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Editorial Notes

AMENDMENTS

2018—Pub. L. 115-254, div. K, title I, § 1991(c)(4), Oct. 5, 2018, 132 Stat. 3627, substituted “[Reserved]” for “Security and research and development activities” in item 40119.

2012—Pub. L. 112-95, title I, § 111(c)(3), title VIII, § 802(b), Feb. 14, 2012, 126 Stat. 18, 119, substituted “Passenger facility charges” for “Passenger facility fees” in item 40117 and added item 40130.

2003—Pub. L. 108-176, title IV, § 423(b), Dec. 12, 2003, 117 Stat. 2554, added item 40129.

2000—Pub. L. 106-181, title VII, §§ 702(b)(2), 705(b), 706(b), title VIII, § 803(b), Apr. 5, 2000, 114 Stat. 156-158, 192, added items 40125 to 40128.

1997—Pub. L. 105-102, § 3(d)(1)(B), Nov. 20, 1997, 111 Stat. 2215, amended Pub. L. 104-287, § 5(69)(B). See 1996 Amendment note below.

1996—Pub. L. 104-287, § 5(69)(B), Oct. 11, 1996, 110 Stat. 3396, as amended by Pub. L. 105-102, § 3(d)(1)(B), Nov. 20, 1997, 111 Stat. 2215, added item 40124.

Pub. L. 104-264, title II, § 254, title IV, §§ 401(b)(2), 402(b), Oct. 9, 1996, 110 Stat. 3238, 3255, 3256, inserted “safety of” before “air commerce” in item 40104 and added item 40121 “Air traffic control modernization reviews” and items 40122 and 40123.

§ 40101. Policy

(a) ECONOMIC REGULATION.—In carrying out subpart II of this part and those provisions of subpart IV applicable in carrying out subpart II, the Secretary of Transportation shall consider the following matters, among others, as being in the public interest and consistent with public convenience and necessity:

- (1) assigning and maintaining safety as the highest priority in air commerce.
- (2) before authorizing new air transportation services, evaluating the safety implications of those services.
- (3) preventing deterioration in established safety procedures, recognizing the clear in-

PART A—AIR COMMERCE AND SAFETY

SUBPART I—GENERAL

CHAPTER 401—GENERAL PROVISIONS

Sec. 40101. Policy.

40102. Definitions.

40103. Sovereignty and use of airspace.

40104. Promotion of civil aeronautics and safety of air commerce.

¹ So in original. Probably should be “Unmanned Aircraft Systems”.

tent, encouragement, and dedication of Congress to further the highest degree of safety in air transportation and air commerce, and to maintain the safety vigilance that has evolved in air transportation and air commerce and has come to be expected by the traveling and shipping public.

(4) the availability of a variety of adequate, economic, efficient, and low-priced services without unreasonable discrimination or unfair or deceptive practices.

(5) coordinating transportation by, and improving relations among, air carriers, and encouraging fair wages and working conditions.

(6) placing maximum reliance on competitive market forces and on actual and potential competition—

(A) to provide the needed air transportation system; and

(B) to encourage efficient and well-managed air carriers to earn adequate profits and attract capital, considering any material differences between interstate air transportation and foreign air transportation.

(7) developing and maintaining a sound regulatory system that is responsive to the needs of the public and in which decisions are reached promptly to make it easier to adapt the air transportation system to the present and future needs of—

(A) the commerce of the United States;

(B) the United States Postal Service; and

(C) the national defense.

(8) encouraging air transportation at major urban areas through secondary or satellite airports if consistent with regional airport plans of regional and local authorities, and if endorsed by appropriate State authorities—

(A) encouraging the transportation by air carriers that provide, in a specific market, transportation exclusively at those airports; and

(B) fostering an environment that allows those carriers to establish themselves and develop secondary or satellite airport services.

(9) preventing unfair, deceptive, predatory, or anticompetitive practices in air transportation.

(10) avoiding unreasonable industry concentration, excessive market domination, monopoly powers, and other conditions that would tend to allow at least one air carrier or foreign air carrier unreasonably to increase prices, reduce services, or exclude competition in air transportation.

(11) maintaining a complete and convenient system of continuous scheduled interstate air transportation for small communities and isolated areas with direct financial assistance from the United States Government when appropriate.

(12) encouraging, developing, and maintaining an air transportation system relying on actual and potential competition—

(A) to provide efficiency, innovation, and low prices; and

(B) to decide on the variety and quality of, and determine prices for, air transportation services.

(13) encouraging entry into air transportation markets by new and existing air carriers and the continued strengthening of small air carriers to ensure a more effective and competitive airline industry.

(14) promoting, encouraging, and developing civil aeronautics and a viable, privately-owned United States air transport industry.

(15) strengthening the competitive position of air carriers to at least ensure equality with foreign air carriers, including the attainment of the opportunity for air carriers to maintain and increase their profitability in foreign air transportation.

(16) ensuring that consumers in all regions of the United States, including those in small communities and rural and remote areas, have access to affordable, regularly scheduled air service.

(b) ALL-CARGO AIR TRANSPORTATION CONSIDERATIONS.—In carrying out subpart II of this part and those provisions of subpart IV applicable in carrying out subpart II, the Secretary of Transportation shall consider the following matters, among others and in addition to the matters referred to in subsection (a) of this section, as being in the public interest for all-cargo air transportation:

(1) encouraging and developing an expedited all-cargo air transportation system provided by private enterprise and responsive to—

(A) the present and future needs of shippers;

(B) the commerce of the United States; and

(C) the national defense.

(2) encouraging and developing an integrated transportation system relying on competitive market forces to decide the extent, variety, quality, and price of services provided.

(3) providing services without unreasonable discrimination, unfair or deceptive practices, or predatory pricing.

(c) GENERAL SAFETY CONSIDERATIONS.—In carrying out subpart III of this part and those provisions of subpart IV applicable in carrying out subpart III, the Administrator of the Federal Aviation Administration shall consider the following matters:

(1) the requirements of national defense and commercial and general aviation.

(2) the public right of freedom of transit through the navigable airspace.

(d) SAFETY CONSIDERATIONS IN PUBLIC INTEREST.—In carrying out subpart III of this part and those provisions of subpart IV applicable in carrying out subpart III, the Administrator shall consider the following matters, among others, as being in the public interest:

(1) assigning, maintaining, and enhancing safety and security as the highest priorities in air commerce.

(2) regulating air commerce in a way that best promotes safety and fulfills national defense requirements.

(3) encouraging and developing civil aeronautics, including new aviation technology.

(4) controlling the use of the navigable airspace and regulating civil and military oper-

ations in that airspace in the interest of the safety and efficiency of both of those operations.

(5) consolidating research and development for air navigation facilities and the installation and operation of those facilities.

(6) developing and operating a common system of air traffic control and navigation for military and civil aircraft.

(7) providing assistance to law enforcement agencies in the enforcement of laws related to regulation of controlled substances, to the extent consistent with aviation safety.

(e) INTERNATIONAL AIR TRANSPORTATION.—In formulating United States international air transportation policy, the Secretaries of State and Transportation shall develop a negotiating policy emphasizing the greatest degree of competition compatible with a well-functioning international air transportation system, including the following:

(1) strengthening the competitive position of air carriers to ensure at least equality with foreign air carriers, including the attainment of the opportunity for air carriers to maintain and increase their profitability in foreign air transportation.

(2) freedom of air carriers and foreign air carriers to offer prices that correspond to consumer demand.

(3) the fewest possible restrictions on charter air transportation.

(4) the maximum degree of multiple and permissive international authority for air carriers so that they will be able to respond quickly to a shift in market demand.

(5) eliminating operational and marketing restrictions to the greatest extent possible.

(6) integrating domestic and international air transportation.

(7) increasing the number of nonstop United States gateway cities.

(8) opportunities for carriers of foreign countries to increase their access to places in the United States if exchanged for benefits of similar magnitude for air carriers or the traveling public with permanent linkage between rights granted and rights given away.

(9) eliminating discrimination and unfair competitive practices faced by United States airlines in foreign air transportation, including—

(A) excessive landing and user fees;

(B) unreasonable ground handling requirements;

(C) unreasonable restrictions on operations;

(D) prohibitions against change of gauge; and

(E) similar restrictive practices.

(10) promoting, encouraging, and developing civil aeronautics and a viable, privately-owned United States air transport industry.

(f) STRENGTHENING COMPETITION.—In selecting an air carrier to provide foreign air transportation from among competing applicants, the Secretary of Transportation shall consider, in addition to the matters specified in subsections (a) and (b) of this section, the strengthening of competition among air carriers operating in the

United States to prevent unreasonable concentration in the air carrier industry.

(Pub. L. 103-272, §1(e), July 5, 1994, 108 Stat. 1094; Pub. L. 104-264, title IV, §401(a), Oct. 9, 1996, 110 Stat. 3255; Pub. L. 106-181, title II, §201, Apr. 5, 2000, 114 Stat. 91.)

HISTORICAL AND REVISION NOTES

Revised Section	Source (U.S. Code)	Source (Statutes at Large)
40101(a)	49 App.:1302(a).	Aug. 23, 1958, Pub. L. 85-726, §102(a), 72 Stat. 740; Nov. 9, 1977, Pub. L. 95-163, §16(b)(1), (2), 91 Stat. 1284; Oct. 24, 1978, Pub. L. 95-504, §3(a), 92 Stat. 1705; restated Feb. 15, 1980, Pub. L. 96-192, §2, 94 Stat. 35.
	49 App.:1551(b)(1)(E).	Aug. 23, 1958, Pub. L. 85-726, 72 Stat. 731, §1601(b)(1)(E); added Oct. 4, 1984, Pub. L. 98-443, §3(e), 98 Stat. 1704.
40101(b)	49 App.:1302(b).	Aug. 23, 1958, Pub. L. 85-726, 72 Stat. 731, §102(b); added Nov. 9, 1977, Pub. L. 95-163, §16(b)(3), 91 Stat. 1284.
	49 App.:1551(b)(1)(E).	
40101(c)	49 App.:1347.	Aug. 23, 1958, Pub. L. 85-726, §306, 72 Stat. 749.
	49 App.:1655(c)(1).	Oct. 15, 1966, Pub. L. 89-670, §6(c)(1), 80 Stat. 938; Jan. 12, 1963, Pub. L. 97-449, §7(b), 96 Stat. 2444.
40101(d)	49 App.:1303.	Aug. 23, 1958, Pub. L. 85-726, §103, 72 Stat. 740; Nov. 18, 1968, Pub. L. 100-690, §7202(b), 102 Stat. 4424.
	49 App.:1655(c)(1).	
40101(e)	49 App.:1502(b).	Aug. 23, 1958, Pub. L. 85-726, 72 Stat. 731, §1102(b); added Feb. 15, 1980, Pub. L. 96-192, §17, 94 Stat. 42.
	49 App.:1551(b)(1)(E).	
40101(f)	49 App.:1302(c).	Aug. 23, 1958, Pub. L. 85-726, 72 Stat. 731, §102(c); added Oct. 31, 1992, Pub. L. 102-581, §205, 106 Stat. 4894.

In this part, the words “overseas air commerce” and “overseas air transportation” are omitted as obsolete because there no longer is a distinction in economic or safety regulation between “interstate” and “overseas” air commerce or air transportation.

In this section, the words “In carrying out . . . this part” are substituted for “In the exercise and performance of its powers and duties under this chapter” in 49 App.:1302(a), “In the exercise and performance of his powers and duties under this chapter” in 49 App.:1303, and “In exercising the authority granted in, and discharging the duties imposed by, this chapter” in 49 App.:1347 for consistency in the revised title and to eliminate unnecessary words.

In subsections (a) and (b), the reference to subpart II is added because the policy applies only to economic issues, and under the Federal Aviation Act of 1958 (Public Law 85-726, 72 Stat. 731), the Civil Aeronautics Board was given responsibility for economic issues.

In subsection (a)(2), the word “full” is omitted as surplus. The words “the recommendations of the Secretary of Transportation on” are omitted as obsolete because the Secretary carries out 49 App.:1302(a). The words “and full evaluation of any report or recommendation submitted under section 1307 of this Appendix” are omitted as obsolete because the report and recommendations are no longer required.

In subsection (a)(4), the words “by air carriers and foreign air carriers” are omitted as surplus. The words “unreasonable discrimination” are substituted for “unjust discriminations, undue preferences or advantages” for consistency in the revised title and to eliminate unnecessary words.

In subsection (a)(6)(B), the words “nevertheless”, “on the one hand”, and “on the other” are omitted as surplus.

In subsection (a)(8), before subclause (A), the word “authorities” is substituted for “entities” for consist-

ency in the revised title and with other titles of the Code. In subclause (A), the words “sole responsibility” are omitted as unnecessary because of the restatement.

In subsection (a)(15), the words “United States” are omitted as surplus because of the definition of “air carrier” in section 40102(a) of the revised title.

In subsection (b)(3), the words “unreasonable discrimination” are substituted for “unjust discriminations, undue preferences or advantages” for consistency in the revised title and to eliminate unnecessary words.

In subsections (c) and (d), the reference to subpart III is added because the policies apply only to safety issues, and under the Federal Aviation Act of 1958 (Public Law 85-726, 72 Stat. 731), the Federal Aviation Administration was given responsibility for safety issues.

In subsection (c), before clause (1), the word “Administrator” in section 306 of the Federal Aviation Act of 1958 (Public Law 85-726, 72 Stat. 749) is retained on authority of 49:106(g). The words “consider the following matters” are substituted for “give full consideration to” for consistency in this section.

In subsection (d)(3), the word “both” in 49 App.:1303(c) is omitted as surplus the first time it appears. The words “of the United States” are omitted for consistency in the revised title and because of the definition of “navigable airspace” in section 40102(a) of the revised title. The words “of those operations” are added for clarity.

In subsection (d)(5), the word “both” in 49 App.:1303(e) is omitted as surplus.

In subsection (e), before clause (1), the words “the Congress intends that” are omitted as surplus. In clauses (1) and (4), the words “United States” are omitted as surplus because of the definition of “air carrier” in section 40102(a) of the revised title. In clause (2), the word “prices” is substituted for “fares and rates” because of the definition of “price” in section 40102(a). In clause (8), the words “places in the United States” are substituted for “United States points” for consistency in this chapter. The word “air” is added for clarity and consistency in this subtitle. In clause (9)(C), the word “unreasonable” is substituted for “undue” for consistency in the revised title and with other titles of the United States Code.

Editorial Notes

AMENDMENTS

2000—Subsec. (a)(16). Pub. L. 106-181 added par. (16).

1996—Subsec. (d)(1). Pub. L. 104-264, §401(a)(1)(B), added par. (1). Former par. (1) redesignated (2).

Subsec. (d)(2). Pub. L. 104-264, §401(a)(1)(A), (2)(A), redesignated par. (1) as (2) and struck out “its development and” after “best promotes”. Former par. (2) redesignated (3).

Subsec. (d)(3). Pub. L. 104-264, §401(a)(1)(A), (2)(B), redesignated par. (2) as (3) and substituted “encouraging and developing civil aeronautics, including new aviation technology” for “promoting, encouraging, and developing civil aeronautics”. Former par. (3) redesignated (4).

Subsec. (d)(4) to (7). Pub. L. 104-264, §401(a)(1)(A), redesignated pars. (3) to (6) as (4) to (7), respectively.

Statutory Notes and Related Subsidiaries

EFFECTIVE DATE OF 2012 AMENDMENT

Pub. L. 112-95, §3, Feb. 14, 2012, 126 Stat. 15, provided that: “Except as otherwise expressly provided, this Act [see Tables for classification] and the amendments made by this Act shall take effect on the date of enactment of this Act [Feb. 14, 2012].”

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.

SHORT TITLE OF 2020 AMENDMENT

Pub. L. 116-260, div. V, title I, §101(a), Dec. 27, 2020, 134 Stat. 2309, provided that: “This title [see Tables for classification] may be cited as the ‘Airplane Certification, Safety, and Accountability Act’.”

Pub. L. 116-190, §1, Oct. 30, 2020, 134 Stat. 974, provided that: “This Act [amending section 47107 of this title] may be cited as the ‘Friendly Airports for Mothers Improvement Act’.”

SHORT TITLE OF 2019 AMENDMENT

Pub. L. 116-92, div. A, title XI, §1131(a), Dec. 20, 2019, 133 Stat. 1615, provided that: “This subtitle [subtitle C (§§1131-1135) of title XI of div. A of Pub. L. 116-92, amending section 44506 of this title] may be cited as the ‘ATC Hiring Reform Act’.”

Pub. L. 116-34, §1, July 29, 2019, 133 Stat. 1040, provided that: “This Act [amending provisions set out as a note under this section] may be cited as the ‘Never Forget the Heroes: James Zadroga, Ray Pfeifer, and Luis Alvarez Permanent Authorization of the September 11th Victim Compensation Fund Act’.”

SHORT TITLE OF 2018 AMENDMENT

Pub. L. 115-254, §1(a), Oct. 5, 2018, 132 Stat. 3186, provided that: “This Act [see Tables for classification] may be cited as the ‘FAA Reauthorization Act of 2018’.”

Pub. L. 115-254, div. B, title III, §391, Oct. 5, 2018, 132 Stat. 3323, provided that: “This subtitle [subtitle C (§§391-396) of title III of div. B of Pub. L. 115-254, enacting section 47124a of this title, amending section 44709 of this title, enacting provisions set out as notes under sections 44701 and 46101 of this title, and amending provisions set out as notes under sections 44701 and 44703 of this title] may be cited as the ‘Fairness for Pilots Act’.”

Pub. L. 115-254, div. B, title VII, §701, Oct. 5, 2018, 132 Stat. 3409, provided that: “This title [enacting sections 44518 and 47511 of this title and sections 2801 to 2811 of Title 43, Public Lands, amending sections 44508 and 48102 of this title, and enacting provisions set out as notes under this section and sections 106, 44505, and 44802 of this title and section 2801 of Title 43] may be cited as the ‘FAA Leadership in Groundbreaking High-Tech Research and Development Act’ or the ‘FLIGHT R&D Act’.”

Pub. L. 115-254, div. C, §1101, Oct. 5, 2018, 132 Stat. 3429, provided that: “This division [enacting section 1140 of this title, amending sections 1111, 1113, 1114, 1116 to 1118, 1131, 1134, 1136, 1138, 1139, 1154, 41113, and 41313 of this title, and enacting provisions set out as notes under sections 1101, 1116, and 1119 of this title] may be cited as the ‘National Transportation Safety Board Reauthorization Act’.”

SHORT TITLE OF 2016 AMENDMENT

Pub. L. 114-242, §1, Oct. 7, 2016, 130 Stat. 978, provided that: “This Act [amending section 40122 of this title and enacting provisions set out as notes under section 40122 of this title] may be cited as the ‘Federal Aviation Administration Veteran Transition Improvement Act of 2016’.”

Pub. L. 114-190, §1(a), July 15, 2016, 130 Stat. 615, provided that: “This Act [see Tables for classification] may be cited as the ‘FAA Extension, Safety, and Security Act of 2016’.”

SHORT TITLE OF 2015 AMENDMENT

Pub. L. 114-113, div. O, title IV, §401, Dec. 18, 2015, 129 Stat. 3000, provided that: “This title [enacting section

10609 of Title 42, The Public Health and Welfare, amending section 905 of Title 2, The Congress, enacting provisions set out as a note under section 905 of Title 2, and amending provisions set out as notes under this section] may be cited as the ‘James Zadroga 9/11 Victim Compensation Fund Reauthorization Act.’”

SHORT TITLE OF 2014 AMENDMENT

Pub. L. 113-238, §1, Dec. 18, 2014, 128 Stat. 2842, provided that: “This Act [enacting section 44946 of this title] may be cited as the ‘Aviation Security Stakeholder Participation Act of 2014.’”

Pub. L. 113-221, §1, Dec. 16, 2014, 128 Stat. 2094, provided that: “This Act [enacting section 44928 of this title] may be cited as the ‘Honor Flight Act.’”

SHORT TITLE OF 2013 AMENDMENT

Pub. L. 113-27, §1, Aug. 9, 2013, 127 Stat. 503, provided that: “This Act [enacting section 44927 of this title] may be cited as the ‘Helping Heroes Fly Act.’”

Pub. L. 112-271, §1, Jan. 14, 2013, 126 Stat. 2446, provided that: “This Act [amending section 44945 of this title] may be cited as the ‘Clothe a Homeless Hero Act.’”

SHORT TITLE OF 2012 AMENDMENT

Pub. L. 112-218, §1, Dec. 20, 2012, 126 Stat. 1593, provided that: “This Act [amending section 44901 of this title] may be cited as the ‘No-Hassle Flying Act of 2012.’”

Pub. L. 112-153, §1, Aug. 3, 2012, 126 Stat. 1159, provided that: “This Act [amending sections 44703, 44709, and 44710 of this title and enacting provisions set out as notes under sections 44701 and 44703 of this title] may be cited as the ‘Pilot’s Bill of Rights.’”

Pub. L. 112-95, §1(a), Feb. 14, 2012, 126 Stat. 11, provided that: “This Act [see Tables for classification] may be cited as the ‘FAA Modernization and Reform Act of 2012.’”

Pub. L. 112-86, §1, Jan. 3, 2012, 125 Stat. 1874, provided that: “This Act [amending section 44903 of this title and enacting provisions set out as a note under section 44903 of this title] may be cited as the ‘Risk-Based Security Screening for Members of the Armed Forces Act.’”

SHORT TITLE OF 2010 AMENDMENT

Pub. L. 111-216, §1, Aug. 1, 2010, 124 Stat. 2348, provided that: “This Act [amending sections 106, 1135, 40117, 41712, 44302, 44303, 44703, 47104, 47107, 47115, 47141, 48101, 48102, and 49108 of this title and sections 4081, 4261, 4271, and 9502 of Title 26, Internal Revenue Code, enacting provisions set out as notes under sections 40117 and 44701 of this title and sections 4081 and 9502 of Title 26, and amending provisions set out as a note under section 47109 of this title] may be cited as the ‘Airline Safety and Federal Aviation Administration Extension Act of 2010.’”

SHORT TITLE OF 2007 AMENDMENT

Pub. L. 110-135, §1, Dec. 13, 2007, 121 Stat. 1450, provided that: “This Act [enacting section 44729 of this title] may be cited as the ‘Fair Treatment for Experienced Pilots Act.’”

Pub. L. 110-113, §1, Nov. 8, 2007, 121 Stat. 1039, provided that: “This Act [enacting and amending provisions set out as notes under this section] may be cited as the ‘Procedural Fairness for September 11 Victims Act of 2007.’”

SHORT TITLE OF 2004 AMENDMENT

Pub. L. 108-297, §1, Aug. 9, 2004, 118 Stat. 1095, provided that: “This Act [enacting section 44113 of this title, amending sections 44107 and 44108 of this title, and enacting provisions set out as notes under section 44101 of this title] may be cited as ‘Cape Town Treaty Implementation Act of 2004.’”

SHORT TITLE OF 2003 AMENDMENT

Pub. L. 108-176, §1(a), Dec. 12, 2003, 117 Stat. 2490, provided that: “This Act [see Tables for classification]

may be cited as the ‘Vision 100—Century of Aviation Reauthorization Act.’”

Pub. L. 108-176, title III, §301, Dec. 12, 2003, 117 Stat. 2533, provided that: “This title [enacting subchapter III of chapter 471 of this title, amending sections 40104, 40128, 47106, 47503, and 47504 of this title, and enacting provisions set out as notes under this section and sections 40128, 47171, 47503, and 47508 of this title] may be cited as ‘Aviation Streamlining Approval Process Act of 2003.’”

