a)(2)–(4), added subpar. (F).

Subsecs. (f), (g). Pub. L. 114–328, §341(a)(3), added subsecs. (f) and (g).

2011—Subsec. (e). Pub. L. 112–81 added subsec. (e).

2000—Subsec. (d). Pub. L. 106–181 amended heading and text of subsec. (d) generally. Prior to amendment, text read as follows: “For the purposes of enhancing aviation safety, in a case in which 2 landfills have been proposed to be constructed or established within 6 miles of a commercial service airport with fewer than 50,000 enplanements per year, no person shall construct or establish either landfill if an official of the Federal Aviation Administration has stated in writing within

the 3-year period ending on the date of the enactment of this subsection that 1 of the landfills would be incompatible with aircraft operations at the airport, unless the landfill is already active on such date of enactment or the airport operator agrees to the construction or establishment of the landfill.”

1996—Subsec. (d), Pub. L. 104-264 added subsec. (d).

#### 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.

#### RULEMAKING

Pub. L. 114-248, §1(b), Nov. 28, 2016, 130 Stat. 998, provided that: “Not later than 18 months after the date of enactment of this Act [Nov. 28, 2016], the Administrator of the Federal Aviation Administration shall initiate a rulemaking to implement the amendments made by subsection (a) [amending this section].”

#### TOWER MARKING

Pub. L. 114-190, title II, §2110, July 15, 2016, 130 Stat. 623, as amended by Pub. L. 115-254, div. B, title V, §576, Oct. 5, 2018, 132 Stat. 3391, provided that:

##### “(a) APPLICATION.—

“(1) IN GENERAL.—Except as provided by paragraph (2), not later than 18 months after the date of enactment of the FAA Reauthorization Act of 2018 [Oct. 5, 2018] or the date of availability of the database developed by the Administrator pursuant to subsection (c), whichever is later, all covered towers shall be either—

“(A) clearly marked consistent with applicable guidance in the advisory circular of the FAA issued December 4, 2015 (AC 70/7460-IL); or

“(B) included in the database described in subsection (c).

“(2) METEOROLOGICAL EVALUATION TOWER.—A covered tower that is a meteorological evaluation tower shall be subject to the requirements of subparagraphs (A) and (B) of paragraph (1).

##### “(b) DEFINITIONS.—

“(1) IN GENERAL.—In this section, the following definitions apply:

##### “(A) COVERED TOWER.—

“(i) IN GENERAL.—The term ‘covered tower’ means a structure that—

“(I) is a meteorological evaluation tower, a self-standing tower, or [a] tower supported by guy wires and ground anchors;

“(II) is 10 feet or less in diameter at the above-ground base, excluding concrete footing;

“(III) at the highest point of the structure is at least 50 feet above ground level;

“(IV) at the highest point of the structure is not more than 200 feet above ground level;

“(V) has accessory facilities on which an antenna, sensor, camera, meteorological instrument, or other equipment is mounted; and

“(VI) is located on land that is—

“(aa) in a rural area; and

“(bb) used for agricultural purposes or immediately adjacent to such land.

“(ii) EXCLUSIONS.—The term ‘covered tower’ does not include any structure that—

“(I) is adjacent to a house, barn, electric utility station, or other building;

“(II) is within the curtilage of a farmstead or adjacent to another building or visible structure;

“(III) supports electric utility transmission or distribution lines;

“(IV) is a wind-powered electrical generator with a rotor blade radius that exceeds 6 feet;

“(V) is a street light erected or maintained by a Federal, State, local, or tribal entity;

“(VI) is designed and constructed to resemble a tree or visible structure other than a tower;

“(VII) is an advertising billboard;

“(VIII) is located within the right-of-way of a rail carrier, including within the boundaries of a rail yard, and is used for a railroad purpose;

“(IX)(aa) is registered with the Federal Communications Commission under the Antenna Structure Registration program set forth under part 17 of title 47, Code of Federal Regulations; and

“(bb) is determined by the Administrator to pose no hazard to air navigation; or

“(X) has already mitigated any hazard to aviation safety in accordance with Federal Aviation Administration guidance or as otherwise approved by the Administrator.