SHORT TITLE OF 2002 AMENDMENT

Pub. L. 107-296, title XIV, §1401, Nov. 25, 2002, 116 Stat. 2300, provided that: “This title [enacting section 44921 of this title and section 513 of Title 6, Domestic Security, amending sections 44903 and 44918 of this title, amending provisions set out as a note under section 114 of this title, and repealing provisions set out as a note under section 44903 of this title] may be cited as the ‘Arming Pilots Against Terrorism Act.’”

SHORT TITLE OF 2001 AMENDMENT

Pub. L. 107-71, §1, Nov. 19, 2001, 115 Stat. 597, provided that: “This Act [see Tables for classification] may be cited as the ‘Aviation and Transportation Security Act.’”

SHORT TITLE OF 2000 AMENDMENTS

Pub. L. 106-528, §1, Nov. 22, 2000, 114 Stat. 2517, provided that: “This Act [amending sections 106, 41104, 44903, 44935, and 44936 of this title, enacting provisions set out as notes under sections 106, 44903, and 44936 of this title, and amending provisions set out as notes under sections 40128 and 47501 of this title] may be cited as the ‘Airport Security Improvement Act of 2000.’”

Pub. L. 106-181, §1(a), Apr. 5, 2000, 114 Stat. 61, provided that: “This Act [see Tables for classification] may be cited as the ‘Wendell H. Ford Aviation Investment and Reform Act for the 21st Century.’”

SHORT TITLE OF 1999 AMENDMENT

Pub. L. 106-6, §1, Mar. 31, 1999, 113 Stat. 10, provided that: “This Act [amending sections 106, 44310, 47104, 47115 to 47117, 48101, and 48103 of this title] may be cited as the ‘Interim Federal Aviation Administration Authorization Act.’”

SHORT TITLE OF 1998 AMENDMENT

Pub. L. 105-155, §1, Feb. 11, 1998, 112 Stat. 5, provided that: “This Act [amending section 48102 of this title and enacting provisions set out as a note under section 48102 of this title] may be cited as the ‘FAA Research, Engineering, and Development Authorization Act of 1998.’”

SHORT TITLE OF 1997 AMENDMENT

Pub. L. 105-137, §1, Dec. 2, 1997, 111 Stat. 2640, provided that: “This Act [amending sections 40102, 44302, 44305, 44306, 44308, and 44310 of this title and enacting provisions set out as a note under section 44310 of this title] may be cited as the ‘Aviation Insurance Reauthorization Act of 1997.’”

SHORT TITLE OF 1996 AMENDMENT

Pub. L. 104-264, §1(a), Oct. 9, 1996, 110 Stat. 3213, provided that: “This Act [see Tables for classification] may be cited as the ‘Federal Aviation Reauthorization Act of 1996.’”

Pub. L. 104-264, title II, §201, Oct. 9, 1996, 110 Stat. 3227, provided that: “This title [enacting sections 40121, 40122, 45301, 45303, 48111, and 48201 of this title, amending sections 106 and 41742 of this title, renumbering section 45303 of this title as section 45304, repealing former section 45301 of this title, and enacting provisions set out as notes under this section and sections 106, 40110, and 41742 of this title] may be cited as the ‘Air Traffic Management System Performance Improvement Act of 1996.’”

Pub. L. 104-264, title II, §278(a), Oct. 9, 1996, 110 Stat. 3249, provided that: "This section [amending section 41742 of this title and enacting provisions set out as a note under section 41742 of this title] may be cited as the 'Rural Air Service Survival Act'."

Pub. L. 104-264, title V, §501, Oct. 9, 1996, 110 Stat. 3259, provided that: "This title [amending sections 30305, 44936, and 46301 of this title and enacting provisions set out as notes under sections 30305 and 44935 of this title] may be cited as the 'Pilot Records Improvement Act of 1996'."

Pub. L. 104-264, title VI, §601, Oct. 9, 1996, 110 Stat. 3263, provided that: "This title [enacting section 44724 of this title] may be cited as the 'Child Pilot Safety Act'."

Pub. L. 104-264, title VII, §701, Oct. 9, 1996, 110 Stat. 3264, provided that: "This title [enacting sections 1136 and 41113 of this title and provisions set out as notes under section 41113 of this title] may be cited as the 'Aviation Disaster Family Assistance Act of 1996'."

Pub. L. 104-264, title VIII, §801, Oct. 9, 1996, 110 Stat. 3269, provided that: "This title [enacting section 47133 of this title, amending sections 46301 and 47107 of this title and section 9502 of Title 26, Internal Revenue Code, and enacting provisions set out as notes under section 47107 of this title] may be cited as the 'Airport Revenue Protection Act of 1996'."

Pub. L. 104-264, title XI, §1101, Oct. 9, 1996, 110 Stat. 3278, provided that: "This title [amending sections 44501, 44508, and 48102 of this title] may be cited as the 'FAA Research, Engineering, and Development Management Reform Act of 1996'."

SHORT TITLE OF 1994 AMENDMENT

Pub. L. 103-305, §1(a), Aug. 23, 1994, 108 Stat. 1569, provided that: "This Act [enacting sections 41311, 41714, 41715, 47129, 47130, and 47509 of this title, amending sections 106, 10521, 11501, 40102, 40113, 40116, 40117, 41713, 41734, 44502, 44505, 44938, 45301, 46301, 47101, 47102, 47104 to 47107, 47109 to 47111, 47115, 47117 to 47119, 47504, 48101 to 48104, and 48108 of this title and section 9502 of Title 26, Internal Revenue Code, renumbering former section 47129 of this title as section 47131 of this title, enacting provisions set out as notes under this section and sections 10521, 11501, 40102, 40105, 40117, 41311, 41715, 44502, 45102, 47101, 47107, 47124, and 49101 of this title, and repealing provisions set out as a note under section 1348 of former Title 49, Transportation] may be cited as the 'Federal Aviation Administration Authorization Act of 1994'."

Pub. L. 103-305, title III, §301, Aug. 23, 1994, 108 Stat. 1589, provided that: "This title [enacting section 47509 of this title, amending sections 44505 and 48102 of this title, and enacting provisions set out as notes under this section and section 49101 of this title] may be cited as the 'Federal Aviation Administration Research, Engineering, and Development Authorization Act of 1994'."

NATIONAL AIR GRANT FELLOWSHIP PROGRAM

Pub. L. 116-260, div. V, title I, §131, Dec. 27, 2020, 134 Stat. 2350, provided that:

"(a) PROGRAM.—

"(1) PROGRAM MAINTENANCE.—The Administrator [of the Federal Aviation Administration] shall maintain within the FAA [Federal Aviation Administration] a program to be known as the 'National Air Grant Fellowship Program'.

"(2) PROGRAM ELEMENTS.—The National Air Grant Fellowship Program shall provide support for the fellowship program under subsection (b).

"(3) RESPONSIBILITIES OF ADMINISTRATOR.—

"(A) GUIDELINES.—The Administrator shall establish guidelines related to the activities and responsibilities of air grant fellowships under subsection (b).

"(B) QUALIFICATIONS.—The Administrator shall by regulation prescribe the qualifications required for designation of air grant fellowships under subsection (b).

"(C) AUTHORITY.—In order to carry out the provisions of this section, the Administrator may—

"(i) appoint, assign the duties, transfer, and fix the compensation of such personnel as may be necessary, in accordance with civil service laws;

"(ii) make appointments with respect to temporary and intermittent services to the extent authorized by section 3109 of title 5, United States Code;

"(iii) enter into contracts, cooperative agreements, and other transactions without regard to section 6101 of title 41, United States Code;

"(iv) notwithstanding section 1342 of title 31, United States Code, accept donations and voluntary and uncompensated services;

"(v) accept funds from other Federal departments and agencies, including agencies within the FAA, to pay for and add to activities authorized by this section; and

"(vi) promulgate such rules and regulations as may be necessary and appropriate.

"(4) DIRECTOR OF NATIONAL AIR GRANT FELLOWSHIP PROGRAM.—

"(A) IN GENERAL.—The Administrator shall appoint, as the Director of the National Air Grant Fellowship Program, a qualified individual who has appropriate administrative experience and knowledge or expertise in fields related to aerospace. The Director shall be appointed and compensated, without regard to the provisions of title 5 governing appointments in the competitive service, at a rate payable under section 5376 of title 5, United States Code.

"(B) DUTIES.—Subject to the supervision of the Administrator, the Director shall administer the National Air Grant Fellowship Program. In addition to any other duty prescribed by law or assigned by the Administrator, the Director shall—

"(i) cooperate with institutions of higher education that offer degrees in fields related to aerospace;

"(ii) encourage the participation of graduate and post-graduate students in the National Air Grant Fellowship Program; and

"(iii) cooperate and coordinate with other Federal activities in fields related to aerospace.

"(b) FELLOWSHIPS.—

"(1) IN GENERAL.—The Administrator shall support a program of fellowships for qualified individuals at the graduate and post-graduate level. The fellowships shall be in fields related to aerospace and awarded pursuant to guidelines established by the Administrator. The Administrator shall strive to ensure equal access for minority and economically disadvantaged students to the program carried out under this paragraph.

"(2) AEROSPACE POLICY FELLOWSHIP.—

"(A) IN GENERAL.—The Administrator shall award aerospace policy fellowships to support the placement of individuals at the graduate level of education in fields related to aerospace in positions with—

"(i) the executive branch of the United States Government; and

"(ii) the legislative branch of the United States Government.

"(B) PLACEMENT PRIORITIES FOR LEGISLATIVE FELLOWSHIPS.—

"(i) IN GENERAL.—In considering the placement of individuals receiving a fellowship for a legislative branch position under subparagraph (A)(ii), the Administrator shall give priority to placement of such individuals in the following:

"(I) Positions in offices of, or with Members on, committees of Congress that have jurisdiction over the FAA.

"(II) Positions in offices of Members of Congress that have a demonstrated interest in aerospace policy.

"(ii) EQUITABLE DISTRIBUTION.—In placing fellows in positions described under clause (i), the

Administrator shall ensure that placements are equally distributed among the political parties.

“(C) DURATION.—A fellowship awarded under this paragraph shall be for a period of not more than 1 year.

“(3) RESTRICTION ON USE OF FUNDS.—Amounts available for fellowships under this subsection, including amounts accepted under subsection (a)(3)(C)(v) or appropriated under subsection (d) to carry out this subsection, shall be used only for award of such fellowships and administrative costs of implementing this subsection.

“(c) INTERAGENCY COOPERATION.—Each department, agency, or other instrumentality of the Federal Government that is engaged in or concerned with, or that has authority over, matters relating to aerospace—

“(1) may, upon a written request from the Administrator, make available, on a reimbursable basis or otherwise, any personnel (with their consent and without prejudice to their position and rating), service, or facility that the Administrator deems necessary to carry out any provision of this section;

“(2) shall, upon a written request from the Administrator, furnish any available data or other information that the Administrator deems necessary to carry out any provision of this section; and

“(3) shall cooperate with the FAA and duly authorized officials thereof.

“(d) AUTHORIZATION OF APPROPRIATIONS.—There is authorized to be appropriated to the Administrator \$15,000,000 for each of fiscal years 2021 through 2025 to carry out this section. Amounts appropriated under the preceding sentence shall remain available until expended.

“(e) DEFINITIONS.—In this section:

“(1) DIRECTOR.—The term ‘Director’ means the Director of the National Air Grant Fellowship Program, appointed pursuant to subsection (a)(4).

“(2) FIELDS RELATED TO AEROSPACE.—The term ‘fields related to aerospace’ means any discipline or field that is concerned with, or likely to improve, the development, assessment, operation, safety, or repair of aircraft and other airborne objects and systems, including the following:

“(A) Aerospace engineering.

“(B) Aerospace physiology.

“(C) Aeronautical engineering.

“(D) Airworthiness engineering.

“(E) Electrical engineering.

“(F) Human factors.

“(G) Software engineering.

“(H) Systems engineering.”

EMERGING SAFETY TRENDS IN AVIATION

Pub. L. 116-260, div. V, title I, §132, Dec. 27, 2020, 134 Stat. 2352, provided that:

“(a) GENERAL.—Not later than 180 days after the date of enactment of this title [Dec. 27, 2020], the Administrator shall enter into an agreement with the Transportation Research Board for the purposes of developing an annual report identifying, categorizing, and analyzing emerging safety trends in air transportation.

“(b) FACTORS.—The emerging safety trends report should be based on the following data:

“(1) The National Transportation Safety Board’s investigation of accidents under section 1132 of title 49, United States Code.

“(2) The Administrator’s investigations of accidents and incidents under section 40113 of title 49, United States Code.

“(3) Information provided by air operators pursuant to safety management systems.

“(4) International investigations of accidents and incidents, including reports, data, and information from foreign authorities and ICAO.

“(5) Other sources deemed appropriate for establishing emerging safety trends in the aviation sector, including the FAA’s annual safety culture assessment required under subsection (c).

“(c) SAFETY CULTURE ASSESSMENT.—The Administrator shall conduct an annual safety culture assess-

ment through fiscal year 2031, which shall include surveying all employees in the FAA’s Aviation Safety organization (AVS) to determine the employees’ collective opinion regarding, and to assess the health of, AVS’ safety culture and implementation of any voluntary safety reporting program.

“(d) EXISTING REPORTING SYSTEMS.—The Executive Director of the Transportation Research Board, in consultation with the Secretary of Transportation and Administrator, may take into account and, as necessary, harmonize data and sources from existing reporting systems within the Department of Transportation and FAA.

“(e) BIENNIAL REPORT TO CONGRESS.—One year after the Administrator enters into the agreement with the Transportation Research Board as set forth in subsection (a), and biennially thereafter through fiscal year 2031, the Executive Director, in consultation with the Secretary and Administrator, shall submit to the congressional committees of jurisdiction a report identifying the emerging safety trends in air transportation.”

[For definitions of terms used in section 132 of div. V of Pub. L. 116-260, set out above, see section 137 of div. V of Pub. L. 116-260, set out as a note below.]

FAA LEADERSHIP ON CIVIL SUPERSONIC AIRCRAFT

Pub. L. 115-254, div. B, title I, §181, Oct. 5, 2018, 132 Stat. 3230, provided that:

“(a) IN GENERAL.—The Administrator of the Federal Aviation Administration shall exercise leadership in the creation of Federal and international policies, regulations, and standards relating to the certification and safe and efficient operation of civil supersonic aircraft.

“(b) EXERCISE OF LEADERSHIP.—In carrying out subsection (a), the Administrator shall—

“(1) consider the needs of the aerospace industry and other stakeholders when creating policies, regulations, and standards that enable the safe commercial deployment of civil supersonic aircraft technology and the safe and efficient operation of civil supersonic aircraft; and

“(2) obtain the input of aerospace industry stakeholders regarding—

“(A) the appropriate regulatory framework and timeline for permitting the safe and efficient operation of civil supersonic aircraft within United States airspace, including updating or modifying existing regulations on such operation;

“(B) issues related to standards and regulations for the type certification and safe operation of civil supersonic aircraft, including noise certification, including—

“(i) the operational differences between subsonic aircraft and supersonic aircraft;

“(ii) costs and benefits associated with landing and takeoff noise requirements for civil supersonic aircraft, including impacts on aircraft emissions;

“(iii) public and economic benefits of the operation of civil supersonic aircraft and associated aerospace industry activity; and

“(iv) challenges relating to ensuring that standards and regulations aimed at relieving and protecting the public health and welfare from aircraft noise and sonic booms are economically reasonable, technologically practicable, and appropriate for civil supersonic aircraft; and

“(C) other issues identified by the Administrator or the aerospace industry that must be addressed to enable the safe commercial deployment and safe and efficient operation of civil supersonic aircraft.

“(c) INTERNATIONAL LEADERSHIP.—The Administrator, in the appropriate international forums, shall take actions that—

“(1) demonstrate global leadership under subsection (a);

“(2) address the needs of the aerospace industry identified under subsection (b); and

“(3) protect the public health and welfare.

“(d) REPORT TO CONGRESS.—Not later than 1 year after the date of enactment of this Act [Oct. 5, 2018], the Administrator shall submit to the appropriate committees of Congress [Committee on Commerce, Science, and Transportation of the Senate and Committee on Transportation and Infrastructure of the House of Representatives] a report detailing—

“(1) the Administrator’s actions to exercise leadership in the creation of Federal and international policies, regulations, and standards relating to the certification and safe and efficient operation of civil supersonic aircraft;

“(2) planned, proposed, and anticipated actions to update or modify existing policies and regulations related to civil supersonic aircraft, including those identified as a result of industry consultation and feedback; and

“(3) a timeline for any actions to be taken to update or modify existing policies and regulations related to civil supersonic aircraft.

“(e) LONG-TERM REGULATORY REFORM.—

“(1) NOISE STANDARDS.—Not later than March 31, 2020, the Administrator shall issue a notice of proposed rulemaking to revise part 36 of title 14, Code of Federal Regulations, to include supersonic aircraft in the applicability of such part. The proposed rule shall include necessary definitions, noise standards for landing and takeoff, and noise test requirements that would apply to a civil supersonic aircraft.

“(2) SPECIAL FLIGHT AUTHORIZATIONS.—Not later than December 31, 2019, the Administrator shall issue a notice of proposed rulemaking to revise appendix B of part 91 of title 14, Code of Federal Regulations, to modernize the application process for a person applying to operate a civil aircraft at supersonic speeds for the purposes stated in that rule.

“(f) NEAR-TERM CERTIFICATION OF SUPERSONIC CIVIL AIRCRAFT.—

“(1) IN GENERAL.—If a person submits an application requesting type certification of a civil supersonic aircraft pursuant to part 21 of title 14, Code of Federal Regulations, before the Administrator promulgates a final rule amending part 36 of title 14, Code of Federal Regulations, in accordance with subsection (e)(1), the Administrator shall, not later than 18 months after having received such application, issue a notice of proposed rulemaking applicable solely for the type certification, inclusive of the aircraft engines, of the supersonic aircraft design for which such application was made.

“(2) CONTENTS.—A notice of proposed rulemaking described in paragraph (1) shall—

“(A) address safe operation of the aircraft type, including development and flight testing prior to type certification;

“(B) address manufacturing of the aircraft;

“(C) address continuing airworthiness of the aircraft;

“(D) specify landing and takeoff noise standards for that aircraft type that the Administrator considers appropriate, practicable, and consistent with section 44715 of title 49, United States Code; and

“(E) consider differences between subsonic and supersonic aircraft including differences in thrust requirements at equivalent gross weight, engine requirements, aerodynamic characteristics, operational characteristics, and other physical properties.

“(3) NOISE AND PERFORMANCE DATA.—The requirement of the Administrator to issue a notice of proposed rulemaking under paragraph (1) shall apply only if an application contains sufficient aircraft noise and performance data as the Administrator finds necessary to determine appropriate noise standards and operating limitations for the aircraft type consistent with section 44715 of title 49, United States Code.

“(4) FINAL RULE.—Not later than 18 months after the end of the public comment period provided in the

notice of proposed rulemaking required under paragraph (1), the Administrator shall publish in the Federal Register a final rule applying solely to the aircraft model submitted for type certification.

“(5) REVIEW OF RULES OF CIVIL SUPERSONIC FLIGHTS.—Beginning December 31, 2020, and every 2 years thereafter, the Administrator shall review available aircraft noise and performance data, and consult with heads of appropriate Federal agencies, to determine whether section 91.817 of title 14, Code of Federal Regulations, and Appendix B of part 91 of title 14, Code of Federal Regulations, may be amended, consistent with section 44715 of title 49, United States Code, to permit supersonic flight of civil aircraft over land in the United States.

“(6) IMPLEMENTATION OF NOISE STANDARDS.—The portion of the regulation issued by the Administrator of the Federal Aviation Administration titled ‘Revision of General Operating and Flight Rules’ and published in the Federal Register on August 18, 1989 (54 Fed. Reg. 34284) that restricts operation of civil aircraft at a true flight Mach number greater than 1 shall have no force or effect beginning on the date on which the Administrator publishes in the Federal Register a final rule specifying sonic boom noise standards for civil supersonic aircraft.”

AIRCRAFT AIR QUALITY

Pub. L. 115–254, div. B, title III, §326, Oct. 5, 2018, 132 Stat. 3271, provided that:

“(a) EDUCATIONAL MATERIALS.—Not later than 1 year after the date of enactment of this Act [Oct. 5, 2018], the Administrator [of the Federal Aviation Administration] shall, in consultation with relevant stakeholders, establish and make available on a publicly available Internet website of the Administration, educational materials for flight attendants, pilots, and aircraft maintenance technicians on how to respond to incidents on board aircraft involving smoke or fumes.

“(b) REPORTING OF INCIDENTS OF SMOKE OR FUMES ON BOARD AIRCRAFT.—Not later than 180 days after the date of enactment of this Act, the Administrator shall, in consultation with relevant stakeholders, issue guidance for flight attendants, pilots, and aircraft maintenance technicians to report incidents of smoke or fumes on board an aircraft operated by a commercial air carrier and with respect to the basis on which commercial air carriers shall report such incidents through the Service Difficulty Reporting System.

“(c) RESEARCH TO DEVELOP TECHNIQUES TO MONITOR BLEED AIR QUALITY.—Not later than 180 days after the date of enactment of this Act, the Administrator shall commission a study by the Airliner Cabin Environment Research Center of Excellence—

“(1) to identify and measure the constituents and levels of constituents resulting from bleed air in the cabins of a representative set of commercial aircraft in operation of the United States;

“(2) to assess the potential health effects of such constituents on passengers and cabin and flight deck crew;

“(3) to identify technologies suitable to provide reliable and accurate warning of bleed air contamination, including technologies to effectively monitor the aircraft air supply system when the aircraft is in flight; and

“(4) to identify potential techniques to prevent fume events.

“(d) REPORT REQUIRED.—Not later than 18 months after the date of enactment of this Act, the Administrator shall submit to the appropriate committees of Congress [Committee on Commerce, Science, and Transportation of the Senate and Committee on Transportation and Infrastructure of the House of Representatives] a report on the feasibility, efficacy, and cost-effectiveness of certification and installation of systems to evaluate bleed air quality.

“(e) PILOT PROGRAM.—The FAA may conduct a pilot program to evaluate the effectiveness of technologies identified in subsection (c).”

PERFORMANCE-BASED STANDARDS

Pub. L. 115-254, div. B, title III, §329, Oct. 5, 2018, 132 Stat. 3272, provided that: “The Administrator [of the Federal Aviation Administration] shall, to the maximum extent possible and consistent with Federal law, and based on input by the public, ensure that regulations, guidance, and policies issued by the FAA on and after the date of enactment of this Act [Oct. 5, 2018] are issued in the form of performance-based standards, providing an equal or higher level of safety.”

RETURN ON INVESTMENT REPORT

Pub. L. 115-254, div. B, title V, §503(a)–(d), Oct. 5, 2018, 132 Stat. 3352, 3353, provided that:

“(a) IN GENERAL.—Not later than 1 year after the date of enactment of this Act [Oct. 5, 2018], and annually thereafter until the date that each NextGen [Next Generation Air Transportation System] program has a positive return on investment, the Administrator [of the Federal Aviation Administration] shall submit to the appropriate committees of Congress [Committee on Commerce, Science, and Transportation of the Senate and Committee on Transportation and Infrastructure of the House of Representatives] a report on the status of each NextGen program, including the most recent NextGen priority list under subsection (c).

“(b) CONTENTS.—The report under subsection (a) shall include, for each NextGen program—

“(1) an estimate of the date the program will have a positive return on investment;

“(2) an explanation for any delay in the delivery of expected benefits from previously published estimates on delivery of such benefits, in implementing or utilizing the program;

“(3) an estimate of the completion date;

“(4) an assessment of the long-term and near-term user benefits of the program for—

“(A) the Federal Government; and

“(B) the users of the national airspace system; and

“(5) a description of how the program directly contributes to a safer and more efficient air traffic control system.

“(c) NEXTGEN PRIORITY LIST.—Based on the assessment under subsection (a), the Administrator shall—

“(1) develop, in coordination with the NextGen Advisory Committee and considering the need for a balance between long-term and near-term user benefits, a prioritization of the NextGen programs;

“(2) annually update the priority list under paragraph (1); and

“(3) prepare budget submissions to reflect the current status of NextGen programs and projected returns on investment for each NextGen program.

“(d) DEFINITION OF RETURN ON INVESTMENT.—In this section, the term ‘return on investment’ means the cost associated with technologies that are required by law or policy as compared to the financial benefits derived from such technologies by a government or a user of airspace.”

HUMAN FACTORS

Pub. L. 115-254, div. B, title V, §507, Oct. 5, 2018, 132 Stat. 3354, provided that:

“(a) IN GENERAL.—In order to avoid having to subsequently modify products and services developed as a part of NextGen [Next Generation Air Transportation System], the Administrator [of the Federal Aviation Administration] shall—

“(1) recognize and incorporate, in early design phases of all relevant NextGen programs, the human factors and procedural and airspace implications of stated goals and associated technical changes; and

“(2) ensure that a human factors specialist, separate from the research and certification groups, is directly involved with the NextGen approval process.

“(b) REPORT.—Not later than 1 year after the date of enactment of this Act [Oct. 5, 2018], the Administrator shall submit to the appropriate committees of Congress

[Committee on Commerce, Science, and Transportation of the Senate and Committee on Transportation and Infrastructure of the House of Representatives] a report on the progress made toward implementing the requirements under subsection (a).”

PROGRAMMATIC RISK MANAGEMENT

Pub. L. 115-254, div. B, title V, §508, Oct. 5, 2018, 132 Stat. 3355, provided that: “To better inform the [Federal Aviation] Administration’s decisions regarding the prioritization of efforts and allocation of resources for NextGen [Next Generation Air Transportation System], the Administrator [of the Federal Aviation Administration] shall—

“(1) solicit input from specialists in probability and statistics to identify and prioritize the programmatic and implementation risks to NextGen; and

“(2) develop a method to manage and mitigate the risks identified in paragraph (1).”

PART 91 REVIEW, REFORM, AND STREAMLINING

Pub. L. 115-254, div. B, title V, §513, Oct. 5, 2018, 132 Stat. 3357, provided that:

“(a) ESTABLISHMENT OF TASK FORCE.—Not later than 90 days after the date of enactment of this Act [Oct. 5, 2018], the Administrator [of the Federal Aviation Administration] shall establish a task force comprised of representatives of the general aviation industry who regularly perform part 91 operations, labor unions (including those representing FAA aviation safety inspectors and FAA aviation safety engineers), manufacturers, and the Government to—

“(1) conduct an assessment of the FAA oversight and authorization processes and requirements for aircraft under part 91; and

“(2) make recommendations to streamline the applicable authorization and approval processes, improve safety, and reduce regulatory cost burdens and delays for the FAA and aircraft owners and operators who operate pursuant to part 91.

“(b) CONTENTS.—In conducting the assessment and making recommendations under subsection (a), the task force shall consider—

“(1) process reforms and improvements to allow the FAA to review and approve applications in a fair and timely fashion;

“(2) the appropriateness of requiring an authorization for each experimental aircraft rather than using a broader all-makes-and-models approach;

“(3) ways to improve the timely response to letters of authorization applications for aircraft owners and operators who operate pursuant to part 91, including setting deadlines and granting temporary or automatic authorizations if deadlines are missed by the FAA;

“(4) methods for enhancing the effective use of delegation systems;

“(5) methods for training the FAA’s field office employees in risk-based and safety management system oversight; and

“(6) such other matters related to streamlining part 91 authorization and approval processes as the task force considers appropriate.

“(c) REPORT TO CONGRESS.—

“(1) IN GENERAL.—Not later than 1 year after the date of enactment of this Act, the Administrator shall submit to the appropriate committees of Congress [Committee on Commerce, Science, and Transportation of the Senate and Committee on Transportation and Infrastructure of the House of Representatives] a report on the results of the task force’s assessment.

“(2) CONTENTS.—The report shall include an explanation of how the Administrator will—

“(A) implement the recommendations of the task force;

“(B) measure progress in implementing the recommendations; and

“(C) measure the effectiveness of the implemented recommendations.

“(d) IMPLEMENTATION OF RECOMMENDATIONS.—Not later than 18 months after the date of enactment of this Act, the Administrator shall implement the recommendations made under this section.

“(e) DEFINITION.—In this section, the term ‘part 91’ means part 91 of title 14, Code of Federal Regulations.

“(f) APPLICABLE LAW.—Public Law 92–463 [Federal Advisory Committee Act, 5 U.S.C. App.] shall not apply to the task force.

“(g) SUNSET.—The task force shall terminate on the day the Administrator submits the report required under subsection (c).”

PILOTS SHARING FLIGHT EXPENSES WITH PASSENGERS

Pub. L. 115–254, div. B, title V, §515, Oct. 5, 2018, 132 Stat. 3358, provided that:

“(a) GUIDANCE.—

“(1) IN GENERAL.—Not later than 90 days after the date of enactment of this Act [Oct. 5, 2018], the Administrator [of the Federal Aviation Administration] shall make publicly available, in a clear and concise format, advisory guidance that describes how a pilot may share flight expenses with passengers in a manner consistent with Federal law, including regulations.

“(2) EXAMPLES INCLUDED.—The guidance shall include examples of—

“(A) flights for which pilots and passengers may share expenses;

“(B) flights for which pilots and passengers may not share expenses;

“(C) the methods of communication that pilots and passengers may use to arrange flights for which expenses are shared; and

“(D) the methods of communication that pilots and passengers may not use to arrange flights for which expenses are shared.

“(b) REPORT.—

“(1) IN GENERAL.—Not later than 180 days after the date on which guidance is made publicly available under subsection (a), the Comptroller General of the United States shall submit to the appropriate committees of Congress [Committee on Commerce, Science, and Transportation of the Senate and Committee on Transportation and Infrastructure of the House of Representatives] a report analyzing Federal policy with respect to pilots sharing flight expenses with passengers.

“(2) EVALUATIONS INCLUDED.—The report submitted under paragraph (1) shall include an evaluation of—

“(A) the rationale for such Federal policy;

“(B) safety and other concerns related to pilots sharing flight expenses with passengers; and

“(C) benefits related to pilots sharing flight expenses with passengers.”

GEOSYNTHETIC MATERIALS

Pub. L. 115–254, div. B, title V, §525, Oct. 5, 2018, 132 Stat. 3364, provided that: “The Administrator [of the Federal Aviation Administration], to the extent practicable, shall encourage the use of durable, resilient, and sustainable materials and practices, including the use of geosynthetic materials and other innovative technologies, in carrying out the activities of the Federal Aviation Administration.”

TREATMENT OF MULTIYEAR LESSEES OF LARGE AND TURBINE-POWERED MULTIENGINE AIRCRAFT

Pub. L. 115–254, div. B, title V, §550, Oct. 5, 2018, 132 Stat. 3378, provided that: “The Secretary of Transportation shall revise such regulations as may be necessary to ensure that multiyear lessees and owners of large and turbine-powered multiengine aircraft are treated equally for purposes of joint ownership policies of the FAA.”

ENHANCED SURVEILLANCE CAPABILITY

Pub. L. 115–254, div. B, title V, §562, Oct. 5, 2018, 132 Stat. 3384, provided that: “Not later than 120 days after

the date of enactment of this Act [Oct. 5, 2018], the Administrator [of the Federal Aviation Administration] shall identify and implement a strategy to—

“(1) advance near-term and long-term uses of enhanced surveillance systems, such as space-based ADS-B [automatic dependent surveillance-broadcast], within United States airspace or international airspace delegated to the United States;

“(2) exercise leadership on setting global standards for the separation of aircraft in oceanic airspace by working with—

“(A) foreign counterparts of the Administrator in the International Civil Aviation Organization and its subsidiary organizations;

“(B) other international organizations and fora;

and

“(C) the private sector; and

“(3) ensure the participation of the [Federal Aviation] Administration in the analysis of trials of enhanced surveillance systems, such as space-based ADS-B, performed by foreign air navigation service providers in North Atlantic airspace.”

AVIATION WORKFORCE DEVELOPMENT PROGRAMS

Pub. L. 115–254, div. B, title VI, §625, Oct. 5, 2018, 132 Stat. 3405, as amended by Pub. L. 116–92, div. A, title XVII, §1743(a), Dec. 20, 2019, 133 Stat. 1842, provided that:

“(a) IN GENERAL.—The Secretary of Transportation shall establish—

“(1) a program to provide grants for eligible projects to support the education of future aircraft pilots and the development of the aircraft pilot workforce; and

“(2) a program to provide grants for eligible projects to support the education and recruitment of aviation maintenance technical workers and the development of the aviation maintenance workforce.

“(b) PROJECT GRANTS.—

“(1) IN GENERAL.—Out of amounts made available under section 48105 of title 49, United States Code, not more than \$5,000,000 for each of fiscal years 2019 through 2023 is authorized to be expended to provide grants under the program established under subsection (a)(1), and \$5,000,000 for each of fiscal years 2019 through 2023 is authorized to provide grants under the program established under subsection (a)(2).

“(2) DOLLAR AMOUNT LIMIT.—Not more than \$500,000 shall be available for any 1 grant in any 1 fiscal year under the programs established under subsection (a).

“(c) ELIGIBLE APPLICATIONS.—

“(1) An application for a grant under the program established under subsection (a)(1) shall be submitted, in such form as the Secretary may specify, by—

“(A) an air carrier, as defined in section 40102 of title 49, United States Code, or a labor organization representing aircraft pilots;

“(B) an accredited institution of higher education (as defined in section 101 of the Higher Education Act of 1965 (20 U.S.C. 1001)) or a high school or secondary school (as defined in section 7801 [probably should be ‘8101’] of the Higher Education Act of 1965 (20 U.S.C. 7801));

“(C) a flight school that provides flight training, as defined in part 61 of title 14, Code of Federal Regulations, or that holds a pilot school certificate under part 141 of title 14, Code of Federal Regulations;

“(D) a State or local governmental entity; or

“(E) an organization representing aircraft users, aircraft owners, or aircraft pilots.

“(2) An application for a grant under the pilot program established under subsection (a)(2) shall be submitted, in such form as the Secretary may specify, by—

“(A) a holder of a certificate issued under part 21, 121, 135, or 145 of title 14, Code of Federal Regulations or a labor organization representing aviation maintenance workers;

“(B) an accredited institution of higher education (as defined in section 101 of the Higher Education Act of 1965 (20 U.S.C. 1001)) or a high school or secondary school (as defined in section 7801 [8101] of the Elementary and Secondary Education Act of 1965 (20 U.S.C. 7801); and [sic]

“(C) a State or local governmental entity.

“(d) ELIGIBLE PROJECTS.—

“(1) For purposes of the program established under subsection (a)(1), an eligible project is a project—

“(A) to create and deliver curriculum designed to provide high school students with meaningful aviation education that is designed to prepare the students to become aircraft pilots, aerospace engineers, or unmanned aircraft systems operators; or

“(B) to support the professional development of teachers using the curriculum described in subparagraph (A).

“(2) For purposes of the pilot program established under subsection (a)(2), an eligible project is a project—

“(A) to establish new educational programs that teach technical skills used in aviation maintenance, including purchasing equipment, or to improve existing such programs;

“(B) to establish scholarships or apprenticeships for individuals pursuing employment in the aviation maintenance industry;

“(C) to support outreach about careers in the aviation maintenance industry to—

“(i) primary, secondary, and post-secondary school students; or

“(ii) to [sic] communities underrepresented in the industry;

“(D) to support educational opportunities related to aviation maintenance in economically disadvantaged geographic areas;

“(E) to support transition to careers in aviation maintenance, including for members of the Armed Forces; or

“(F) to otherwise enhance aviation maintenance technical education or the aviation maintenance industry workforce.

“(e) GRANT APPLICATION REVIEW.—In reviewing and selecting applications for grants under the programs established under subsection (a), the Secretary shall—

“(1) prior to selecting among competing applications, consult, as appropriate, with representatives of aircraft repair stations, design and production approval holders, air carriers, labor organizations, business aviation, general aviation, educational institutions, and other relevant aviation sectors; and

“(2) ensure that the applications selected for projects established under subsection (a)(1) will allow participation from a diverse collection of public and private schools in rural, suburban, and urban areas.”

[Pub. L. 116–92, div. A, title XVII, §1743(b), Dec. 20, 2019, 133 Stat. 1842, provided that: “The amendments made by subsection (a) [amending section 625 of Pub. L. 115–254, set out above] shall take effect as if included in the enactment of the FAA Reauthorization Act of 2018 (Public Law 115–254).”]

COMMUNITY AND TECHNICAL COLLEGE CENTERS OF EXCELLENCE IN SMALL UNMANNED AIRCRAFT SYSTEM TECHNOLOGY TRAINING

Pub. L. 115–254, div. B, title VI, §631, Oct. 5, 2018, 132 Stat. 3407, provided that:

“(a) DESIGNATION.—Not later than 180 days after the date of enactment of this Act [Oct. 5, 2018], the Secretary of Transportation, in consultation with the Secretary of Education and the Secretary of Labor, shall establish a process to designate consortia of public, 2-year institutions of higher education as Community and Technical College Centers of Excellence in Small Unmanned Aircraft System Technology Training (in this section referred to as the ‘Centers of Excellence’).

“(b) FUNCTIONS.—A Center of Excellence designated under subsection (a) shall have the capacity to train students for career opportunities in industry and gov-

ernment service related to the use of small unmanned aircraft systems.

“(c) EDUCATION AND TRAINING REQUIREMENTS.—In order to be designated as a Center of Excellence under subsection (a), a consortium shall be able to address education and training requirements associated with various types of small unmanned aircraft systems, components, and related equipment, including with respect to—

“(1) multirotor and fixed-wing small unmanned aircraft;

“(2) flight systems, radio controllers, components, and characteristics of such aircraft;

“(3) routine maintenance, uses and applications, privacy concerns, safety, and insurance for such aircraft;

“(4) hands-on flight practice using small unmanned aircraft systems and computer simulator training;

“(5) use of small unmanned aircraft systems in various industry applications and local, State, and Federal government programs and services, including in agriculture, law enforcement, monitoring oil and gas pipelines, natural disaster response and recovery, fire and emergency services, and other emerging areas;

“(6) Federal policies concerning small unmanned aircraft;

“(7) dual credit programs to deliver small unmanned aircraft training opportunities to secondary school students; or

“(8) training with respect to sensors and the processing, analyzing, and visualizing of data collected by small unmanned aircraft.

“(d) COLLABORATION.—Each Center of Excellence shall seek to collaborate with institutions participating in the Alliance for System Safety of UAS through Research Excellence of the Federal Aviation Administration and with the test ranges defined under section 44801 of title 49, United States Code, as added by this Act.

“(e) INSTITUTION OF HIGHER EDUCATION.—In this section, the term ‘institution of higher education’ has the meaning given the term in section 101 of the Higher Education Act of 1965 (20 U.S.C. 1001).”

COLLEGIATE TRAINING INITIATIVE PROGRAM FOR UNMANNED AIRCRAFT SYSTEMS

Pub. L. 115–254, div. B, title VI, §632, Oct. 5, 2018, 132 Stat. 3408, provided that:

“(a) IN GENERAL.—Not later than 180 days after the date of enactment of this Act [Oct. 5, 2018], the Administrator of the Federal Aviation Administration shall establish a collegiate training initiative program relating to unmanned aircraft systems by making new agreements or continuing existing agreements with institutions of higher education (as defined in section 101 of the Higher Education Act of 1965 (20 U.S.C. 1001)) under which the institutions prepare students for careers involving unmanned aircraft systems. The Administrator may establish standards for the entry of such institutions into the program and for their continued participation in the program.

“(b) UNMANNED AIRCRAFT SYSTEM DEFINED.—In this section, the term ‘unmanned aircraft system’ has the meaning given that term by section 44801 of title 49, United States Code, as added by this Act.”

CYBER TESTBED

Pub. L. 115–254, div. B, title VII, §731, Oct. 5, 2018, 132 Stat. 3411, provided that: “Not later than 6 months after the date of enactment of this Act [Oct. 5, 2018], the Administrator [of the Federal Aviation Administration] shall develop an integrated Cyber Testbed for research, development, evaluation, and validation of air traffic control modernization technologies, before they enter the national airspace system, as being compliant with FAA data security regulations. The Cyber Testbed shall be part of an integrated research and development test environment capable of creating, identifying, defending, and solving cybersecurity-related

problems for the national airspace system. This integrated test environment shall incorporate integrated test capacities within the FAA related to the national airspace system and NextGen.”

MITIGATION OF OPERATIONAL RISKS POSED TO CERTAIN MILITARY AIRCRAFT BY AUTOMATIC DEPENDENT SURVEILLANCE-BROADCAST EQUIPMENT

Pub. L. 115-232, div. A, title X, §1046, Aug. 13, 2018, 132 Stat. 1959, provided that:

“(a) IN GENERAL.—The Secretary of Transportation may not—

“(1) directly or indirectly require the installation of automatic dependent surveillance-broadcast (hereinafter in this section referred to as ‘ADS-B’) equipment on fighter aircraft, bomber aircraft, or other special mission aircraft owned or operated by the Department of Defense;

“(2) deny or reduce air traffic control services in United States airspace or international airspace delegated to the United States to any aircraft described in paragraph (1) on the basis that such aircraft is not equipped with ADS-B equipment; or

“(3) restrict or limit airspace access for aircraft described in paragraph (1) on the basis such aircraft are not equipped with ADS-B equipment.

“(b) TERMINATION.—Subsection (a) shall cease to be effective on the date that the Secretary of Transportation and the Secretary of Defense jointly submit to the appropriate congressional committees notice that the Secretaries have entered into a memorandum of agreement or other similar agreement providing that fighter aircraft, bomber aircraft, and other special mission aircraft owned or operated by the Department of Defense that are not equipped or not yet equipped with ADS-B equipment will be reasonably accommodated for safe operations in the National Airspace System and provided with necessary air traffic control services.

“(c) RULE OF CONSTRUCTION.—Nothing in this section may be construed to—

“(1) vest in the Secretary of Defense any authority of the Secretary of Transportation or the Administrator of the Federal Aviation Administration under title 49, United States Code, or any other provision of law;

“(2) vest in the Secretary of Transportation or the Administrator of the Federal Aviation Administration any authority of the Secretary of Defense under title 10, United States Code, or any other provision of law; or

“(3) limit the authority or discretion of the Secretary of Transportation or the Administrator of the Federal Aviation Administration to operate air traffic control services to ensure the safe minimum separation of aircraft in flight and the efficient use of airspace.

“(d) NOTIFICATION REQUIREMENT.—The Secretary of Defense shall provide to the Secretary of Transportation notification of any aircraft the Secretary of Defense designates as a special mission aircraft pursuant to subsection (e)(3).

“(e) DEFINITIONS.—In this section:

“(1) The term ‘appropriate congressional committees’ means the congressional defense committees, the Committee on Transportation and Infrastructure of the House of Representatives, and the Committee on Commerce, Science, and Transportation of the Senate.

“(2) The term ‘air traffic control services’ means services used for the monitoring, directing, control, and guidance of aircraft or flows of aircraft and for the safe conduct of flight, including communications, navigation, and surveillance services and provision of aeronautical information.

“(3) The term ‘special mission aircraft’ means an aircraft the Secretary of Defense designates for a

unique mission to which ADS-B equipment creates a unique risk.”

COLLABORATION BETWEEN FEDERAL AVIATION ADMINISTRATION AND DEPARTMENT OF DEFENSE ON UNMANNED AIRCRAFT SYSTEMS

Pub. L. 115-91, div. A, title X, §1092, Dec. 12, 2017, 131 Stat. 1610, formerly set out as a note under this section, was transferred and is set out as a note under section 44802 of this title.

UNMANNED AIRCRAFT JOINT TRAINING AND USAGE PLAN

Pub. L. 113-66, div. A, title X, §1075(a), Dec. 26, 2013, 127 Stat. 870, formerly set out as a note under this section, was transferred and is set out as a note under section 44802 of this title.

INTERAGENCY COLLABORATION

Pub. L. 112-239, div. A, title X, §1052(b), (c), Jan. 2, 2013, 126 Stat. 1935, 1936, formerly set out as a note under this section, was transferred and is set out as a note under section 44802 of this title.

PROHIBITION ON PARTICIPATION IN EUROPEAN UNION’S EMISSIONS TRADING SCHEME

Pub. L. 112-200, Nov. 27, 2012, 126 Stat. 1477, provided that:

“SECTION 1. SHORT TITLE.

“This Act may be cited as the ‘European Union Emissions Trading Scheme Prohibition Act of 2011’.

“SEC. 2. PROHIBITION ON PARTICIPATION IN THE EUROPEAN UNION’S EMISSIONS TRADING SCHEME.

“(a) IN GENERAL.—The Secretary of Transportation shall prohibit an operator of a civil aircraft of the United States from participating in the emissions trading scheme unilaterally established by the European Union in EU Directive 2003/87/EC of October 13, 2003, as amended, in any case in which the Secretary determines the prohibition to be, and in a manner that is, in the public interest, taking into account—

“(1) the impacts on U.S. consumers, U.S. carriers, and U.S. operators;

“(2) the impacts on the economic, energy, and environmental security of the United States; and

“(3) the impacts on U.S. foreign relations, including existing international commitments.

“(b) PUBLIC HEARING.—After determining that a prohibition under this section may be in the public interest, the Secretary must hold a public hearing at least 30 days before imposing any prohibition.

“(c) REASSESSMENT OF DETERMINATION OF PUBLIC INTEREST.—The Secretary—

“(1) may reassess a determination under subsection (a) that a prohibition under that subsection is in the public interest at any time after making such a determination; and

“(2) shall reassess such a determination after—

“(A) any amendment by the European Union to the EU Directive referred to in subsection (a); or

“(B) the adoption of any international agreement pursuant to section 3(1). [sic]

“(C) enactment of a public law or issuance of a final rule after formal agency rulemaking, in the United State[s] to address aircraft emissions.

“SEC. 3. NEGOTIATIONS.

“(a) IN GENERAL.—The Secretary of Transportation, the Administrator of the Federal Aviation Administration, and other appropriate officials of the United States Government—

“(1) should, as appropriate, use their authority to conduct international negotiations, including using their authority to conduct international negotiations to pursue a worldwide approach to address aircraft emissions, including the environmental impact of aircraft emissions; and

“(2) shall, as appropriate and except as provided in subsection (b), take other actions under existing au-

thorities that are in the public interest necessary to hold operators of civil aircraft of the United States harmless from the emissions trading scheme referred to under section 2.

“(b) EXCLUSION OF PAYMENT OF TAXES AND PENALTIES.—Actions taken under subsection (a)(2) may not include the obligation or expenditure of any amounts in the Airport and Airway Trust Fund established under section 9905 [9502] of the Internal Revenue Code of 1986 [26 U.S.C. 9502], or amounts otherwise made available to the Department of Transportation or any other Federal agency pursuant to appropriations Acts, for the payment of any tax or penalty imposed on an operator of civil aircraft of the United States pursuant to the emissions trading scheme referred to under section 2.

“SEC. 4. DEFINITION OF CIVIL AIRCRAFT OF THE UNITED STATES.

“In this Act, the term ‘civil aircraft of the United States’ has the meaning given the term under section 40102(a) of title 49, United States Code.”