“(B) RURAL AREA.—The term ‘rural area’ has the meaning given the term in section 609(a)(5) of the Public Utility Regulatory Policies Act of 1978 (7 U.S.C. 918c(a)(5)).

“(C) AGRICULTURAL PURPOSES.—The term ‘agricultural purposes’ means farming in all its branches and the cultivation and tillage of the soil, the production, cultivation, growing, and harvesting of any agricultural or horticultural commodities performed by a farmer or on a farm, or on pasture land or rangeland.

“(2) OTHER DEFINITIONS.—The Administrator shall define such other terms as may be necessary to carry out this section.

“(c) DATABASE.—The Administrator shall—

“(1) develop a new database, or if appropriate use an existing database that meets the requirements under this section, that contains the location and height of each covered tower that, pursuant to subsection (a), the owner or operator of such tower elects not to mark (unless the Administrator has determined that there is a significant safety risk requiring that the tower be marked), except that meteorological evaluation towers shall be marked and contained in the database;

“(2) keep the database current to the extent practicable;

“(3) ensure that any proprietary information in the database is protected from disclosure in accordance with law;

“(4) ensure that, by virtue of accessing the database, users agree and acknowledge that information in the database—

“(A) may only be used for aviation safety purposes; and

“(B) may not be disclosed for purposes other than aviation safety, regardless of whether or not the information is marked or labeled as proprietary or with a similar designation;

“(5) ensure that the tower information in the database is de-identified and that the information only includes the location and height of covered towers and whether the tower has guy wires;

“(6) ensure that information in the dataset is encrypted at rest and in transit and is protected from unauthorized access and acquisition;

“(7) ensure that towers excluded from the definition of covered tower under subsection (d)(1)(B)(ii)(VIII) must be registered by its owner in the database;

“(8) ensure that a tower to be included in the database pursuant to subsection (c)(1) and constructed after the date on which the database is fully operational is submitted by its owner to the FAA for inclusion in the database before its construction;

“(9) ensure that pilots who intend to conduct low-altitude operations in locations described in subsection (b)(1)(A)(i)(VI) consult the relevant parts of the database before conducting such operations; and

“(10) make the database available for use not later than 1 year after the date of enactment of the FAA Reauthorization Act of 2018 [Oct. 5, 2018].

“(d) EXCLUSION AND WAIVER AUTHORITIES.—As part of a rulemaking conducted pursuant to this section, the Administrator—

“(1) may exclude a class, category, or type of tower that is determined by the Administrator, after public notice and comment, to not pose a hazard to aviation safety;

“(2) shall establish a process to waive specific covered towers from the marking requirements under this section as required under the rulemaking if the Administrator later determines such tower or towers do not pose a hazard to aviation safety;

“(3) shall consider, in establishing exclusions and granting waivers under this subsection, factors that may sufficiently mitigate risks to aviation safety, such as the length of time the tower has been in existence or alternative marking methods or technologies that maintains a tower’s level of conspicuity to a degree which adequately maintains the safety of the airspace; and

“(4) shall consider excluding towers located in a State that has enacted tower marking requirements according to the Federal Aviation Administration’s recommended guidance for the voluntary marking of meteorological evaluation towers erected in remote and rural areas that are less than 200 feet above ground level to enhance the conspicuity of the towers for low level agricultural operations in the vicinity of those towers.

“(e) PERIODIC REVIEW.—The Administrator shall, in consultation with the Federal Communications Commission, periodically review any regulations or guidance regarding the marking of covered towers issued pursuant to this section and update them as necessary, consistent with this section, and in the interest of safety of low-altitude aircraft operations.

“(f) FCC REGULATIONS.—The Federal Communications Commission shall amend section 17.7 of title 47, Code of Federal Regulations, to require a notification to the Federal Aviation Administration for any construction or alteration of an antenna structure, as defined in section 17.2(a) of title 47, Code of Federal Regulations, that is a covered tower as defined by this section.”