NEXTGEN AIR TRANSPORTATION SYSTEM AND AIR TRAFFIC CONTROL MODERNIZATION

Pub. L. 112–95, title II, §§201, 202, 211–222, Feb. 14, 2012, 126 Stat. 36, 44–54, as amended by Pub. L. 114–328, div. A, title III, §341(b), Dec. 23, 2016, 130 Stat. 2081; Pub. L. 115–254, div. B, title V, §§503(e), 522(a), Oct. 5, 2018, 132 Stat. 3353, 3363, provided that:

“SEC. 201. DEFINITIONS.

“In this title [amending sections 106, 40102, 40110, and 40113 of this title, enacting provisions set out as notes under this section and sections 106 and 44506 of this title, and amending provisions set out as notes under this section], the following definitions apply:

“(1) NEXTGEN.—The term ‘NextGen’ means the Next Generation Air Transportation System.

“(2) ADS–B.—The term ‘ADS–B’ means automatic dependent surveillance–broadcast.

“(3) ADS–B OUT.—The term ‘ADS–B Out’ means automatic dependent surveillance–broadcast with the ability to transmit information from the aircraft to ground stations and to other equipped aircraft.

“(4) ADS–B IN.—The term ‘ADS–B In’ means automatic dependent surveillance–broadcast with the ability to transmit information from the aircraft to ground stations and to other equipped aircraft as well as the ability of the aircraft to receive information from other transmitting aircraft and the ground infrastructure.

“(5) RNAV.—The term ‘RNAV’ means area navigation.

“(6) RNP.—The term ‘RNP’ means required navigation performance.

“[SEC. 202. Repealed. Pub. L. 115–254, div. B, title V, §503(e), Oct. 5, 2018, 132 Stat. 3353.]

“SEC. 211. AUTOMATIC DEPENDENT SURVEILLANCE–BROADCAST SERVICES.

“(a) REVIEW BY DOT INSPECTOR GENERAL.—

“(1) IN GENERAL.—The Inspector General of the Department of Transportation shall conduct a review concerning the Federal Aviation Administration’s award and oversight of any contracts entered into by the Administration to provide ADS–B services for the national airspace system.

“(2) CONTENTS.—The review shall include, at a minimum—

“(A) an examination of how the Administration manages program risks;

“(B) an assessment of expected benefits attributable to the deployment of ADS–B services, including the Administration’s plans for implementation of advanced operational procedures and air-to-air applications, as well as the extent to which ground radar will be retained;

“(C) an assessment of the Administration’s analysis of specific operational benefits, and benefit/

costs analyses of planned operational benefits conducted by the Administration, for ADS–B In and ADS–B Out avionics equipage for airspace users;

“(D) a determination of whether the Administration has established sufficient mechanisms to ensure that all design, acquisition, operation, and maintenance requirements have been met by the contractor;

“(E) an assessment of whether the Administration and any contractors are meeting cost, schedule, and performance milestones, as measured against the original baseline of the Administration’s program for providing ADS–B services;

“(F) an assessment of how security issues are being addressed in the overall design and implementation of the ADS–B system;

“(G) identification of any potential operational or workforce changes resulting from deployment of ADS–B; and

“(H) any other matters or aspects relating to contract implementation and oversight that the Inspector General determines merit attention.

“(3) REPORTS TO CONGRESS.—The Inspector General shall submit, periodically (and on at least an annual basis), to the Committee on Transportation and Infrastructure of the House of Representatives and the Committee on Commerce, Science, and Transportation of the Senate a report on the results of the review conducted under this subsection.

“(b) Repealed. Pub. L. 115–254, div. B, title V, §522(a), Oct. 5, 2018, 132 Stat. 3363.]

“(c) USE OF ADS–B TECHNOLOGY.—

“(1) PLANS.—Not later than 18 months after the date of enactment of this Act [Feb. 14, 2012], the Administrator shall develop, in consultation with appropriate employee and industry groups, a plan for the use of ADS–B technology for surveillance and active air traffic control.

“(2) CONTENTS.—The plan shall—

“(A) include provisions to test the use of ADS–B technology for surveillance and active air traffic control in specific regions of the United States with the most congested airspace;

“(B) identify the equipment required at air traffic control facilities and the training required for air traffic controllers;

“(C) identify procedures, to be developed in consultation with appropriate employee and industry groups, to conduct air traffic management in mixed equipage environments; and

“(D) establish a policy in test regions referred to in subparagraph (A), in consultation with appropriate employee and industry groups, to provide incentives for equipage with ADS–B technology, including giving priority to aircraft equipped with such technology before the 2020 equipage deadline.

“SEC. 212. EXPERT REVIEW OF ENTERPRISE ARCHITECTURE FOR NEXTGEN.

“(a) REVIEW.—The Administrator of the Federal Aviation Administration shall enter into an arrangement with the National Research Council to review the enterprise architecture for the NextGen.

“(b) CONTENTS.—At a minimum, the review to be conducted under subsection (a) shall—

“(1) highlight the technical activities, including human-system design, organizational design, and other safety and human factor aspects of the system, that will be necessary to successfully transition current and planned modernization programs to the future system envisioned by the Joint Planning and Development Office of the Administration;

“(2) assess technical, cost, and schedule risk for the software development that will be necessary to achieve the expected benefits from a highly automated air traffic management system and the implications for ongoing modernization projects; and

“(3) determine how risks with automation efforts for the NextGen can be mitigated based on the experiences of other public or private entities in developing complex, software-intensive systems.

“(c) REPORT.—Not later than 1 year after the date of enactment of this Act [Feb. 14, 2012], the Administrator shall submit to the Committee on Transportation and Infrastructure of the House of Representatives and the Committee on Commerce, Science, and Transportation of the Senate a report containing the results of the review conducted pursuant to subsection (a).

“SEC. 213. ACCELERATION OF NEXTGEN TECHNOLOGIES.

“(a) OPERATIONAL EVOLUTION PARTNERSHIP (OEP) AIRPORT PROCEDURES.—

“(1) OEP AIRPORTS REPORT.—Not later than 6 months after the date of enactment of this Act [Feb. 14, 2012], the Administrator of the Federal Aviation Administration shall publish a report, after consultation with representatives of appropriate Administration employee groups, airport operators, air carriers, general aviation representatives, aircraft and avionics manufacturers, and third parties that have received letters of qualification from the Administration to design and validate required navigation performance flight paths for public use (in this section referred to as ‘qualified third parties’) that includes the following:

“(A) RNP/RNAV OPERATIONS FOR OEP AIRPORTS.—The required navigation performance and area navigation operations, including the procedures to be developed, certified, and published and the air traffic control operational changes, to maximize the fuel efficiency and airspace capacity of NextGen commercial operations at each of the 35 operational evolution partnership airports identified by the Administration and any medium or small hub airport located within the same metroplex area considered appropriate by the Administrator. The Administrator shall, to the maximum extent practicable, avoid overlays of existing flight procedures, but if unavoidable, the Administrator shall clearly identify each required navigation performance and area navigation procedure that is an overlay of an existing instrument flight procedure and the reason why such an overlay was used.

“(B) COORDINATION AND IMPLEMENTATION ACTIVITIES FOR OEP AIRPORTS.—A description of the activities and operational changes and approvals required to coordinate and utilize the procedures at OEP airports.

“(C) IMPLEMENTATION PLAN FOR OEP AIRPORTS.—A plan for implementing the procedures for OEP airports under subparagraph (A) that establishes—

“(i) clearly defined budget, schedule, project organization, and leadership requirements;

“(ii) specific implementation and transition steps;

“(iii) baseline and performance metrics for—

“(I) measuring the Administration’s progress in implementing the plan, including the percentage utilization of required navigation performance in the national airspace system; and

“(II) achieving measurable fuel burn and carbon dioxide emissions reductions compared to current performance;

“(iv) expedited environmental review procedures and processes for timely environmental approval of area navigation and required navigation performance that offer significant efficiency improvements as determined by baseline and performance metrics under clause (iii);

“(v) coordination and communication mechanisms with qualified third parties, if applicable;

“(vi) plans to address human factors, training, and other issues for air traffic controllers surrounding the adoption of RNP procedures in the en route and terminal environments, including in a mixed operational environment; and

“(vii) a lifecycle management strategy for RNP procedures to be developed by qualified third parties, if applicable.

“(D) ADDITIONAL PROCEDURES FOR OEP AIRPORTS.—A process for the identification, certification, and publication of additional required navigation performance and area navigation procedures that may provide operational benefits at OEP airports, and any medium or small hub airport located within the same metroplex area as the OEP airport, in the future.

“(2) IMPLEMENTATION SCHEDULE FOR OEP AIRPORTS.—The Administrator shall certify, publish, and implement—

“(A) not later than 18 months after the date of enactment of this Act [Feb. 14, 2012], 30 percent of the required procedures at OEP airports;

“(B) not later than 36 months after the date of enactment of this Act, 60 percent of the required procedures at OEP airports; and

“(C) before June 30, 2015, 100 percent of the required procedures at OEP airports.

“(b) NON-OEP AIRPORTS.—

“(1) NON-OEP AIRPORTS REPORT.—Not later than 6 months after the date of enactment of this Act [Feb. 14, 2012], the Administrator of the Federal Aviation Administration shall publish a report, after consultation with representatives of appropriate Administration employee groups, airport operators, air carriers, general aviation representatives, aircraft and avionics manufacturers, and third parties that have received letters of qualification from the Administration to design and validate required navigation performance flight paths for public use (in this section referred to as ‘qualified third parties’) that includes the following:

“(A) RNP OPERATIONS FOR NON-OEP AIRPORTS.—A list of required navigation performance procedures (as defined in FAA order 8260.52(d)) to be developed, certified, and published, and the air traffic control operational changes, to maximize the fuel efficiency and airspace capacity of NextGen commercial operations at 35 non-OEP small, medium, and large hub airports other than those referred to in subsection (a)(1). The Administrator shall choose such non-OEP airports considered appropriate by the Administrator to produce maximum operational benefits, including improved fuel efficiency and emissions reductions that do not have public RNP procedures that produce such benefits on the date of enactment of this Act. The Administrator shall, to the maximum extent practicable, avoid overlays of existing flight procedures, but if unavoidable, the Administrator shall clearly identify each required navigation performance procedure that is an overlay of an existing instrument flight procedure and the reason why such an overlay was used.

“(B) COORDINATION AND IMPLEMENTATION ACTIVITIES FOR NON-OEP AIRPORTS.—A description of the activities and operational changes and approvals required to coordinate and to utilize the procedures required by subparagraph (A) at each of the airports described in such subparagraph.

“(C) IMPLEMENTATION PLAN FOR NON-OEP AIRPORTS.—A plan for implementation of the procedures required by subparagraph (A) that establishes—

“(i) clearly defined budget, schedule, project organization, and leadership requirements;

“(ii) specific implementation and transition steps;

“(iii) coordination and communications mechanisms with qualified third parties;

“(iv) plans to address human factors, training, and other issues for air traffic controllers surrounding the adoption of RNP procedures in the en route and terminal environments, including in a mixed operational environment;

“(v) baseline and performance metrics for—

“(I) measuring the Administration’s progress in implementing the plan, including the percentage utilization of required navigation performance in the national airspace system; and

“(II) achieving measurable fuel burn and carbon dioxide emissions reduction compared to current performance;

“(vi) expedited environmental review procedures and processes for timely environmental approval of area navigation and required navigation performance that offer significant efficiency improvements as determined by baseline and performance metrics established under clause (v);

“(vii) a description of the software and database information, such as a current version of the Noise Integrated Routing System or the Integrated Noise Model that the Administration will need to make available to qualified third parties to enable those third parties to design procedures that will meet the broad range of requirements of the Administration; and

“(viii) lifecycle management strategy for RNP procedures to be developed by qualified third parties, if applicable.

“(D) ADDITIONAL PROCEDURES FOR NON-OEP AIRPORTS.—A process for the identification, certification, and publication of additional required navigation performance procedures that may provide operational benefits at non-OEP airports in the future.

“(2) IMPLEMENTATION SCHEDULE FOR NON-OEP AIRPORTS.—The Administrator shall certify, publish, and implement—

“(A) not later than 18 months after the date of enactment of this Act [Feb. 14, 2012], 25 percent of the required procedures for non-OEP airports;

“(B) not later than 36 months after the date of enactment of this Act, 50 percent of the required procedures for non-OEP airports; and

“(C) before June 30, 2016, 100 percent of the required procedures for non-OEP airports.

“(c) COORDINATED AND EXPEDITED REVIEW.—

“(1) IN GENERAL.—Navigation performance and area navigation procedures developed, certified, published, or implemented under this section shall be presumed to be covered by a categorical exclusion (as defined in section 1508.4 of title 40, Code of Federal Regulations) under chapter 3 of FAA Order 1050.1E unless the Administrator determines that extraordinary circumstances exist with respect to the procedure.

“(2) NEXTGEN PROCEDURES.—Any navigation performance or other performance based navigation procedure developed, certified, published, or implemented that, in the determination of the Administrator, would result in measurable reductions in fuel consumption, carbon dioxide emissions, and noise, on a per flight basis, as compared to aircraft operations that follow existing instrument flight rules procedures in the same airspace, shall be presumed to have no significant affect on the quality of the human environment and the Administrator shall issue and file a categorical exclusion for the new procedure.

“(3) NOTIFICATIONS AND CONSULTATIONS.—Not later than 90 days before applying a categorical exclusion under this subsection to a new procedure at an OEP airport, the Administrator shall—

“(A) notify and consult with the operator of the airport at which the procedure would be implemented; and

“(B) consider consultations or other engagement with the community in the [sic] which the airport is located to inform the public of the procedure.

“(4) REVIEW OF CERTAIN CATEGORICAL EXCLUSIONS.—

“(A) IN GENERAL.—The Administrator shall review any decision of the Administrator made on or after February 14, 2012, and before the date of the enactment of this paragraph [Dec. 23, 2016] to grant a categorical exclusion under this subsection with respect to a procedure to be implemented at an OEP airport that was a material change from procedures previously in effect at the airport to determine if the implementation of the procedure had a significant effect on the human environment in the community in which the airport is located.

“(B) CONTENT OF REVIEW.—If, in conducting a review under subparagraph (A) with respect to a procedure implemented at an OEP airport, the Administrator, in consultation with the operator of the airport, determines that implementing the procedure had a significant effect on the human environment in the community in which the airport is located, the Administrator shall—

“(i) consult with the operator of the airport to identify measures to mitigate the effect of the procedure on the human environment; and

“(ii) in conducting such consultations, consider the use of alternative flight paths that do not substantially degrade the efficiencies achieved by the implementation of the procedure being reviewed.

“(C) HUMAN ENVIRONMENT DEFINED.—In this paragraph, the term ‘human environment’ has the meaning given such term in section 1508.14 of title 40, Code of Federal Regulations (as in effect on the day before the date of the enactment of this paragraph).

“(d) DEPLOYMENT PLAN FOR NATIONWIDE DATA COMMUNICATIONS SYSTEM.—Not later than 1 year after the date of enactment of this Act [Feb. 14, 2012], the Administrator shall submit to the Committee on Commerce, Science, and Transportation of the Senate and the Committee on Transportation and Infrastructure of the House of Representatives a plan for implementation of a nationwide data communications system. The plan shall include—

“(1) clearly defined budget, schedule, project organization, and leadership requirements;

“(2) specific implementation and transition steps; and

“(3) baseline and performance metrics for measuring the Administration’s progress in implementing the plan.

“(e) IMPROVED PERFORMANCE STANDARDS.—

“(1) ASSESSMENT OF WORK BEING PERFORMED UNDER NEXTGEN IMPLEMENTATION PLAN.—The Administrator shall clearly outline in the NextGen Implementation Plan document of the Administration the work being performed under the plan to determine—

“(A) whether utilization of ADS-B, RNP, and other technologies as part of NextGen implementation will display the position of aircraft more accurately and frequently to enable a more efficient use of existing airspace and result in reduced consumption of aviation fuel and aircraft engine emissions; and

“(B) the feasibility of reducing aircraft separation standards in a safe manner as a result of the implementation of such technologies.

“(2) AIRCRAFT SEPARATION STANDARDS.—If the Administrator determines that the standards referred to in paragraph (1)(B) can be reduced safely, the Administrator shall include in the NextGen Implementation Plan a timetable for implementation of such reduced standards.

“(f) THIRD-PARTY USAGE.—The Administration shall establish a program under which the Administrator is authorized to use qualified third parties in the development, testing, and maintenance of flight procedures.

“SEC. 214. PERFORMANCE METRICS.

“(a) IN GENERAL.—Not later than 180 days after the date of enactment of this Act [Feb. 14, 2012], the Administrator of the Federal Aviation Administration shall establish and begin tracking national airspace system performance metrics, including, at a minimum, metrics with respect to—

“(1) actual arrival and departure rates per hour measured against the currently published aircraft arrival rate and aircraft departure rate for the 35 operational evolution partnership airports;

“(2) average gate-to-gate times;

“(3) fuel burned between key city pairs;

“(4) operations using the advanced navigation procedures, including performance based navigation procedures;

“(5) the average distance flown between key city pairs;

“(6) the time between pushing back from the gate and taking off;

“(7) continuous climb or descent;

“(8) average gate arrival delay for all arrivals;

“(9) flown versus filed flight times for key city pairs;

“(10) implementation of NextGen Implementation Plan, or any successor document, capabilities designed to reduce emissions and fuel consumption;

“(11) the Administration’s unit cost of providing air traffic control services; and

“(12) runway safety, including runway incursions, operational errors, and loss of standard separation events.

“(b) BASELINES.—The Administrator, in consultation with aviation industry stakeholders, shall identify baselines for each of the metrics established under subsection (a) and appropriate methods to measure deviations from the baselines.

“(c) PUBLICATION.—The Administrator shall make data obtained under subsection (a) available to the public in a searchable, sortable, and downloadable format through the Web site of the Administration and other appropriate media.

“(d) REPORT.—Not later than 180 days after the date of enactment of this Act [Feb. 14, 2012], the Administrator shall submit to the Committee on Commerce, Science, and Transportation of the Senate and the Committee on Transportation and Infrastructure of the House of Representatives a report that contains—

“(1) a description of the metrics that will be used to measure the Administration’s progress in implementing NextGen capabilities and operational results;

“(2) information on any additional metrics developed; and

“(3) a process for holding the Administration accountable for meeting or exceeding the metrics baselines identified in subsection (b).

“SEC. 215. CERTIFICATION STANDARDS AND RESOURCES.

“(a) PROCESS FOR CERTIFICATION.—Not later than 180 days after the date of enactment of this Act [Feb. 14, 2012], the Administrator of the Federal Aviation Administration shall develop a plan to accelerate and streamline the process for certification of NextGen technologies, including—

“(1) establishment of updated project plans and timelines;

“(2) identification of the specific activities needed to certify NextGen technologies, including the establishment of NextGen technical requirements for the manufacture of equipment, installation of equipment, airline operational procedures, pilot training standards, air traffic control procedures, and air traffic controller training;

“(3) identification of staffing requirements for the Air Certification Service and the Flight Standards Service, taking into consideration the leveraging of assistance from third parties and designees;

“(4) establishment of a program under which the Administration will use third parties in the certification process; and

“(5) establishment of performance metrics to measure the Administration’s progress.

“(b) CERTIFICATION INTEGRITY.—The Administrator shall ensure that equipment, systems, or services used in the national airspace system meet appropriate certification requirements regardless of whether the equipment, system, or service is publically or privately owned.

“SEC. 216. SURFACE SYSTEMS ACCELERATION.

“(a) IN GENERAL.—The Chief Operating Officer of the Air Traffic Organization shall—

“(1) evaluate the Airport Surface Detection Equipment-Model X program for its potential contribution to implementation of the NextGen initiative;

“(2) evaluate airport surveillance technologies and associated collaborative surface management software for potential contributions to implementation of NextGen surface management;

“(3) accelerate implementation of the program referred to in paragraph (1); and

“(4) carry out such additional duties as the Administrator of the Federal Aviation Administration may require.

“(b) EXPEDITED CERTIFICATION AND UTILIZATION.—The Administrator shall—

“(1) consider options for expediting the certification of Ground-Based Augmentation System technology; and

“(2) develop a plan to utilize such a system at the 35 operational evolution partnership airports by December 31, 2012.

“SEC. 217. INCLUSION OF STAKEHOLDERS IN AIR TRAFFIC CONTROL MODERNIZATION PROJECTS.

“(a) PROCESS FOR EMPLOYEE INCLUSION.—Notwithstanding any other law or agreement, the Administrator of the Federal Aviation Administration shall establish a process or processes for including qualified employees selected by each exclusive collective bargaining representative of employees of the Administration impacted by the air traffic control modernization process to serve in a collaborative and expert capacity in the planning and development of air traffic control modernization projects, including NextGen.

“(b) ADHERENCE TO DEADLINES.—Participants in these processes shall adhere, to the greatest extent possible, to all deadlines and milestones established pursuant to this title.

“(c) NO CHANGE IN EMPLOYEE STATUS.—Participation in these processes by an employee shall not—

“(1) serve as a waiver of any bargaining obligations or rights;

“(2) entitle the employee to any additional compensation or benefits with the exception of a per diem, if appropriate; or

“(3) entitle the employee to prevent or unduly delay the exercise of management prerogatives.

“(d) WORKING GROUPS.—Except in extraordinary circumstances, the Administrator shall not pay overtime related to work group participation.

“(e) REPORT.—Not later than 1 year after the date of enactment of this Act [Feb. 14, 2012], the Administrator shall report to the Committee on Transportation and Infrastructure of the House of Representatives and the Committee on Commerce, Science, and Transportation of the Senate on the implementation of this section.

“SEC. 218. AIRSPACE REDESIGN.

“(a) FINDINGS.—Congress finds the following:

“(1) The airspace redesign efforts of the Federal Aviation Administration will play a critical near-term role in enhancing capacity, reducing delays, transitioning to more flexible routing, and ultimately saving money in fuel costs for airlines and airspace users.

“(2) The critical importance of airspace redesign efforts is underscored by the fact that they are highlighted in strategic plans of the Administration, including Flight Plan 2009–2013 and the NextGen Implementation Plan.

“(3) Funding cuts have led to delays and deferrals of critical capacity enhancing airspace redesign efforts.

“(4) New runways planned for the period of fiscal years 2011 and 2012 will not provide estimated capacity benefits without additional funds.

“(b) NOISE IMPACTS OF NEW YORK/NEW JERSEY/PHILADELPHIA METROPOLITAN AREA AIRSPACE REDESIGN.—

“(1) MONITORING.—The Administrator of the Federal Aviation Administration, in conjunction with the Port Authority of New York and New Jersey and the Philadelphia International Airport, shall monitor the noise impacts of the New York/New Jersey/Philadelphia Metropolitan Area Airspace Redesign.

“(2) REPORT.—Not later than 1 year following the first day of completion of the New York/New Jersey/Philadelphia Metropolitan Area Airspace Redesign, the Administrator shall submit to Congress a report on the findings of the Administrator with respect to monitoring conducted under paragraph (1).

“SEC. 219. STUDY ON FEASIBILITY OF DEVELOPMENT OF A PUBLIC INTERNET WEB-BASED RESOURCE ON LOCATIONS OF POTENTIAL AVIATION OBSTRUCTIONS.

“(a) STUDY.—The Administrator of the Federal Aviation Administration shall carry out a study on the feasibility of developing a publicly searchable, Internet Web-based resource that provides information regarding the height and latitudinal and longitudinal locations of guy-wire and free-standing tower obstructions.

“(b) CONSIDERATIONS.—In conducting the study, the Administrator shall consult with affected industries and appropriate Federal agencies.

“(c) REPORT.—Not later than 1 year after the date of enactment of this Act [Feb. 14, 2012], the Administrator shall submit a report to the appropriate committees of Congress on the results of the study.

“SEC. 220. NEXTGEN RESEARCH AND DEVELOPMENT CENTER OF EXCELLENCE.

“(a) IN GENERAL.—The Administrator of the Federal Aviation Administration may enter into an agreement, on a competitive basis, to assist in the establishment of a center of excellence for the research and development of NextGen technologies.

“(b) FUNCTIONS.—The Administrator shall ensure that the center established under subsection (a)—

“(1) leverages resources and partnerships, including appropriate programs of the Administration, to enhance the research and development of NextGen technologies by academia and industry; and

“(2) provides educational, technical, and analytical assistance to the Administration and other Federal departments and agencies with responsibilities to research and develop NextGen technologies.

“SEC. 221. PUBLIC-PRIVATE PARTNERSHIPS.

“(a) IN GENERAL.—The Secretary may establish an avionics equipage incentive program for the purpose of equipping general aviation and commercial aircraft with communications, surveillance, navigation, and other avionics equipment as determined by the Secretary to be in the interest of achieving NextGen capabilities for such aircraft.

“(b) NEXTGEN PUBLIC-PRIVATE PARTNERSHIPS.—The incentive program established under subsection (a) shall, at a minimum—

“(1) be based on public-private partnership principles; and

“(2) leverage and maximize the use of private sector capital.

“(c) FINANCIAL INSTRUMENTS.—Subject to the availability of appropriated funds, the Secretary may use financial instruments to facilitate public-private financing for the equipage of general aviation and commercial aircraft registered under section 44103 of title 49, United States Code. To the extent appropriations are not made available, the Secretary may establish the program, provided the costs are covered by the fees and premiums authorized by subsection (d)(2). For purposes of this section, the term ‘financial instruments’ means loan guarantees and other credit assistance designed to leverage and maximize private sector capital.

“(d) PROTECTION OF THE TAXPAYER.—

“(1) LIMITATION ON PRINCIPAL.—The amount of any guarantee under this program shall be limited to 90 percent of the principal amount of the underlying loan.

“(2) COLLATERAL, FEES, AND PREMIUMS.—The Secretary shall require applicants for the incentive program to post collateral and pay such fees and premiums if feasible, as determined by the Secretary, to offset costs to the Government of potential defaults, and agree to performance measures that the Sec-

retary considers necessary and in the best interest of implementing the NextGen program.

“(3) USE OF FUNDS.—Applications for this program shall be limited to equipment that is installed on general aviation or commercial aircraft and is necessary for communications, surveillance, navigation, or other purposes determined by the Secretary to be in the interests of achieving NextGen capabilities for commercial and general aviation.

“(e) TERMINATION OF AUTHORITY.—The authority of the Secretary to issue such financial instruments under this section shall terminate 5 years after the date of the establishment of the incentive program.

“SEC. 222. OPERATIONAL INCENTIVES.

“(a) IN GENERAL.—The Administrator of the Federal Aviation Administration shall issue a report that—

“(1) identifies incentive options to encourage the equipage of aircraft with NextGen technologies, including a policy that gives priority to aircraft equipped with ADS-B technology;

“(2) identifies the costs and benefits of each option; and

“(3) includes input from industry stakeholders, including passenger and cargo air carriers, aerospace manufacturers, and general aviation aircraft operators.

“(b) DEADLINE.—The Administrator shall issue the report before the earlier of—

“(1) the date that is 6 months after the date of enactment of this Act [Feb. 14, 2012]; or

“(2) the date on which aircraft are required to be equipped with ADS-B technology pursuant to the rulemaking under [former] section 211(b).”

[Pub. L. 115-254, div. B, title V, §522(b), Oct. 5, 2018, 132 Stat. 3363, provided that: “The Administrator [of the Federal Aviation Administration] shall ensure that any regulation issued pursuant to such subsection [subsec. (b) of section 211 of Pub. L. 112-95, formerly set out above] has no force or effect.”]

CONTINGENCY PLANNING

Pub. L. 112-95, title II, §208(d), Feb. 14, 2012, 126 Stat. 43, provided that: “The Associate Administrator for Next Generation Air Transportation System Planning, Development, and Interagency Coordination shall, as part of the design of the System, develop contingency plans for dealing with the degradation of the System in the event of a natural disaster, major equipment failure, or act of terrorism.”

REPORTS ON STATUS OF GREENER SKIES PROJECT

Pub. L. 112-95, title II, §225, Feb. 14, 2012, 126 Stat. 55, provided that:

“(a) INITIAL REPORT.—Not later than 180 days after the date of this Act [Feb. 14, 2012], the Administrator of the Federal Aviation Administration shall submit to Congress a report on the strategy of the Administrator for implementing, on an accelerated basis, the NextGen operational capabilities produced by the Greener Skies project, as recommended in the final report of the RTCA NextGen Mid-Term Implementation Task Force that was issued on September 9, 2009.

“(b) SUBSEQUENT REPORTS.—

“(1) IN GENERAL.—Not later than 180 days after the Administrator submits to Congress the report required by subsection (a) and annually thereafter until the pilot program terminates, the Administrator shall submit to the Committee on Commerce, Science, and Transportation of the Senate and to the Committee on Transportation and Infrastructure of the House of Representatives a report on the progress of the Administrator in carrying out the strategy described in the report submitted under subsection (a).

“(2) CONTENTS.—Each report submitted under paragraph (1) shall include the following:

“(A) A timeline for full implementation of the strategy described in the report submitted under subsection (a).

“(B) A description of the progress made in carrying out such strategy.

“(C) A description of the challenges, if any, encountered by the Administrator in carrying out such strategy.”

[For definition of “NextGen” as used in section 225 of Pub. L. 112-95, set out above, see section 201 of Pub. L. 112-95, set out as a note above.]

UNMANNED AIRCRAFT SYSTEMS

Pub. L. 114-190, title II, subtitle B, July 15, 2016, 130 Stat. 628, as amended, formerly set out as a note under this section, was transferred and is set out as a note under section 44802 of this title.

Pub. L. 112-95, title III, subtitle B, Feb. 14, 2012, 126 Stat. 72, as amended, formerly set out as a note under this section, was transferred and is set out as a note under section 44802 of this title.

CLARIFICATION OF REQUIREMENTS FOR VOLUNTEER PILOTS OPERATING CHARITABLE MEDICAL FLIGHTS

Pub. L. 112-95, title VIII, §821, Feb. 14, 2012, 126 Stat. 128, provided that:

“(a) REIMBURSEMENT OF FUEL COSTS.—Notwithstanding any other law or regulation, in administering section 61.113(c) of title 14, Code of Federal Regulations (or any successor regulation), the Administrator of the Federal Aviation Administration shall allow an aircraft owner or operator to accept reimbursement from a volunteer pilot organization for the fuel costs associated with a flight operation to provide transportation for an individual or organ for medical purposes (and for other associated individuals), if the aircraft owner or operator has—

“(1) volunteered to provide such transportation; and

“(2) notified any individual that will be on the flight, at the time of inquiry about the flight, that the flight operation is for charitable purposes and is not subject to the same requirements as a commercial flight.

“(b) CONDITIONS TO ENSURE SAFETY.—The Administrator may impose minimum standards with respect to training and flight hours for single-engine, multi-engine, and turbine-engine operations conducted by an aircraft owner or operator that is being reimbursed for fuel costs by a volunteer pilot organization, including mandating that the pilot in command of such aircraft hold an instrument rating and be current and qualified for the aircraft being flown to ensure the safety of flight operations described in subsection (a).

“(c) VOLUNTEER PILOT ORGANIZATION.—In this section, the term ‘volunteer pilot organization’ means an organization that—

“(1) is described in section 501(c)(3) of the Internal Revenue Code of 1986 [26 U.S.C. 501(c)(3)] and is exempt from taxation under section 501(a) of such Code; and

“(2) is organized for the primary purpose of providing, arranging, or otherwise fostering charitable medical transportation.”

INTERAGENCY RESEARCH ON AVIATION AND THE ENVIRONMENT

Pub. L. 112-95, title IX, §909, Feb. 14, 2012, 126 Stat. 141, provided that:

“(a) IN GENERAL.—Using amounts made available under section 48102(a) of title 49, United States Code, the Administrator, in coordination with NASA and after consultation with other relevant agencies, may maintain a research program to assess the potential effect of aviation activities on the environment and, if warranted, to evaluate approaches to address any such effect.

“(b) RESEARCH PLAN.—

“(1) IN GENERAL.—The Administrator, in coordination with NASA and after consultation with other relevant agencies, shall jointly develop a plan to carry out the research under subsection (a).

“(2) CONTENTS.—The plan shall contain an inventory of current interagency research being under-

taken in this area, future research objectives, proposed tasks, milestones, and a 5-year budgetary profile.

“(3) REQUIREMENTS.—The plan—

“(A) shall be completed not later than 1 year after the date of enactment of this Act [Feb. 14, 2012];

“(B) shall be submitted to Congress for review; and

“(C) shall be updated, as appropriate, every 3 years after the initial submission.”

UNMANNED AERIAL SYSTEMS AND NATIONAL AIRSPACE

Pub. L. 112-81, div. A, title X, §1097, Dec. 31, 2011, 125 Stat. 1608, formerly set out as a note under this section, was transferred and is set out as a note under section 44802 of this title.

FINDINGS

Pub. L. 110-113, §2, Nov. 8, 2007, 121 Stat. 1039, provided that: “Congress finds the following:

“(1) The September 11th Victims Compensation Fund of 2001 [title IV of Pub. L. 107-42] (49 U.S.C. 40101 note) establishes a Federal cause of action in the United States District Court for the Southern District of New York as the exclusive remedy for damages arising out of the hijacking and subsequent crash of American Airlines flights 11 and 77, and United Airlines flights 93 and 175, on September 11, 2001.

“(2) Rules 45(b)(2) and 45(c)(3)(A)(ii) of the Federal Rules of Civil Procedure [28 U.S.C. App.] effectively limit service of a subpoena to any place within, or within 100 miles of, the district of the court by which it is issued, unless a statute of the United States expressly provides that the court, upon proper application and cause shown, may authorize the service of a subpoena at any other place.

“(3) Litigating a Federal cause of action under the September 11 Victims Compensation Fund of 2001 is likely to involve the testimony and the production of other documents and tangible things by a substantial number of witnesses, many of whom may not reside, be employed, or regularly transact business in, or within 100 miles of, the Southern District of New York.”

REVITALIZATION OF AVIATION AND AERONAUTICS

Pub. L. 108-176, §4, Dec. 12, 2003, 117 Stat. 2493, provided that: “Congress finds the following:

“(1) The United States has revolutionized the way people travel, developing new technologies and aircraft to move people more efficiently and more safely.

“(2) Past Federal investment in aeronautics research and development has benefited the economy and national security of the United States and the quality of life of its citizens.

“(3) The total impact of civil aviation on the United States economy exceeds \$900,000,000,000 annually and accounts for 9 percent of the gross national product and 11,000,000 jobs in the national workforce. Civil aviation products and services generate a significant surplus for United States trade accounts, and amount to significant numbers of the Nation’s highly skilled, technologically qualified work force.

“(4) Aerospace technologies, products, and services underpin the advanced capabilities of our men and women in uniform and those charged with homeland security.

“(5) Future growth in civil aviation increasingly will be constrained by concerns related to aviation system safety and security, aviation system capabilities, aircraft noise, emissions, and fuel consumption.

“(6) Revitalization and coordination of the United States efforts to maintain its leadership in aviation and aeronautics are critical and must begin now.

“(7) A recent report by the Commission on the Future of the United States Aerospace Industry out-

lined the scope of the problems confronting the aerospace and aviation industries in the United States and found that—

“(A) aerospace will be at the core of the Nation’s leadership and strength throughout the 21st century;

“(B) aerospace will play an integral role in the Nation’s economy, security, and mobility; and

“(C) global leadership in aerospace is a national imperative.

“(8) Despite the downturn in the global economy, projections of the Federal Aviation Administration indicate that upwards of 1,000,000,000 people will fly annually by 2013. Efforts must begin now to prepare for future growth in the number of airline passengers.

“(9) The United States must increase its investment in research and development to revitalize the aviation and aerospace industries, to create jobs, and to provide educational assistance and training to prepare workers in those industries for the future.”

REPORT ON LONG-TERM ENVIRONMENTAL IMPROVEMENTS

Pub. L. 108–176, title III, §321, Dec. 12, 2003, 117 Stat. 2540, provided that:

“(a) IN GENERAL.—The Secretary of Transportation, in consultation with the Administrator of the National Aeronautics and Space Administration, shall conduct a study of ways to reduce aircraft noise and emissions and to increase aircraft fuel efficiency. The study shall—

“(1) explore new operational procedures for aircraft to achieve those goals;

“(2) identify both near-term and long-term options to achieve those goals;

“(3) identify infrastructure changes that would contribute to attainment of those goals;

“(4) identify emerging technologies that might contribute to attainment of those goals;

“(5) develop a research plan for application of such emerging technologies, including new combustor and engine design concepts and methodologies for designing high bypass ratio turbofan engines so as to minimize the effects on climate change per unit of production of thrust and flight speed; and

“(6) develop an implementation plan for exploiting such emerging technologies to attain those goals.

“(b) REPORT.—The Secretary shall transmit a report on the study to the Senate Committee on Commerce, Science, and Transportation and the House of Representatives Committee on Transportation and Infrastructure within 1 year after the date of enactment of this Act [Dec. 12, 2003].

“(c) AUTHORIZATION OF APPROPRIATIONS.—There is authorized to be appropriated to the Secretary \$500,000 for fiscal year 2004 to carry out this section.”

REDUCTION OF NOISE AND EMISSIONS FROM CIVILIAN AIRCRAFT

Pub. L. 108–176, title III, §326, Dec. 12, 2003, 117 Stat. 2542, provided that:

“(a) ESTABLISHMENT OF RESEARCH PROGRAM.—From amounts made available under section 48102(a) of title 49, United States Code, the Secretary of Transportation shall establish a research program related to reducing community exposure to civilian aircraft noise or emissions through grants or other measures authorized under section 106(l)(6) of such title, including reimbursable agreements with other Federal agencies. The program shall include participation by educational and research institutions that have existing facilities for developing and testing noise reduction engine technology.

“(b) DESIGNATION OF INSTITUTE AS A CENTER OF EXCELLENCE.—The Administrator of the Federal Aviation Administration shall designate an institution described in subsection (a) as a Center of Excellence for Noise and Emission Research.”

AIR TRANSPORTATION SYSTEM JOINT PLANNING AND DEVELOPMENT OFFICE

Pub. L. 108–176, title VII, §709, Dec. 12, 2003, 117 Stat. 2582, as amended by Pub. L. 112–95, title II, §208(a)–(c),

Feb. 14, 2012, 126 Stat. 40–43; Pub. L. 115–254, div. B, title V, §545(b)(1), Oct. 5, 2018, 132 Stat. 3376, provided that:

“(a) ESTABLISHMENT.—(1) The Secretary of Transportation shall establish in the Federal Aviation Administration a joint planning and development office to manage work related to the Next Generation Air Transportation System. The office shall be known as the Next Generation Air Transportation System Joint Planning and Development Office (in this section referred to as the ‘Office’).

“(2) The head of the Office shall be the Associate Administrator for Next Generation Air Transportation System Planning, Development, and Interagency Coordination, who shall be appointed by the Administrator of the Federal Aviation Administration, with the approval of the Secretary. The Administrator shall appoint the Associate Administrator after consulting with the Chairman of the Next Generation Senior Policy Committee and providing advanced notice to the other members of that Committee.

“(3) The responsibilities of the Office shall include—

“(A) creating and carrying out an integrated plan for a Next Generation Air Transportation System pursuant to subsection (b);

“(B) overseeing research and development on that system;

“(C) creating a transition plan for the implementation of that system;

“(D) coordinating aviation and aeronautics research programs to achieve the goal of more effective and directed programs that will result in applicable research;

“(E) coordinating goals and priorities and coordinating research activities within the Federal Government with United States aviation and aeronautical firms;

“(F) coordinating the development and utilization of new technologies to ensure that when available, they may be used to their fullest potential in aircraft and in the air traffic control system;

“(G) facilitating the transfer of technology from research programs such as the National Aeronautics and Space Administration program and the Department of Defense Advanced Research Projects Agency program to Federal agencies with operational responsibilities and to the private sector;

“(H) reviewing activities relating to noise, emissions, fuel consumption, and safety conducted by Federal agencies, including the Federal Aviation Administration, the National Aeronautics and Space Administration, the Department of Commerce, and the Department of Defense;

“(I) establishing specific quantitative goals for the safety, capacity, efficiency, performance, and environmental impacts of each phase of Next Generation Air Transportation System planning and development activities and measuring actual operational experience against those goals, taking into account noise pollution reduction concerns of affected communities to the extent practicable in establishing the environmental goals;

“(J) working to ensure global interoperability of the Next Generation Air Transportation System;

“(K) working to ensure the use of weather information and space weather information in the Next Generation Air Transportation System as soon as possible;

“(L) overseeing, with the Administrator and in consultation with the Chief Technology Officer, the selection of products or outcomes of research and development activities that should be moved to a demonstration phase; and

“(M) maintaining a baseline modeling and simulation environment for testing and evaluating alternative concepts to satisfy Next Generation Air Transportation System enterprise architecture requirements.

“(4)(A) The Office shall operate in conjunction with relevant programs in the Department of Defense, the National Aeronautics and Space Administration, the

Department of Commerce and the Department of Homeland Security. The Secretary of Transportation may request assistance from staff from those Departments and other Federal agencies.

“(B) The Secretary of Defense, the Administrator of the National Aeronautics and Space Administration, the Secretary of Commerce, the Secretary of Homeland Security, and the head of any other Federal agency from which the Secretary of Transportation requests assistance under subparagraph (A) shall designate a senior official in the agency to be responsible for—

“(i) carrying out the activities of the agency relating to the Next Generation Air Transportation System in coordination with the Office, including the execution of all aspects of the work of the agency in developing and implementing the integrated work plan described in subsection (b)(5);

“(ii) serving as a liaison for the agency in activities of the agency relating to the Next Generation Air Transportation System and coordinating with other Federal agencies involved in activities relating to the System; and

“(iii) ensuring that the agency meets its obligations as set forth in any memorandum of understanding executed by or on behalf of the agency relating to the Next Generation Air Transportation System.

“(C) The head of a Federal agency referred to in subparagraph (B) shall—

“(i) ensure that the responsibilities of the agency relating to the Next Generation Air Transportation System are clearly communicated to the senior official of the agency designated under subparagraph (B);

“(ii) ensure that the performance of the senior official in carrying out the responsibilities of the agency relating to the Next Generation Air Transportation System is reflected in the official’s annual performance evaluations and compensation;

“(iii) establish or designate an office within the agency to carry out its responsibilities under the memorandum of understanding under the supervision of the designated official; and

“(iv) ensure that the designated official has sufficient budgetary authority and staff resources to carry out the agency’s Next Generation Air Transportation System responsibilities as set forth in the integrated plan under subsection (b).

“(D) Not later than 6 months after the date of enactment of this subparagraph [Feb. 14, 2012], the head of each Federal agency that has responsibility for carrying out any activity under the integrated plan under subsection (b) shall execute a memorandum of understanding with the Office obligating that agency to carry out the activity.

“(5) In developing and carrying out its plans, the Office shall consult with the public and ensure the participation of experts from the private sector including representatives of commercial aviation, general aviation, aviation labor groups, aviation research and development entities, aircraft and air traffic control suppliers, and the space industry.

“(6)(A) The Office shall work with the Director of the Office of Management and Budget to develop a process whereby the Director will identify projects related to the Next Generation Air Transportation System across the agencies referred to in paragraph (4)(A) and consider the Next Generation Air Transportation System as a unified, cross-agency program.

“(B) The Director of the Office of Management and Budget, to the extent practicable, shall—

“(i) ensure that—

“(I) each Federal agency covered by the plan has sufficient funds requested in the President’s budget, as submitted under section 1105(a) of title 31, United States Code, for each fiscal year covered by the plan to carry out its responsibilities under the plan; and

“(II) the development and implementation of the Next Generation Air Transportation System remains on schedule;

“(ii) include, in the President’s budget, a statement of the portion of the estimated budget of each Federal agency covered by the plan that relates to the activities of the agency under the Next Generation Air Transportation System; and

“(iii) identify and justify as part of the President’s budget submission any inconsistencies between the plan and amounts requested in the budget.

“(7) The Associate Administrator for Next Generation Air Transportation System Planning, Development, and Interagency Coordination shall be a voting member of the Joint Resources Council of the Federal Aviation Administration.

“(b) INTEGRATED PLAN.—The integrated plan shall be designed to ensure that the Next Generation Air Transportation System meets anticipated future air transportation safety, security, mobility, efficiency, and capacity needs and accomplishes the goals under subsection (c). The integrated plan shall include—

“(1) a national vision statement for an air transportation system capable of meeting potential air traffic demand by 2025;

“(2) a description of the demand and the performance characteristics that will be required of the Nation’s future air transportation system, and an explanation of how those characteristics were derived, including the national goals, objectives, and policies the system is designed to further, and the underlying socioeconomic determinants, and associated models and analyses;

“(3) a multiagency research and development roadmap for creating the Next Generation Air Transportation System with the characteristics outlined under clause (ii) [(2)], including—

“(A) the most significant technical obstacles and the research and development activities necessary to overcome them, including for each project, the role of each Federal agency, corporations, and universities;

“(B) the annual anticipated cost of carrying out the research and development activities; and

“(C) the technical milestones that will be used to evaluate the activities;

“(4) a description of the operational concepts to meet the system performance requirements for all system users and a timeline and anticipated expenditures needed to develop and deploy the system to meet the vision for 2025; and

“(5) a multiagency integrated work plan for the Next Generation Air Transportation System that includes—

“(A) an outline of the activities required to achieve the end-state architecture, as expressed in the concept of operations and enterprise architecture documents, that identifies each Federal agency or other entity responsible for each activity in the outline;

“(B) details on a year-by-year basis of specific accomplishments, activities, research requirements, rulemakings, policy decisions, and other milestones of progress for each Federal agency or entity conducting activities relating to the Next Generation Air Transportation System;

“(C) for each element of the Next Generation Air Transportation System, an outline, on a year-by-year basis, of what is to be accomplished in that year toward meeting the Next Generation Air Transportation System’s end-state architecture, as expressed in the concept of operations and enterprise architecture documents, as well as identifying each Federal agency or other entity that will be responsible for each component of any research, development, or implementation program;

“(D) an estimate of all necessary expenditures on a year-by-year basis, including a statement of each Federal agency or entity’s responsibility for costs and available resources, for each stage of development from the basic research stage through the demonstration and implementation phase;

“(E) a clear explanation of how each step in the development of the Next Generation Air Transpor-

tation System will lead to the following step and of the implications of not successfully completing a step in the time period described in the integrated work plan;

“(F) a transition plan for the implementation of the Next Generation Air Transportation System that includes date-specific milestones for the implementation of new capabilities into the national airspace system;

“(G) date-specific timetables for meeting the environmental goals identified in subsection (a)(3)(I); and

“(H) a description of potentially significant operational or workforce changes resulting from deployment of the Next Generation Air Transportation System.

“(c) GOALS.—The Next Generation Air Transportation System shall—

“(1) improve the level of safety, security, efficiency, quality, and affordability of the National Airspace System and aviation services;

“(2) take advantage of data from emerging ground-based and space-based communications, navigation, and surveillance technologies;

“(3) integrate data streams from multiple agencies and sources to enable situational awareness and seamless global operations for all appropriate users of the system, including users responsible for civil aviation, homeland security, and national security;

“(4) leverage investments in civil aviation, homeland security, and national security and build upon current air traffic management and infrastructure initiatives to meet system performance requirements for all system users;

“(5) be scalable to accommodate and encourage substantial growth in domestic and international transportation and anticipate and accommodate continuing technology upgrades and advances;

“(6) accommodate a wide range of aircraft operations, including airlines, air taxis, helicopters, general aviation, and unmanned aerial vehicles; and

“(7) take into consideration, to the greatest extent practicable, design of airport approach and departure flight paths to reduce exposure of noise and emissions pollution on affected residents.