STUDY OF EFFECTS OF NEW CONSTRUCTION OF OBSTRUCTIONS ON MILITARY INSTALLATIONS AND OPERATIONS

Pub. L. 111-383, div. A, title III, §358, Jan. 7, 2011, 124 Stat. 4198, as amended by Pub. L. 112-81, div. A, title III, §331, Dec. 31, 2011, 125 Stat. 1369; Pub. L. 112-239, div. A, title X, §1076(b)(1), Jan. 2, 2013, 126 Stat. 1949; Pub. L. 114-92, div. A, title III, §314, Nov. 25, 2015, 129 Stat. 790, related to study of effects of new construction of obstructions on military installations and operations, prior to repeal by Pub. L. 115-91, div. A, title III, §311(b)(1), Dec. 12, 2017, 131 Stat. 1347. See section 183a of Title 10, Armed Forces.

LANDFILLS INTERFERING WITH AIR COMMERCE

Pub. L. 106-181, title V, §503(a), Apr. 5, 2000, 114 Stat. 133, provided that: “Congress finds that—

“(1) collisions between aircraft and birds have resulted in fatal accidents;

“(2) bird strikes pose a special danger to smaller aircraft;

“(3) landfills near airports pose a potential hazard to aircraft operating there because they attract birds;

“(4) even if the landfill is not located in the approach path of the airport’s runway, it still poses a hazard because of the birds’ ability to fly away from the landfill and into the path of oncoming planes;

“(5) while certain mileage limits have the potential to be arbitrary, keeping landfills at least 6 miles away from an airport, especially an airport served by

small planes, is an appropriate minimum requirement for aviation safety; and

“(6) closure of existing landfills (due to concerns about aviation safety) should be avoided because of the likely disruption to those who use and depend on such landfills.”

§ 44719. Standards for navigational aids

The Secretary of Transportation shall prescribe regulations on standards for installing navigational aids, including airport control towers. For each type of facility, the regulations shall consider at a minimum traffic density (number of aircraft operations without consideration of aircraft size), terrain and other obstacles to navigation, weather characteristics, passengers served, and potential aircraft operating efficiencies.

(Pub. L. 103-272, §1(e), July 5, 1994, 108 Stat. 1201.)

HISTORICAL AND REVISION NOTES

Revised Section	Source (U.S. Code)	Source (Statutes at Large)
44719 .....	49 App.:1348 (note).	Dec. 30, 1987, Pub. L. 100-223, §308, 101 Stat. 1526.

The words “Not later than December 31, 1988” are omitted as obsolete.

§ 44720. Meteorological services

(a) RECOMMENDATIONS.—The Administrator of the Federal Aviation Administration shall make recommendations to the Secretary of Commerce on providing meteorological services necessary for the safe and efficient movement of aircraft in air commerce. In providing the services, the Secretary shall cooperate with the Administrator and give complete consideration to those recommendations.

(b) PROMOTING SAFETY AND EFFICIENCY.—To promote safety and efficiency in air navigation to the highest possible degree, the Secretary shall—

(1) observe, measure, investigate, and study atmospheric phenomena, and maintain meteorological stations and offices, that are necessary or best suited for finding out in advance information about probable weather conditions;

(2) provide reports to the Administrator<sup>1</sup> to persons engaged in civil aeronautics that are designated by the Administrator and to other persons designated by the Secretary in a way and with a frequency that best will result in safety in, and facilitating, air navigation;

(3) cooperate with persons engaged in air commerce in meteorological services, maintain reciprocal arrangements with those persons in carrying out this clause, and collect and distribute weather reports available from aircraft in flight;

(4) maintain and coordinate international exchanges of meteorological information required for the safety and efficiency of air navigation;

(5) in cooperation with other departments, agencies, and instrumentalities of the United States Government, meteorological services of

<sup>1</sup> So in original. Probably should be followed by a comma.