“(d) NEXTGEN IMPLEMENTATION PLAN.—The Administrator shall develop and publish annually the document known as the NextGen Implementation Plan, or any successor document, that provides a detailed description of how the agency is implementing the Next Generation Air Transportation System.

“(e) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to the Office \$50,000,000 for each of the fiscal years 2004 through 2010.”

NEXT GENERATION AIR TRANSPORTATION SENIOR POLICY COMMITTEE

Pub. L. 108–176, title VII, § 710, Dec. 12, 2003, 117 Stat. 2584, as amended by Pub. L. 112–95, title II, § 209, Feb. 14, 2012, 126 Stat. 43, provided that:

“(a) IN GENERAL.—The Secretary of Transportation shall establish a senior policy committee to work with the Next Generation Air Transportation System Joint Planning and Development Office. The senior policy committee shall be chaired by the Secretary and shall meet at least twice each year.

“(b) MEMBERSHIP.—In addition to the Secretary, the senior policy committee shall be composed of—

“(1) the Administrator of the Federal Aviation Administration (or the Administrator’s designee);

“(2) the Administrator of the National Aeronautics and Space Administration (or the Administrator’s designee);

“(3) the Secretary of Defense (or the Secretary’s designee);

“(4) the Secretary of Homeland Security (or the Secretary’s designee);

“(5) the Secretary of Commerce (or the Secretary’s designee);

“(6) the Director of the Office of Science and Technology Policy (or the Director’s designee); and

“(7) designees from other Federal agencies determined by the Secretary of Transportation to have an important interest in, or responsibility for, other aspects of the system.

“(c) FUNCTION.—The senior policy committee shall—

“(1) advise the Secretary of Transportation regarding the national goals and strategic objectives for the transformation of the Nation’s air transportation system to meet its future needs;

“(2) provide policy guidance for the integrated plan for the air transportation system to be developed by the Next Generation Air Transportation System Joint Planning and Development Office;

“(3) provide ongoing policy review for the transformation of the air transportation system;

“(4) identify resource needs and make recommendations to their respective agencies for necessary funding for planning, research, and development activities; and

“(5) make legislative recommendations, as appropriate, for the future air transportation system.

“(d) CONSULTATION.—In carrying out its functions under this section, the senior policy committee shall consult with, and ensure participation by, the private sector (including representatives of general aviation, commercial aviation, aviation labor, and the space industry), members of the public, and other interested parties and may do so through a special advisory committee composed of such representatives.

“(e) ANNUAL REPORT.—

“(1) SUBMISSION TO CONGRESS.—Not later than 1 year after the date of enactment of this subsection [Feb. 14, 2012], and annually thereafter on the date of submission of the President’s budget request to Congress under section 1105(a) of title 31, United States Code, the Secretary shall submit to Congress a report summarizing the progress made in carrying out the integrated work plan required by section 709(b)(5) [of Pub. L. 108–176, set out as a note above] and any changes in that plan.

“(2) CONTENTS.—The report shall include—

“(A) a copy of the updated integrated work plan;

“(B) a description of the progress made in carrying out the integrated work plan and any changes in that plan, including any changes based on funding shortfalls and limitations set by the Office of Management and Budget;

“(C) a detailed description of—

“(i) the success or failure of each item of the integrated work plan for the previous year and relevant information as to why any milestone was not met; and

“(ii) the impact of not meeting the milestone and what actions will be taken in the future to account for the failure to complete the milestone;

“(D) an explanation of any change to future years in the integrated work plan and the reasons for such change; and

“(E) an identification of the levels of funding for each agency participating in the integrated work plan devoted to programs and activities under the plan for the previous fiscal year and in the President’s budget request.”

[Next Generation Air Transportation System Senior Policy Committee to terminate on date of initial appointment of the members of the advisory committee established under section 439 of Pub. L. 115–254, see section 439(h) of Pub. L. 115–254, set out as a note under section 41705 of this title.]

REIMBURSEMENT FOR LOSSES INCURRED BY GENERAL AVIATION ENTITIES

Pub. L. 108–176, title VIII, § 817, Dec. 12, 2003, 117 Stat. 2592, provided that:

“(a) IN GENERAL.—The Secretary of Transportation may make grants to reimburse the following general aviation entities for the security costs incurred and revenue foregone as a result of the restrictions imposed by the Federal Government following the terrorist attacks on the United States that occurred on September 11, 2001:

“(1) General aviation entities that operate at Ronald Reagan Washington National Airport.

“(2) Airports that are located within 15 miles of Ronald Reagan Washington National Airport and were operating under security restrictions on the date of enactment of this Act [Dec. 12, 2003] and general aviation entities operating at those airports.

“(3) General aviation entities affected by implementation of section 44939 of title 49, United States Code.

“(4) General aviation entities that were affected by Federal Aviation Administration Notices to Airmen FDC 2/1099 and 3/1862 or section 352 of the Department of Transportation and Related Agencies Appropriations Act, 2003 (Public Law 108-7, division I) [117 Stat. 420], or both.

“(5) Sightseeing operations that were not authorized to resume in enhanced class B air space under Federal Aviation Administration notice to airmen 1/1225.

“(b) DOCUMENTATION.—Reimbursement under this section shall be made in accordance with sworn financial statements or other appropriate data submitted by each general aviation entity demonstrating the costs incurred and revenue foregone to the satisfaction of the Secretary.

“(c) GENERAL AVIATION ENTITY DEFINED.—In this section, the term ‘general aviation entity’ means any person (other than a scheduled air carrier or foreign air carrier, as such terms are defined in section 40102 of title 49, United States Code) that—

“(1) operates nonmilitary aircraft under part 91 of title 14, Code of Federal Regulations, for the purpose of conducting its primary business;

“(2) manufactures nonmilitary aircraft with a maximum seating capacity of fewer than 20 passengers or aircraft parts to be used in such aircraft;

“(3) provides services necessary for nonmilitary operations under such part 91; or

“(4) operates an airport, other than a primary airport (as such terms are defined in such section 40102), that—

“(A) is listed in the national plan of integrated airport systems developed by the Federal Aviation Administration under section 47103 of such title; or

“(B) is normally open to the public, is located within the confines of enhanced class B airspace (as defined by the Federal Aviation Administration in Notice to Airmen FDC 1/0618), and was closed as a result of an order issued by the Federal Aviation Administration in the period beginning September 11, 2001, and ending January 1, 2002, and remained closed as a result of that order on January 1, 2002. Such term includes fixed based operators, flight schools, manufacturers of general aviation aircraft and products, persons engaged in nonscheduled aviation enterprises, and general aviation independent contractors.

“(d) AUTHORIZATION OF APPROPRIATIONS.—There is authorized to be appropriated to carry out this section \$100,000,000. Such sums shall remain available until expended.”

GAO REPORT ON AIRLINES’ ACTIONS TO IMPROVE FINANCES AND ON EXECUTIVE COMPENSATION

Pub. L. 108-176, title VIII, §826, Dec. 12, 2003, 117 Stat. 2596, provided that:

“(a) FINDING.—Congress finds that the United States Government has by law provided substantial financial assistance to United States commercial airlines in the form of war risk insurance and reinsurance and other economic benefits and has imposed substantial economic and regulatory burdens on those airlines. In order to determine the economic viability of the domestic commercial airline industry and to evaluate the need for additional measures or the modification of existing laws, Congress needs more frequent information and independently verified information about the financial condition of these airlines.

“(b) GAO REPORT.—Not later than one year after the date of enactment of this Act [Dec. 12, 2003], the Comptroller General shall prepare a report for Congress analyzing the financial condition of the United States airline industry in its efforts to reduce the costs, improve the earnings and profits and balances of each individual air carrier. The report shall recommend steps that the industry should take to become financially self-sufficient.

“(c) GAO AUTHORITY.—In order to compile the report required by subsection (b), the Comptroller General, or any of the Comptroller General’s duly authorized representatives, shall have access for the purpose of audit and examination to any books, accounts, documents, papers, and records of such air carriers that relate to the information required to compile the report. The Comptroller General shall submit with the report a certification as to whether the Comptroller General has had access to sufficient information to make informed judgments on the matters covered by the report.

“(d) REPORTS TO CONGRESS.—The Comptroller General shall transmit the report required by subsection (b) to the Senate Committee on Commerce, Science, and Transportation and the House of Representatives Committee on Transportation and Infrastructure.”

MAIL AND FREIGHT WAIVERS

Pub. L. 107-71, title I, §127, Nov. 19, 2001, 115 Stat. 632, provided that:

“(a) IN GENERAL.—During a national emergency affecting air transportation or intrastate air transportation, the Secretary of Transportation, after consultation with the Transportation Security Oversight Board, may grant a complete or partial waiver of any restrictions on the carriage by aircraft of freight, mail, emergency medical supplies, personnel, or patients on aircraft, imposed by the Department of Transportation (or other Federal agency or department) that would permit such carriage of freight, mail, emergency medical supplies, personnel, or patients on flights, to, from, or within a State if the Secretary determines that—

“(1) extraordinary air transportation needs or concerns exist; and

“(2) the waiver is in the public interest, taking into consideration the isolation of and dependence on air transportation of the State.

“(b) LIMITATIONS.—The Secretary may impose reasonable limitations on any such waiver.”

AIR CARRIERS REQUIRED TO HONOR TICKETS FOR SUSPENDED SERVICE

Pub. L. 107-71, title I, §145, Nov. 19, 2001, 115 Stat. 645, as amended by Pub. L. 108-7, div. I, title III, §372, Feb. 20, 2003, 117 Stat. 427; Pub. L. 108-176, title IV, §428, Dec. 12, 2003, 117 Stat. 2556; Pub. L. 108-458, title VIII, §8404, Dec. 17, 2004, 118 Stat. 3872; Pub. L. 109-115, div. A, title I, §178, Nov. 30, 2005, 119 Stat. 2427, required each air carrier providing scheduled air transportation on a route to provide, to the extent practicable, air transportation to passengers ticketed for air transportation on that route by any other air carrier that suspended, interrupted, or discontinued air passenger service on the route by reason of insolvency or bankruptcy of the other air carrier occurring on or before Nov. 30, 2006.

RELATIONSHIP OF ELIGIBLE CRIME VICTIM COMPENSATION PROGRAMS TO SEPTEMBER 11TH VICTIM COMPENSATION FUND

Pub. L. 107-56, title VI, §622(e)(2), Oct. 26, 2001, 115 Stat. 372, provided that: “With respect to any compensation payable under title IV of Public Law 107-42 [set out as a note below], the failure of a crime victim compensation program, after the effective date of final regulations issued pursuant to section 407 of Public Law 107-42, to provide compensation otherwise required pursuant to section 1403 of the Victims of Crime Act of 1984 (42 U.S.C. 10602) [now 34 U.S.C. 20102] shall not render that program ineligible for future grants under the Victims of Crime Act of 1984 [34 U.S.C. 20101 et seq.]”

AIR TRANSPORTATION SAFETY AND SYSTEM
STABILIZATION

Pub. L. 112–10, div. B, title III, § 1347, Apr. 15, 2011, 125 Stat. 124, as amended by Pub. L. 114–113, div. O, title IV, § 402(h), Dec. 18, 2015, 129 Stat. 3007, provided that: “Notwithstanding any other provision of law, in fiscal year 2012 and thereafter payments for costs described in subsection (a) of section 404 of Public Law 107–42, as amended [set out below], shall be considered to be, and included in, payments for compensation for the purposes of sections 406(b) and (d)(1) and (2) of such Act. Costs for payments for compensation for claims in Group A, as described in section 405(a)(3)(C)(ii) of such Act, shall be paid from amounts made available under section 406 of such Act. Costs for payments for compensation for claims in Group B, as described in section 405(a)(3)(C)(iii) of such Act, shall be paid from amounts in the Victims Compensation Fund established under section 410 of such Act.”

Pub. L. 107–42, Sept. 22, 2001, 115 Stat. 230, as amended by Pub. L. 107–71, title I, § 124(a), (c), (d), title II, § 201, Nov. 19, 2001, 115 Stat. 631, 645; Pub. L. 107–134, title I, § 114(a), Jan. 23, 2002, 115 Stat. 2435; Pub. L. 107–296, title VIII, § 890, title XII, § 1201(2), Nov. 25, 2002, 116 Stat. 2251, 2286; Pub. L. 110–113, § 3, Nov. 8, 2007, 121 Stat. 1039; Pub. L. 110–161, div. D, title I, Dec. 26, 2007, 121 Stat. 1974; Pub. L. 111–347, title II, Jan. 2, 2011, 124 Stat. 3659; Pub. L. 114–113, div. O, title IV, § 402(a)–(g), Dec. 18, 2015, 129 Stat. 3000–3006; Pub. L. 115–123, div. C, title II, § 30203(b), Feb. 9, 2018, 132 Stat. 126; Pub. L. 116–34, §§ 2, 3, July 29, 2019, 133 Stat. 1040, 1042, provided that:

“SECTION 1. SHORT TITLE.

“This Act may be cited as the ‘Air Transportation Safety and System Stabilization Act’.

“TITLE I—AIRLINE STABILIZATION

“SEC. 101. AVIATION DISASTER RELIEF.

“(a) IN GENERAL.—Notwithstanding any other provision of law, the President shall take the following actions to compensate air carriers for losses incurred by the air carriers as a result of the terrorist attacks on the United States that occurred on September 11, 2001:

“(1) Repealed. Pub. L. 110–161, div. D, title I, Dec. 26, 2007, 121 Stat. 1974.]

“(2) Compensate air carriers in an aggregate amount equal to \$5,000,000,000 for—

“(A) direct losses incurred beginning on September 11, 2001, by air carriers as a result of any Federal ground stop order issued by the Secretary of Transportation or any subsequent order which continues or renews such a stoppage; and

“(B) the incremental losses incurred beginning September 11, 2001, and ending December 31, 2001, by air carriers as a direct result of such attacks.

“(b) EMERGENCY DESIGNATION.—Congress designates the amount of new budget authority and outlays in all fiscal years resulting from this title as an emergency requirement pursuant to section 252(e) of the Balanced Budget and Emergency Deficit Control Act of 1985 (2 U.S.C. 901(e)). Such amount shall be available only to the extent that a request, that includes designation of such amount as an emergency requirement as defined in such Act [see Short Title note set out under section 900 of Title 2, The Congress], is transmitted by the President to Congress.

“[SEC. 102. Repealed. Pub. L. 110–161, div. D, title I, Dec. 26, 2007, 121 Stat. 1974.]

“SEC. 103. SPECIAL RULES FOR COMPENSATION.

“(a) DOCUMENTATION.—Subject to subsection (b), the amount of compensation payable to an air carrier under section 101(a)(2) may not exceed the amount of losses described in section 101(a)(2) that the air carrier demonstrates to the satisfaction of the President, using sworn financial statements or other appropriate data, that the air carrier incurred. The Secretary of Transportation and the Comptroller General of the United States may audit such statements and may request any

information that the Secretary and the Comptroller General deems necessary to conduct such audit.

“(b) MAXIMUM AMOUNT OF COMPENSATION PAYABLE PER AIR CARRIER.—The maximum total amount of compensation payable to an air carrier under section 101(a)(2) may not exceed the lesser of—

“(1) the amount of such air carrier’s direct and incremental losses described in section 101(a)(2); or

“(2) in the case of—

“(A) flights involving passenger-only or combined passenger and cargo transportation, the product of—

“(i) \$4,500,000,000; and

“(ii) the ratio of—

“(I) the available seat miles of the air carrier for the month of August 2001 as reported to the Secretary; to

“(II) the total available seat miles of all such air carriers for such month as reported to the Secretary; and

“(B) flights involving cargo-only transportation, the product of—

“(i) \$500,000,000; and

“(ii) the ratio of—

“(I) the revenue ton miles or other auditable measure of the air carrier for cargo for the latest quarter for which data is available as reported to the Secretary; to

“(II) the total revenue ton miles or other auditable measure of all such air carriers for cargo for such quarter as reported to the Secretary.

“(c) PAYMENTS.—The President may provide compensation to air carriers under section 101(a)(2) in 1 or more payments up to the amount authorized by this title.

“(d) COMPENSATION FOR CERTAIN AIR CARRIERS.—

“(1) SET-ASIDE.—The President may set aside a portion of the amount of compensation payable to air carriers under section 101(a)(2) to provide compensation to classes of air carriers, such as air tour operators and air ambulances (including hospitals operating air ambulances) for whom the application of a distribution formula containing available seat miles as a factor would inadequately reflect their share of direct and incremental losses. The President shall reduce the \$4,500,000,000 specified in subsection (b)(2)(A)(i) by the amount set aside under this subsection.

“(2) DISTRIBUTION OF AMOUNTS.—The President shall distribute the amount set aside under this subsection proportionally among such air carriers based on an appropriate auditable measure, as determined by the President.

“[SEC. 104. Repealed. Pub. L. 110–161, div. D, title I, Dec. 26, 2007, 121 Stat. 1974.]

“SEC. 105. CONTINUATION OF CERTAIN AIR SERVICE.

“(a) ACTION OF SECRETARY.—The Secretary of Transportation should take appropriate action to ensure that all communities that had scheduled air service before September 11, 2001, continue to receive adequate air transportation service and that essential air service to small communities continues without interruption.

“(b) ESSENTIAL AIR SERVICE.—There is authorized to be appropriated to the Secretary to carry out the essential air service program under subchapter II of chapter 417 of title 49, United States Code, \$120,000,000 for fiscal year 2002.

“(c) SECRETARIAL OVERSIGHT.—

“(1) IN GENERAL.—Notwithstanding any other provision of law, the Secretary is authorized to require an air carrier receiving direct financial assistance under this Act to maintain scheduled air service to any point served by that carrier before September 11, 2001.

“(2) AGREEMENTS.—In applying paragraph (1), the Secretary may require air carriers receiving direct financial assistance under this Act to enter into agreements which will ensure, to the maximum extent

practicable, that all communities that had scheduled air service before September 11, 2001, continue to receive adequate air transportation service.

“SEC. 106. REPORTS.

“(a) REPORT.—Not later than February 1, 2002, the President shall transmit to the Committee on Transportation and Infrastructure, the Committee on Appropriations, and the Committee on the Budget of the House of Representatives and the Committee on Commerce, Science, and Transportation, the Committee on Appropriations, and the Committee on the Budget of the Senate a report on the financial status of the air carrier industry and the amounts of assistance provided under this title to each air carrier.

“(b) UPDATE.—Not later than the last day of the 7-month period following the date of enactment of this Act [Sept. 22, 2001], the President shall update and transmit the report to the Committees.

“SEC. 107. DEFINITIONS.

“In this title, the following definitions apply:

“(1) AIR CARRIER.—The term ‘air carrier’ has the meaning such term has under section 40102 of title 49, United States Code.

“(2) Repealed. Pub. L. 110–161, div. D, title I, Dec. 26, 2007, 121 Stat. 1974.]

“(3) INCREMENTAL LOSS.—The term ‘incremental loss’ does not include any loss that the President determines would have been incurred if the terrorist attacks on the United States that occurred on September 11, 2001, had not occurred.

“TITLE II—AVIATION INSURANCE

“SEC. 201. DOMESTIC INSURANCE AND REIMBURSEMENT OF INSURANCE COSTS.

“(a) IN GENERAL.—[Amended section 44302 of this title.]

“(b) COVERAGE.—

“(1) IN GENERAL.—[Amended section 44303 of this title.]

“(2) [Transferred to section 44303(b) of this title.]

“(c) REINSURANCE.—[Amended section 44304 of this title.]

“(d) PREMIUMS.—[Amended section 44306 of this title.]

“(e) CONFORMING AMENDMENT.—[Amended section 44305(b) of this title.]

“SEC. 202. EXTENSION OF PROVISIONS TO VENDORS, AGENTS, AND SUBCONTRACTORS OF AIR CARRIERS.

“Notwithstanding any other provision of this title, the Secretary may extend any provision of chapter 443 of title 49, United States Code, as amended by this title, and the provisions of this title, to vendors, agents, and subcontractors of air carriers. For the 180-day period beginning on the date of enactment of this Act [Sept. 22, 2001], the Secretary may extend or amend any such provisions so as to ensure that the entities referred to in the preceding sentence are not responsible in cases of acts of terrorism for losses suffered by third parties that exceed the amount of such entities’ liability coverage, as determined by the Secretary.

“TITLE III—TAX PROVISIONS

“SEC. 301. EXTENSION OF DUE DATE FOR EXCISE TAX DEPOSITS; TREATMENT OF LOSS COMPENSATION.

“(a) EXTENSION OF DUE DATE FOR EXCISE TAX DEPOSITS.—

“(1) IN GENERAL.—In the case of an eligible air carrier, any airline-related deposit required under section 6302 of the Internal Revenue Code of 1986 [26 U.S.C. 6302] to be made after September 10, 2001, and before November 15, 2001, shall be treated for purposes of such Code [26 U.S.C. 1 et seq.] as timely made if such deposit is made on or before November 15, 2001. If the Secretary of the Treasury so prescribes, the preceding sentence shall be applied by substituting for ‘November 15, 2001’ each place it appears—

“(A) ‘January 15, 2002’; or

“(B) such earlier date after November 15, 2001, as such Secretary may prescribe.

“(2) ELIGIBLE AIR CARRIER.—For purposes of this subsection, the term ‘eligible air carrier’ means any domestic corporation engaged in the trade or business of transporting (for hire) persons by air if such transportation is available to the general public.

“(3) AIRLINE-RELATED DEPOSIT.—For purposes of this subsection, the term ‘airline-related deposit’ means any deposit of taxes imposed by subchapter C of chapter 33 of such Code [26 U.S.C. 4261 et seq.] (relating to transportation by air).

“(b) TREATMENT OF LOSS COMPENSATION.—Nothing in any provision of law shall be construed to exclude from gross income under the Internal Revenue Code of 1986 any compensation received under section 101(a)(2) of this Act.

“TITLE IV—VICTIM COMPENSATION

“SEC. 401. SHORT TITLE.

“This title may be cited as the ‘September 11th Victim Compensation Fund of 2001’.

“SEC. 402. DEFINITIONS.

“In this title, the following definitions apply:

“(1) AIR CARRIER.—The term ‘air carrier’ means a citizen of the United States undertaking by any means, directly or indirectly, to provide air transportation and includes employees and agents (including persons engaged in the business of providing air transportation security and their affiliates) of such citizen. For purposes of the preceding sentence, the term ‘agent’, as applied to persons engaged in the business of providing air transportation security, shall only include persons that have contracted directly with the Federal Aviation Administration on or after and commenced services no later than February 17, 2002, to provide such security, and had not been or are not debarred for any period within 6 months from that date.

“(2) AIR TRANSPORTATION.—The term ‘air transportation’ means foreign air transportation, interstate air transportation, or the transportation of mail by aircraft.

“(3) AIRCRAFT MANUFACTURER.—The term ‘aircraft manufacturer’ means any entity that manufactured the aircraft or any parts or components of the aircraft involved in the terrorist related aircraft crashes of September 11, 2001, including employees and agents of that entity.

“(4) AIRPORT SPONSOR.—The term ‘airport sponsor’ means the owner or operator of an airport (as defined in section 40102 of title 49, United States Code).

“(5) CLAIMANT.—The term ‘claimant’ means an individual filing a claim for compensation under section 405(a)(1).

“(6) COLLATERAL SOURCE.—The term ‘collateral source’ means all collateral sources, including life insurance, pension funds, death benefit programs, and payments by Federal, State, or local governments related to the terrorist-related aircraft crashes of September 11, 2001, or debris removal, including under the World Trade Center Health Program established under section 3001 of the Public Health Service Act [probably means section 3301 of the Public Health Service Act, 42 U.S.C. 300mm], and payments made pursuant to the settlement of a civil action described in section 405(c)(3)(C)(iii).

“(7) CONTRACTOR AND SUBCONTRACTOR.—The term ‘contractor and subcontractor’ means any contractor or subcontractor (at any tier of a subcontracting relationship), including any general contractor, construction manager, prime contractor, consultant, or any parent, subsidiary, associated or allied company, affiliated company, corporation, firm, organization, or joint venture thereof that participated in debris removal at any 9/11 crash site. Such term shall not include any entity, including the Port Authority of New York and New Jersey, with a property interest

in the World Trade Center, on September 11, 2001, whether fee simple, leasehold or easement, direct or indirect.

“(8) DEBRIS REMOVAL.—The term ‘debris removal’ means rescue and recovery efforts, removal of debris, cleanup, remediation, and response during the immediate aftermath of the terrorist-related aircraft crashes of September 11, 2001, with respect to a 9/11 crash site.

“(9) ECONOMIC LOSS.—The term ‘economic loss’ means any pecuniary loss resulting from harm (including the loss of earnings or other benefits related to employment, replacement services loss, loss due to death, burial costs, loss of business or employment opportunities, and past out-of-pocket medical expense loss but not future medical expense loss) to the extent recovery for such loss is allowed under applicable State law.

“(10) ELIGIBLE INDIVIDUAL.—The term ‘eligible individual’ means an individual determined to be eligible for compensation under section 405(c).

“(11) IMMEDIATE AFTERMATH.—The term ‘immediate aftermath’ means any period beginning with the terrorist-related aircraft crashes of September 11, 2001, and ending on May 30, 2002.

“(12) NONECONOMIC LOSSES.—The term ‘noneconomic losses’ means losses for physical and emotional pain, suffering, inconvenience, physical impairment, mental anguish, disfigurement, loss of enjoyment of life, loss of society and companionship, loss of consortium (other than loss of domestic service), hedonic damages, injury to reputation, and all other nonpecuniary losses of any kind or nature.

“(13) SPECIAL MASTER.—The term ‘Special Master’ means the Special Master appointed under section 404(a).

“(14) WTC PROGRAM ADMINISTRATOR.—The term ‘WTC Program Administrator’ has the meaning given such term in section 3306 of the Public Health Service Act (42 U.S.C. 300mm–5).

“(15) WTC-RELATED PHYSICAL HEALTH CONDITION.—The term ‘WTC-related physical health condition’—

“(A) means, subject to subparagraph (B), a WTC-related health condition as defined by section 3312(a) of the Public Health Service Act (42 U.S.C. 300mm–22(a)), including the conditions listed in section 3322(b) of such Act (42 U.S.C. 300mm–32(b)); and

“(B) does not include—

“(i) a mental health condition described in paragraph (1)(A)(ii) or (3)(B) of section 3312(a) of such Act (42 U.S.C. 300mm–22(a));

“(ii) any mental health condition certified under section 3312(b)(2)(B)(iii) of such Act (42 U.S.C. 300mm–22(b)(2)(B)(iii)) (including such certification as applied under section 3322(a) of such Act (42 U.S.C. 300mm–32(a));

“(iii) a mental health condition described in section 3322(b)(2) of such Act (42 U.S.C. 300mm–32(b)(2)); or

“(iv) any other mental health condition.

“(16) 9/11 CRASH SITE.—The term ‘9/11 crash site’ means—

“(A) the World Trade Center site, Pentagon site, and Shanksville, Pennsylvania site;

“(B) the buildings or portions of buildings that were destroyed as a result of the terrorist-related aircraft crashes of September 11, 2001;

“(C) the area in Manhattan that is south of the line that runs along Canal Street from the Hudson River to the intersection of Canal Street and East Broadway, north on East Broadway to Clinton Street, and east on Clinton Street to the East River;

“(D) any area related to, or along, routes of debris removal, such as barges and Fresh Kills.

“SEC. 403. PURPOSE.

“It is the purpose of this title to provide full compensation to any individual (or relatives of a deceased individual) who was physically injured or killed as a re-

sult of the terrorist-related aircraft crashes of September 11, 2001, or the rescue and recovery efforts during the immediate aftermath of such crashes.

“SEC. 404. ADMINISTRATION.

“(a) IN GENERAL.—The Attorney General, acting through a Special Master appointed by the Attorney General, shall—

“(1) administer the compensation program established under this title;

“(2) promulgate all procedural and substantive rules for the administration of this title; and

“(3) employ and supervise hearing officers and other administrative personnel to perform the duties of the Special Master under this title.

“(b) APPOINTMENT OF SPECIAL MASTER AND DEPUTY SPECIAL MASTERS.—The Attorney General may appoint a Special Master and no more than two Deputy Special Masters without regard to the provisions of title 5, United States Code, governing appointments in the competitive service. Any such employee shall serve at the pleasure of the Attorney General. The Attorney General shall fix the annual salary of the Special Master and the Deputy Special Masters.

“(c) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated such sums as may be necessary to pay the administrative and support costs for the Special Master in carrying out this title.

“SEC. 405. DETERMINATION OF ELIGIBILITY FOR COMPENSATION.

“(a) FILING OF CLAIM.—

“(1) IN GENERAL.—A claimant may file a claim for compensation under this title with the Special Master. The claim shall be on the form developed under paragraph (2) and shall state the factual basis for eligibility for compensation and the amount of compensation sought.

“(2) CLAIM FORM.—

“(A) IN GENERAL.—The Special Master shall develop a claim form that claimants shall use when submitting claims under paragraph (1). The Special Master shall ensure that such form can be filed electronically, if determined to be practicable.

“(B) CONTENTS.—The form developed under subparagraph (A) shall request—

“(i) information from the claimant concerning the physical harm that the claimant suffered, or in the case of a claim filed on behalf of a decedent information confirming the decedent’s death, as a result of the terrorist-related aircraft crashes of September 11, 2001, or debris removal during the immediate aftermath;

“(ii) information from the claimant concerning any possible economic and noneconomic losses that the claimant suffered as a result of such crashes or debris removal during the immediate aftermath; and

“(iii) information regarding collateral sources of compensation the claimant has received or is entitled to receive as a result of such crashes or debris removal during the immediate aftermath.

“(3) LIMITATION.—

“(A) IN GENERAL.—Except as provided by subparagraph (B), no claim may be filed under paragraph (1) after the date that is 2 years after the date on which regulations are promulgated under section 407(a).

“(B) EXCEPTION.—A claim may be filed under paragraph (1), in accordance with subsection (c)(3)(A)(i), by an individual (or by a personal representative on behalf of a deceased individual) during the period beginning on the date on which the regulations are updated under section 407(b)(1) and ending on October 1, 2090.

“(C) SPECIAL MASTER DETERMINATION.—

“(i) IN GENERAL.—For claims filed under this title during the period described in subparagraph (B), the Special Master shall establish a system for determining whether, for purposes of this title, the claim is—

“(I) a claim in Group A, as described in clause (ii); or

“(II) a claim in Group B, as described in clause (iii).

“(ii) GROUP A CLAIMS.—A claim under this title is a claim in Group A if—

“(I) the claim is filed under this title during the period described in subparagraph (B); and

“(II) on or before the day before the date of enactment of the James Zadroga 9/11 Victim Compensation Fund Reauthorization Act, the Special Master postmarks and transmits a final award determination to the claimant filing such claim.

“(iii) GROUP B CLAIMS.—A claim under this title is a claim in Group B if the claim—

“(I) is filed under this title during the period described in subparagraph (B); and

“(II) is not a claim described in clause (ii).

“(iv) DEFINITION OF FINAL AWARD DETERMINATION.—For purposes of this subparagraph, the term ‘final award determination’ means a letter from the Special Master indicating the total amount of compensation to which a claimant is entitled for a claim under this title without regard to the limitation under the second sentence of section 406(d)(1), as such section was in effect on the day before the date of enactment of the James Zadroga 9/11 Victim Compensation Fund Reauthorization Act.

“(b) REVIEW AND DETERMINATION.—

“(1) REVIEW.—The Special Master shall review a claim submitted under subsection (a) and determine—

“(A) whether the claimant is an eligible individual under subsection (c);

“(B) with respect to a claimant determined to be an eligible individual—

“(i) the extent of the harm to the claimant, including any economic and noneconomic losses; and

“(ii) subject to paragraph (7), the amount of compensation to which the claimant is entitled based on the harm to the claimant, the facts of the claim, and the individual circumstances of the claimant.

“(2) NEGLIGENCE.—With respect to a claimant, the Special Master shall not consider negligence or any other theory of liability.

“(3) DETERMINATION.—Not later than 120 days after that date on which a claim is filed under subsection (a), the Special Master shall complete a review, make a determination, and provide written notice to the claimant, with respect to the matters that were the subject of the claim under review. Such a determination shall be final and not subject to judicial review.

“(4) RIGHTS OF CLAIMANT.—A claimant in a review under paragraph (1) shall have—

“(A) the right to be represented by an attorney;

“(B) the right to present evidence, including the presentation of witnesses and documents; and

“(C) any other due process rights determined appropriate by the Special Master.

“(5) NO PUNITIVE DAMAGES.—The Special Master may not include amounts for punitive damages in any compensation paid under a claim under this title.

“(6) COLLATERAL COMPENSATION.—

“(A) IN GENERAL.—The Special Master shall reduce the amount of compensation determined under paragraph (1)(B)(ii) by the amount of the collateral source compensation the claimant has received or is entitled to receive as a result of the terrorist-related aircraft crashes of September 11, 2001.

“(B) GROUP B CLAIMS.—Notwithstanding any other provision of this title, in the case of a claim in Group B as described in subsection (a)(3)(C)(iii), a claimant filing such claim shall receive an amount of compensation under this title for such claim that is not greater than the amount determined under paragraph (1)(B)(ii) less the amount of

any collateral source compensation that such claimant has received or is entitled to receive for such claim as a result of the terrorist-related aircraft crashes of September 11, 2001.

“(7) LIMITATIONS FOR GROUP B CLAIMS.—

“(A) NONECONOMIC LOSSES.—

“(i) IN GENERAL.—Except as provided in clause (ii), with respect to a claim in Group B as described in subsection (a)(3)(C)(iii), the total amount of compensation to which a claimant filing such claim is entitled to receive for such claim under this title on account of any noneconomic loss—

“(I) that results from any type of cancer shall not exceed \$250,000; and

“(II) that does not result from any type of cancer shall not exceed \$90,000.

“(ii) EXCEPTION.—The Special Master may exceed the applicable limitation in clause (i) for a claim in Group B as described in subsection (a)(3)(C)(iii) if the Special Master determines that the claim presents special circumstances.

“(B) DETERMINATION OF ECONOMIC LOSS.—

“(i) IN GENERAL.—Subject to the limitation described in clause (ii) and with respect to a claim in Group B as described in subsection (a)(3)(C)(iii), the Special Master shall, for purposes of calculating the amount of compensation to which a claimant is entitled under this title for such claim on account of any economic loss, determine the loss of earnings or other benefits related to employment by using the applicable methodology described in section 104.43 or 104.45 of title 28, Code of Federal Regulations, as such Code was in effect on the day before the date of enactment of the James Zadroga 9/11 Victim Compensation Fund Reauthorization Act [Dec. 18, 2015].

“(ii) ANNUAL GROSS INCOME LIMITATION.—In considering annual gross income under clause (i) for the purposes described in such clause, the Special Master shall, for each year of any loss of earnings or other benefits related to employment, limit the annual gross income of the claimant (or decedent in the case of a personal representative) for each such year to an amount that is not greater than the annual gross income limitation. The annual gross income limitation in effect on the date of enactment of the Never Forget the Heroes: James Zadroga, Ray Pfeifer, and Luis Alvarez Permanent Authorization of the September 11th Victim Compensation Fund Act [July 29, 2018] is \$200,000. The Special Master shall periodically adjust that annual gross income limitation to account for inflation.

“(C) GROSS INCOME DEFINED.—For purposes of this paragraph, the term ‘gross income’ has the meaning given such term in section 61 of the Internal Revenue Code of 1986 [26 U.S.C. 61].

“(c) ELIGIBILITY.—

“(1) IN GENERAL.—A claimant shall be determined to be an eligible individual for purposes of this subsection if the Special Master determines that such claimant—

“(A) is an individual described in paragraph (2); and

“(B) meets the requirements of paragraph (3).

“(2) INDIVIDUALS.—A claimant is an individual described in this paragraph if the claimant is—

“(A) an individual who—

“(i) was present at the World Trade Center, (New York, New York), the Pentagon (Arlington, Virginia), the site of the aircraft crash at Shanksville, Pennsylvania, or any other 9/11 crash site at the time, or in the immediate aftermath, of the terrorist-related aircraft crashes of September 11, 2001; and

“(ii) suffered physical harm or death as a result of such an air crash or debris removal;

“(B) an individual who was a member of the flight crew or a passenger on American Airlines flight 11

or 77 or United Airlines flight 93 or 175, except that an individual identified by the Attorney General to have been a participant or conspirator in the terrorist-related aircraft crashes of September 11, 2001, or a representative of such individual shall not be eligible to receive compensation under this title; or

“(C) in the case of a decedent who is an individual described in subparagraph (A) or (B), the personal representative of the decedent who files a claim on behalf of the decedent.

“(3) REQUIREMENTS.—

“(A) REQUIREMENTS FOR FILING CLAIMS DURING EXTENDED FILING PERIOD.—

“(i) TIMING REQUIREMENTS FOR FILING CLAIMS.—An individual (or a personal representative on behalf of a deceased individual) may file a claim during the period described in subsection (a)(3)(B) as follows:

“(I) In the case that the Special Master determines the individual knew (or reasonably should have known) before the date specified in clause (iii) that the individual suffered a physical harm at a 9/11 crash site as a result of the terrorist-related aircraft crashes of September 11, 2001, or as a result of debris removal, and that the individual knew (or should have known) before such specified date that the individual was eligible to file a claim under this title, the individual may file a claim not later than the date that is 2 years after such specified date.

“(II) In the case that the Special Master determines the individual first knew (or reasonably should have known) on or after the date specified in clause (iii) that the individual suffered such a physical harm or that the individual first knew (or should have known) on or after such specified date that the individual was eligible to file a claim under this title, the individual may file a claim not later than the last day of the 2-year period beginning on the date the Special Master determines the individual first knew (or should have known) that the individual both suffered from such harm and was eligible to file a claim under this title.

“(ii) OTHER ELIGIBILITY REQUIREMENTS FOR FILING CLAIMS.—Except with respect to claims in Group B as described in subsection (a)(3)(C)(iii), an individual may file a claim during the period described in subsection (a)(3)(B) only if—

“(I) the individual was treated by a medical professional for suffering from a physical harm described in clause (i)(I) within a reasonable time from the date of discovering such harm; and

“(II) the individual’s physical harm is verified by contemporaneous medical records created by or at the direction of the medical professional who provided the medical care.

“(iii) DATE SPECIFIED.—The date specified in this clause is the date on which the regulations are updated under section 407(b)(1).

“(iv) GROUP B CLAIMS.—

“(I) IN GENERAL.—Subject to subclause (II), an individual filing a claim in Group B as described in subsection (a)(3)(C)(iii) may be eligible for compensation under this title only if the Special Master, with assistance from the WTC Program Administrator as necessary, determines based on the evidence presented that the individual has a WTC-related physical health condition, as defined by section 402 of this Act.

“(II) PERSONAL REPRESENTATIVES.—An individual filing a claim in Group B, as described in subsection (a)(3)(C)(iii), who is a personal representative described in paragraph (2)(C) may be eligible for compensation under this title only if the Special Master, with assistance from the WTC Program Administrator as necessary, determines based on the evidence presented

that the applicable decedent suffered from a condition that was, or would have been determined to be, a WTC-related physical health condition, as defined by section 402 of this Act.

“(B) Single claim.—Not more than one claim may be submitted under this title by an individual or on behalf of a deceased individual.

“(C) Limitation on civil action.—

“(i) IN GENERAL.—Upon the submission of a claim under this title, the claimant waives the right to file a civil action (or to be a party to an action) in any Federal or State court for damages sustained as a result of the terrorist-related aircraft crashes of September 11, 2001, or for damages arising from or related to debris removal. The preceding sentence does not apply to a civil action to recover collateral source obligations, or to a civil action against any person who is a knowing participant in any conspiracy to hijack any aircraft or commit any terrorist act.

“(ii) PENDING ACTIONS.—In the case of an individual who is a party to a civil action described in clause (i), such individual may not submit a claim under this title—

“(I) during the period described in subsection (a)(3)(A) unless such individual withdraws from such action by the date that is 90 days after the date on which regulations are promulgated under section 407(a); and

“(II) during the period described in subsection (a)(3)(B) unless such individual withdraws from such action by the date that is 90 days after the date on which the regulations are updated under section 407(b)(1).

“(iii) SETTLED ACTIONS.—In the case of an individual who settled a civil action described in clause (i), such individual may not submit a claim under this title unless such action was commenced after December 22, 2003, and a release of all claims in such action was tendered prior to the date on which the James Zadroga 9/11 Health and Compensation Act of 2010 [Pub. L. 111-347] was enacted [Jan. 2, 2011].

“SEC. 406. PAYMENTS TO ELIGIBLE INDIVIDUALS.

“(a) IN GENERAL.—Subject to the limitations under subsection (d), not later than 20 days after the date on which a determination is made by the Special Master regarding the amount of compensation due a claimant under this title, the Special Master shall authorize payment to such claimant of the amount determined with respect to the claimant.

“(b) PAYMENT AUTHORITY.—For the purpose of providing compensation for claims in Group A as described in section 405(a)(3)(C)(ii), this title constitutes budget authority in advance of appropriations Acts in the amounts provided under subsection (d)(1) and represents the obligation of the Federal Government to provide for the payment of amounts for compensation under this title subject to the limitations under subsection (d).

“(c) ADDITIONAL FUNDING.—

“(1) IN GENERAL.—The Attorney General is authorized to accept such amounts as may be contributed by individuals, business concerns, or other entities to carry out this title, under such terms and conditions as the Attorney General may impose.

“(2) USE OF SEPARATE ACCOUNT.—In making payments under this section, amounts contained in any account containing funds provided under paragraph (1) shall be used prior to using appropriated amounts.

“(d) LIMITATIONS.—

“(1) GROUP A CLAIMS.—

“(A) IN GENERAL.—The total amount of Federal funds paid for compensation under this title, with respect to claims in Group A as described in section 405(a)(3)(C)(ii), shall not exceed \$2,775,000,000.

“(B) REMAINDER OF CLAIM AMOUNTS.—In the case of a claim in Group A as described in section 405(a)(3)(C)(ii) and for which the Special Master has

ratably reduced the amount of compensation for such claim pursuant to paragraph (2) of this subsection, as this subsection was in effect on the day before the date of enactment of the James Zadroga 9/11 Victim Compensation Fund Reauthorization Act [Dec. 18, 2015], the Special Master shall, as soon as practicable after the date of enactment of such Act, authorize payment of the amount of compensation that is equal to the difference between—

“(i) the amount of compensation that the claimant would have been paid under this title for such claim without regard to the limitation under the second sentence of paragraph (1) of this subsection, as this subsection was in effect on the day before the date of enactment of the James Zadroga 9/11 Victim Compensation Fund Reauthorization Act; and

“(ii) the amount of compensation the claimant was paid under this title for such claim prior to the date of enactment of such Act.

“(2) GROUP B CLAIMS.—

“(A) IN GENERAL.—The total amount of Federal funds paid for compensation under this title, with respect to claims in Group B as described in section 405(a)(3)(C)(iii), shall not exceed the amount of funds deposited into the Victims Compensation Fund under section 410.

“(B) PAYMENT SYSTEM.—The Special Master shall establish a system for providing compensation for claims in Group B as described in section 405(a)(3)(C)(iii) in accordance with this subsection and section 405(b)(7).

“(C) DEVELOPMENT OF AGENCY POLICIES AND PROCEDURES.—

“(i) DEVELOPMENT.—

“(I) IN GENERAL.—Not later than 30 days after the date of enactment of the James Zadroga 9/11 Victim Compensation Fund Reauthorization Act, the Special Master shall develop agency policies and procedures that meet the requirements under subclauses (II) and (III) for providing compensation for claims in Group B as described in section 405(a)(3)(C)(iii), including policies and procedures for presumptive award schedules, administrative expenses, and related internal memoranda.

“(II) LIMITATION.—The policies and procedures developed under subclause (I) shall ensure that total expenditures, including administrative expenses, in providing compensation for claims in Group B, as described in section 405(a)(3)(C)(iii), do not exceed the amount of funds deposited into the Victims Compensation Fund under section 410.

“(III) PRIORITIZATION.—The policies and procedures developed under subclause (I) shall prioritize claims for claimants who are determined by the Special Master as suffering from the most debilitating physical conditions to ensure, for purposes of equity, that such claimants are not unduly burdened by such policies or procedures.

“(ii) REASSESSMENT.—Beginning 1 year after the date of enactment of the James Zadroga 9/11 Victim Compensation Fund Reauthorization Act, and each year thereafter until the Victims Compensation Fund is permanently closed under section 410(e), the Special Master shall conduct a reassessment of the agency policies and procedures developed under clause (i) to ensure that such policies and procedures continue to satisfy the requirements under subclauses (II) and (III) of such clause. If the Special Master determines, upon reassessment, that such agency policies or procedures do not achieve the requirements of such subclauses, the Special Master shall take additional actions or make such modifications as necessary to achieve such requirements.

“(D) COMPENSATION REDUCED BY SPECIAL MASTER DUE TO INSUFFICIENT FUNDING.—

“(i) IN GENERAL.—In any claim in Group B as described in section 405(a)(3)(C)(iii) in which, prior to the enactment of the Never Forget the Heroes: James Zadroga, Ray Pfeifer, and Luis Alvarez Permanent Authorization of the September 11th Victim Compensation Fund Act [July 29, 2019], the Special Master had advised the claimant that the amount of compensation has been reduced on the basis of insufficient funding, the Special Master shall, in the first fiscal year beginning after sufficient funding becomes available under such Act [amending this note], pay to the claimant an amount that is, as determined by the Special Master, equal to the difference between—

“(I) the amount the claimant would have been paid under this title if sufficient funding was available to the Special Master at the time the Special Master determined the amount due the claimant under this title; and

“(II) the amount the claimant was paid under this title.

“(ii) DEFINITIONS.—For purposes of this subparagraph:

“(I) INSUFFICIENT FUNDING.—The term ‘insufficient funding’ means funding—

“(aa) that is available to the Special Master under section 410(c) on the day before the date of enactment of the Never Forget the Heroes: James Zadroga, Ray Pfeifer, and Luis Alvarez Permanent Authorization of the September 11th Victim Compensation Fund Act for purposes of compensating claims in Group B as described in section 405(a)(3)(C)(iii); and

“(bb) that the Special Master determines is insufficient for purposes of compensating all such claims and complying with subparagraph (A).

“(II) SUFFICIENT FUNDING.—The term ‘sufficient funding’ means funding—

“(aa) made available to the Special Master for purposes of compensating claims in Group B as described in section 405(a)(3)(C)(iii) through an Act of Congress that is enacted after the date on which the amount of the claim described in clause (i) has been reduced; and

“(bb) that the Special Master determines is sufficient for purposes of compensating all claims in such Group B.

“(e) ATTORNEY FEES.—

“(1) IN GENERAL.—Notwithstanding any contract, the representative of an individual may not charge, for services rendered in connection with the claim of an individual under this title, more than 10 percent of an award made under this title on such claim.

“(2) LIMITATION.—

“(A) IN GENERAL.—Except as provided in subparagraph (B), in the case of an individual who was charged a legal fee in connection with the settlement of a civil action described in section 405(c)(3)(C)(iii), the representative of the individual may not charge any amount for compensation for services rendered in connection with a claim filed under this title.

“(B) EXCEPTION.—If the legal fee charged in connection with the settlement of a civil action described in section 405(c)(3)(C)(iii) of an individual is less than 10 percent of the aggregate amount of compensation awarded to such individual through such settlement, the representative of such individual may charge an amount for compensation for services rendered to the extent that such amount charged is not more than—

“(i) 10 percent of such aggregate amount through the settlement, minus

“(ii) the total amount of all legal fees charged for services rendered in connection with such settlement.

“(3) DISCRETION TO LOWER FEE.—In the event that the special master [probably should be capitalized]

finds that the fee limit set by paragraph (1) or (2) provides excessive compensation for services rendered in connection with such claim, the Special Master may, in the discretion of the Special Master, award as reasonable compensation for services rendered an amount lesser than that permitted for in paragraph (1).

“SEC. 407. REGULATIONS.

“(a) IN GENERAL.—Not later than 90 days after the date of enactment of this Act [Sept. 22, 2001], the Attorney General, in consultation with the Special Master, shall promulgate regulations to carry out this title, including regulations with respect to—

“(1) forms to be used in submitting claims under this title;

“(2) the information to be included in such forms;

“(3) procedures for hearing and the presentation of evidence;

“(4) procedures to assist an individual in filing and pursuing claims under this title; and

“(5) other matters determined appropriate by the Attorney General.

“(b) UPDATED REGULATIONS.—

“(1) JAMES ZADROGA 9/11 HEALTH AND COMPENSATION ACT OF 2010.—Not later than 180 days after the date of the enactment of the James Zadroga 9/11 Health and Compensation Act of 2010 [Jan. 2, 2011], the Special Master shall update the regulations promulgated under subsection (a) to the extent necessary to comply with the provisions of title II of such Act [title II of Pub. L. 111–347, amending this note].

“(2) JAMES ZADROGA 9/11 VICTIM COMPENSATION FUND REAUTHORIZATION ACT.—Not later than 180 days after the date of enactment of the James Zadroga 9/11 Victim Compensation Fund Reauthorization Act [Dec. 18, 2015], the Special Master shall update the regulations promulgated under subsection (a), and updated under paragraph (1), to the extent necessary to comply with the amendments made by such Act [amending section 905 of Title 2, The Congress, and amending this note and section 1347 of div. B of Pub. L. 112–10, set out as a note above].

“SEC. 408. LIMITATION ON LIABILITY.

“(a) IN GENERAL.—

“(1) LIABILITY LIMITED TO INSURANCE COVERAGE.—Notwithstanding any other provision of law, liability for all claims, whether for compensatory or punitive damages or for contribution or indemnity, arising from the terrorist-related aircraft crashes of September 11, 2001, against an air carrier, aircraft manufacturer, airport sponsor, or person with a property interest in the World Trade Center, on September 11, 2001, whether fee simple, leasehold or easement, direct or indirect, or their directors, officers, employees, or agents, shall not be in an amount greater than the limits of liability insurance coverage maintained by that air carrier, aircraft manufacturer, airport sponsor, or person.

“(2) WILLFUL DEFAULTS ON REBUILDING OBLIGATION.—Paragraph (1) does not apply to any such person with a property interest in the World Trade Center if the Attorney General determines, after notice and an opportunity for a hearing on the record, that the person has defaulted willfully on a contractual obligation to rebuild, or assist in the rebuilding of, the World Trade Center.

“(3) LIMITATIONS ON LIABILITY FOR NEW YORK CITY.—Liability for all claims, whether for compensatory or punitive damages or for contribution or indemnity arising from the terrorist-related aircraft crashes of September 11, 2001, against the City of New York shall not exceed the greater of the city’s insurance coverage or \$350,000,000. If a claimant who is eligible to seek compensation under section 405 of this Act, submits a claim under section 405, the claimant waives the right to file a civil action (or to be a party to an action) in any Federal or State court for damages sustained as a result of the terrorist-related aircraft crashes of September 11, 2001, including any

such action against the City of New York. The preceding sentence does not apply to a civil action to recover collateral source obligations.

“(4) LIABILITY FOR CERTAIN CLAIMS.—Notwithstanding any other provision of law, liability for all claims and actions (including claims or actions that have been previously resolved, that are currently pending, and that may be filed) for compensatory damages, contribution or indemnity, or any other form or type of relief, arising from or related to debris removal, against the City of New York, any entity (including the Port Authority of New York and New Jersey) with a property interest in the World Trade Center on September 11, 2001 (whether fee simple, leasehold or easement, or direct or indirect) and any contractors and subcontractors, shall not be in an amount that exceeds the sum of the following, as may be applicable:

“(A) The amount of funds of the WTC Captive Insurance Company, including the cumulative interest.

“(B) The amount of all available insurance identified in schedule 2 of the WTC Captive Insurance Company insurance policy.

“(C) As it relates to the limitation of liability of the City of New York, the amount that is the greater of the City of New York’s insurance coverage or \$350,000,000. In determining the amount of the City’s insurance coverage for purposes of the previous sentence, any amount described in subparagraphs (A) and (B) shall not be included.

“(D) As it relates to the limitation of liability of any entity, including the Port Authority of New York and New Jersey, with a property interest in the World Trade Center on September 11, 2001 (whether fee simple, leasehold or easement, or direct or indirect), the amount of all available liability insurance coverage maintained by any such entity.

“(E) As it relates to the limitation of liability of any individual contractor or subcontractor, the amount of all available liability insurance coverage maintained by such contractor or subcontractor on September 11, 2001.

“(5) PRIORITY OF CLAIMS PAYMENTS.—Payments to plaintiffs who obtain a settlement or judgment with respect to a claim or action to which paragraph (4) applies, shall be paid solely from the following funds in the following order, as may be applicable:

“(A) The funds described in subparagraph (A) or (B) of paragraph (4).

“(B) If there are no funds available as described in subparagraph (A) or (B) of paragraph (4), the funds described in subparagraph (C) of such paragraph.

“(C) If there are no funds available as described in subparagraph (A), (B), or (C) of paragraph (4), the funds described in subparagraph (D) of such paragraph.

“(D) If there are no funds available as described in subparagraph (A), (B), (C), or (D) of paragraph (4), the funds described in subparagraph (E) of such paragraph.

“(6) DECLARATORY JUDGMENT ACTIONS AND DIRECT ACTION.—Any claimant to a claim or action to which paragraph (4) applies may, with respect to such claim or action, either file an action for a declaratory judgment for insurance coverage or bring a direct action against the insurance company involved, except that no such action for declaratory judgment or direct action may be commenced until after the funds available in subparagraph[s] (A), (B), (C), and (D) of paragraph (5) have been exhausted consistent with the order described in such paragraph for payment.

“(b) FEDERAL CAUSE OF ACTION.—

“(1) AVAILABILITY OF ACTION.—There shall exist a Federal cause of action for damages arising out of the hijacking and subsequent crashes of American Airlines flights 11 and 77, and United Airlines flights 93 and 175, on September 11, 2001. Notwithstanding section 40120(c) of title 49, United States Code, this cause

of action shall be the exclusive remedy for damages arising out of the hijacking and subsequent crashes of such flights.

“(2) SUBSTANTIVE LAW.—The substantive law for decision in any such suit shall be derived from the law, including choice of law principles, of the State in which the crash occurred unless such law is inconsistent with or preempted by Federal law.

“(3) JURISDICTION.—The United States District Court for the Southern District of New York shall have original and exclusive jurisdiction over all actions brought for any claim (including any claim for loss of property, personal injury, or death) resulting from or relating to the terrorist-related aircraft crashes of September 11, 2001.

“(4) NATIONWIDE SUBPOENAS.—

“(A) IN GENERAL.—A subpoena requiring the attendance of a witness at trial or a hearing conducted under this section may be served at any place in the United States.

“(B) RULE OF CONSTRUCTION.—Nothing in this subsection is intended to diminish the authority of a court to quash or modify a subpoena for the reasons provided in clause (i), (iii), or (iv) of subparagraph (A) or subparagraph (B) of rule 45(c)(3) of the Federal Rules of Civil Procedure [28 U.S.C. App.].

“(c) EXCLUSION.—Nothing in this section shall in any way limit any liability of any person who is a knowing participant in any conspiracy to hijack any aircraft or commit any terrorist act. Subsections (a) and (b) do not apply to civil actions to recover collateral source obligations.

“SEC. 409. RIGHT OF SUBROGATION.

“The United States shall have the right of subrogation with respect to any claim paid by the United States under this title, subject to the limitations described in section 408.

“SEC. 410. VICTIMS COMPENSATION FUND.

“(a) IN GENERAL.—There is established in the Treasury of the United States a fund to be known as the ‘Victims Compensation Fund’, consisting of amounts deposited into such fund under subsection (b).

“(b) DEPOSITS INTO FUND.—There shall be deposited into the Victims Compensation Fund each of the following:

“(1) Effective on the day after the date on which all claimants who file a claim in Group A, as described in section 405(a)(3)(C)(ii), have received the full compensation due such claimants under this title for such claim, any amounts remaining from the total amount made available under section 406 to compensate claims in Group A as described in section 405(a)(3)(C)(ii).

“(2) The amount appropriated under subsection (c).

“(c) APPROPRIATIONS.—There is appropriated, out of any money in the Treasury not otherwise appropriated, such sums as may be necessary for fiscal year 2019 and each fiscal year thereafter through fiscal year 2092, to remain available until expended, to provide compensation for claims in Group B as described in section 405(a)(3)(C)(iii).

“(d) AVAILABILITY OF FUNDS.—Amounts deposited into the Victims Compensation Fund shall be available, without further appropriation, to the Special Master to provide compensation for claims in Group B as described in section 405(a)(3)(C)(iii).

“(e) TERMINATION.—On October 1, 2092, or at such time thereafter as all funds are expended, the Victims Compensation Fund shall be permanently closed.

“SEC. 411. 9-11 RESPONSE AND BIOMETRIC ENTRY-EXIT FEE.

“(a) TEMPORARY L-1 VISA FEE INCREASE.—Notwithstanding section 281 of the Immigration and Nationality Act (8 U.S.C. 1351) or any other provision of law, during the period beginning on the date of the enactment of this section [Dec. 18, 2015] and ending on September 30, 2027, the combined filing fee and fraud prevention and detection fee required to be submitted with

an application for admission as a nonimmigrant under section 101(a)(15)(L) of the Immigration and Nationality Act (8 U.S.C. 1101(a)(15)(L)), including an application for an extension of such status, shall be increased by \$4,500 for applicants that employ 50 or more employees in the United States if more than 50 percent of the applicant’s employees are nonimmigrants admitted pursuant to subparagraph (H)(i)(b) or (L) of section 101(a)(15) of such Act.

“(b) TEMPORARY H-1B VISA FEE INCREASE.—Notwithstanding section 281 of the Immigration and Nationality Act (8 U.S.C. 1351) or any other provision of law, during the period beginning on the date of the enactment of this section and ending on September 30, 2027, the combined filing fee and fraud prevention and detection fee required to be submitted with an application for admission as a nonimmigrant under section 101(a)(15)(H)(i)(b) of the Immigration and Nationality Act (8 U.S.C. 1101(a)(15)(H)(i)(b)), including an application for an extension of such status, shall be increased by \$4,000 for applicants that employ 50 or more employees in the United States if more than 50 percent of the applicant’s employees are such nonimmigrants or nonimmigrants described in section 101(a)(15)(L) of such Act.

“(c) 9-11 RESPONSE AND BIOMETRIC EXIT ACCOUNT.—

“(1) ESTABLISHMENT.—There is established in the general fund of the Treasury a separate account, which shall be known as the ‘9-11 Response and Biometric Exit Account’.

“(2) DEPOSITS.—

“(A) IN GENERAL.—Subject to subparagraph (B), of the amounts collected pursuant to the fee increases authorized under subsections (a) and (b)—

“(i) 50 percent shall be deposited in the general fund of the Treasury; and

“(ii) 50 percent shall be deposited as offsetting receipts into the 9-11 Response and Biometric Exit Account, and shall remain available until expended.

“(B) TERMINATION OF DEPOSITS IN ACCOUNT.—After a total of \$1,000,000,000 is deposited into the 9-11 Response and Biometric Exit Account under subparagraph (A)(ii), all amounts collected pursuant to the fee increases authorized under subsections (a) and (b) shall be deposited in the general fund of the Treasury.

“(3) USE OF FUNDS.—For fiscal year 2017, and each fiscal year thereafter, amounts in the 9-11 Response and Biometric Exit Account shall be available to the Secretary of Homeland Security without further appropriation for implementing the biometric entry and exit data system described in section 7208 of the Intelligence Reform and Terrorism Prevention Act of 2004 (8 U.S.C. 1365b).

“TITLE V—AIR TRANSPORTATION SAFETY

“SEC. 501. INCREASED AIR TRANSPORTATION SAFETY.

“Congress affirms the President’s decision to spend \$3,000,000,000 on airline safety and security in conjunction with this Act in order to restore public confidence in the airline industry.

“SEC. 502. CONGRESSIONAL COMMITMENT.

“Congress is committed to act expeditiously, in consultation with the Secretary of Transportation, to strengthen airport security and take further measures to enhance the security of air travel.

“TITLE VI—SEPARABILITY

“SEC. 601. SEPARABILITY.

“If any provision of this Act (including any amendment made by this Act [amending sections 44302 to 44306 of this title]) or the application thereof to any person or circumstance is held invalid, the remainder of this Act (including any amendment made by this Act) and the application thereof to other persons or circumstances shall not be affected thereby.”

[Pub. L. 107-134, title I, §114(b), Jan. 23, 2002, 115 Stat. 2436, provided that: “The amendment made by this section [amending Pub. L. 107-42, set out above] shall take effect as if included in section 301 of the Air Transportation Safety and System Stabilization Act (Public Law 107-42).”]

[Memorandum of President of the United States, Sept. 25, 2001, 66 F.R. 49507, delegated to the Secretary of Transportation the authority vested in the President under section 101(a)(2) of Pub. L. 107-42, set out above, to compensate air carriers for direct and incremental losses they incurred from the terrorist attacks of Sept. 11, 2001, and any resulting ground stop order.]

INDEPENDENT STUDY OF FAA COSTS AND ALLOCATIONS

Pub. L. 106-181, title III, §309, Apr. 5, 2000, 114 Stat. 127, provided that:

“(a) INDEPENDENT ASSESSMENT.—

“(1) IN GENERAL.—The Inspector General of the Department of Transportation shall conduct the assessments described in this section. To conduct the assessments, the Inspector General may use the staff and resources of the Inspector General or contract with one or more independent entities.

“(2) ASSESSMENT OF ADEQUACY AND ACCURACY OF FAA COST DATA AND ATTRIBUTIONS.—

“(A) IN GENERAL.—The Inspector General shall conduct an assessment to ensure that the method for calculating the overall costs of the Federal Aviation Administration and attributing such costs to specific users is appropriate, reasonable, and understandable to the users.

“(B) COMPONENTS.—In conducting the assessment under this paragraph, the Inspector General shall assess the following:

“(i) The Administration’s cost input data, including the reliability of the Administration’s source documents and the integrity and reliability of the Administration’s data collection process.

“(ii) The Administration’s system for tracking assets.

“(iii) The Administration’s bases for establishing asset values and depreciation rates.

“(iv) The Administration’s system of internal controls for ensuring the consistency and reliability of reported data.

“(v) The Administration’s definition of the services to which the Administration ultimately attributes its costs.

“(vi) The cost pools used by the Administration and the rationale for and reliability of the bases which the Administration proposes to use in allocating costs of services to users.

“(C) REQUIREMENTS FOR ASSESSMENT OF COST POOLS.—In carrying out subparagraph (B)(vi), the Inspector General shall—

“(i) review costs that cannot reliably be attributed to specific Administration services or activities (called ‘common and fixed costs’ in the Administration Cost Allocation Study) and consider alternative methods for allocating such costs; and

“(ii) perform appropriate tests to assess relationships between costs in the various cost pools and activities and services to which the costs are attributed by the Administration.

“(3) COST EFFECTIVENESS.—

“(A) IN GENERAL.—The Inspector General shall assess the progress of the Administration in cost and performance management, including use of internal and external benchmarking in improving the performance and productivity of the Administration.

“(B) ANNUAL REPORTS.—Not later than December 31, 2000, and annually thereafter until December 31, 2004, the Inspector General shall transmit to Congress an updated report containing the results of the assessment conducted under this paragraph.

“(C) INFORMATION TO BE INCLUDED IN FAA FINANCIAL REPORT.—The Administrator [of the Federal Aviation Administration] shall include in the an-

nual financial report of the Administration information on the performance of the Administration sufficient to permit users and others to make an informed evaluation of the progress of the Administration in increasing productivity.

“(b) FUNDING.—There are authorized to be appropriated such sums as may be necessary to carry out this section.”

OPERATIONS OF AIR TAXI INDUSTRY

Pub. L. 106-181, title VII, §735, Apr. 5, 2000, 114 Stat. 171, provided that:

“(a) STUDY.—The Administrator [of the Federal Aviation Administration], in consultation with the National Transportation Safety Board and other interested persons, shall conduct a study of air taxi operators regulated under part 135 of title 14, Code of Federal Regulations.

“(b) CONTENTS.—The study shall include an analysis of the size and type of the aircraft fleet, relevant aircraft equipment, hours flown, utilization rates, safety record by various categories of use and aircraft type, sales revenues, and airports served by the air taxi fleet.

“(c) REPORT.—Not later than 1 year after the date of the enactment of this Act [Apr. 5, 2000], the Administrator shall transmit to Congress a report on the results of the study.”

FINDINGS

Pub. L. 104-264, title II, §271, Oct. 9, 1996, 110 Stat. 3238, provided that: “Congress finds the following:

“(1) The Administration [Federal Aviation Administration] is recognized throughout the world as a leader in aviation safety.

“(2) The Administration certifies aircraft, engines, propellers, and other manufactured parts.

“(3) The Administration certifies more than 650 training schools for pilots and nonpilots, more than 4,858 repair stations, and more than 193 maintenance schools.

“(4) The Administration certifies pilot examiners, who are then qualified to determine if a person has the skills necessary to become a pilot.

“(5) The Administration certifies more than 6,000 medical examiners, each of whom is then qualified to medically certify the qualifications of pilots and nonpilots.

“(6) The Administration certifies more than 470 airports, and provides a limited certification for another 205 airports. Other airports in the United States are also reviewed by the Administration.

“(7) The Administration each year performs more than 355,000 inspections.

“(8) The Administration issues more than 655,000 pilot’s licenses and more than 560,000 nonpilot’s licenses (including mechanics).

“(9) The Administration’s certification means that the product meets world-wide recognized standards of safety and reliability.

“(10) The Administration’s certification means aviation-related equipment and services meet world-wide recognized standards.

“(11) The Administration’s certification is recognized by governments and businesses throughout the world and as such may be a valuable element for any company desiring to sell aviation-related products throughout the world.

“(12) The Administration’s certification may constitute a valuable license, franchise, privilege or benefits for the holders.

“(13) The Administration also is a major purchaser of computers, radars, and other systems needed to run the air traffic control system. The Administration’s design, acceptance, commissioning, or certification of such equipment enables the private sector to market those products around the world, and as such confers a benefit on the manufacturer.

“(14) The Administration provides extensive services to public use aircraft.”

PURPOSES

Pub. L. 104-264, title II, §272, Oct. 9, 1996, 110 Stat. 3239, provided that: "The purposes of this subtitle [subtitle C (§§271-278) of title II of Pub. L. 104-264, enacting sections 45301, 45303, 48111, and 48201 of this title, amending section 41742 of this title, renumbering section 45303 of this title as section 45304, repealing former section 45301 of this title, and enacting provisions set out as notes under this section and section 41742 of this title] are—

"(1) to provide a financial structure for the Administration [Federal Aviation Administration] so that it will be able to support the future growth in the national aviation and airport system;

"(2) to review existing and alternative funding options, including incentive-based fees for services, and establish a program to improve air traffic management system performance and to establish appropriate levels of cost accountability for air traffic management services provided by the Administration;

"(3) to ensure that any funding will be dedicated solely for the use of the Administration;

"(4) to authorize the Administration to recover the costs of its services from those who benefit from, but do not contribute to, the national aviation system and the services provided by the Administration;

"(5) to consider a fee system based on the cost or value of the services provided and other funding alternatives;

"(6) to develop funding options for Congress in order to provide for the long-term efficient and cost-effective support of the Administration and the aviation system; and

"(7) to achieve a more efficient and effective Administration for the benefit of the aviation transportation industry."

INDEPENDENT ASSESSMENT OF FAA FINANCIAL REQUIREMENTS; ESTABLISHMENT OF NATIONAL CIVIL AVIATION REVIEW COMMISSION

Pub. L. 104-264, title II, §274, Oct. 9, 1996, 110 Stat. 3240, as amended by Pub. L. 106-181, title III, §307(c)(3), Apr. 5, 2000, 114 Stat. 126, provided that:

"(a) INDEPENDENT ASSESSMENT.—

"(1) INITIATION.—Not later than 30 days after the date of the enactment of this Act [Oct. 9, 1996], the Administrator [of the Federal Aviation Administration] shall contract with an entity independent of the Administration [Federal Aviation Administration] and the Department of Transportation to conduct a complete independent assessment of the financial requirements of the Administration through the year 2002.

"(2) ASSESSMENT CRITERIA.—The Administrator shall provide to the independent entity estimates of the financial requirements of the Administration for the period described in paragraph (1), using as a base the fiscal year 1997 appropriation levels established by Congress. The independent assessment shall be based on an objective analysis of agency funding needs.

"(3) CERTAIN FACTORS TO BE TAKEN INTO ACCOUNT.—The independent assessment shall take into account all relevant factors, including—

"(A) anticipated air traffic forecasts;

"(B) other workload measures;

"(C) estimated productivity gains, if any, which contribute to budgetary requirements;

"(D) the need for programs; and

"(E) the need to provide for continued improvements in all facets of aviation safety, along with operational improvements in air traffic control.

"(4) COST ALLOCATION.—The independent assessment shall also assess the costs to the Administration occasioned by the provision of services to each segment of the aviation system.

"(5) DEADLINE.—The independent assessment shall be completed no later than 90 days after the contract

is awarded, and shall be submitted to the Commission established under subsection (b), the Secretary [of Transportation], the Secretary of the Treasury, the Committee on Commerce, Science, and Transportation and the Committee on Finance of the Senate, and the Committee on Transportation and Infrastructure and the Committee on Ways and Means of the House of Representatives.

"(b) NATIONAL CIVIL AVIATION REVIEW COMMISSION.—

"(1) ESTABLISHMENT.—There is established a commission to be known as the National Civil Aviation Review Commission (hereinafter in this section referred to as the 'Commission').

"(2) MEMBERSHIP.—The Commission shall consist of 21 members to be appointed as follows:

"(A) 13 members to be appointed by the Secretary, in consultation with the Secretary of the Treasury, from among individuals who have expertise in the aviation industry and who are able, collectively, to represent a balanced view of the issues important to general aviation, major air carriers, air cargo carriers, regional air carriers, business aviation, airports, aircraft manufacturers, the financial community, aviation industry workers, and airline passengers. At least one member appointed under this subparagraph shall have detailed knowledge of the congressional budgetary process.

"(B) Two members appointed by the Speaker of the House of Representatives.

"(C) Two members appointed by the minority leader of the House of Representatives.

"(D) Two members appointed by the majority leader of the Senate.

"(E) Two members appointed by the minority leader of the Senate.

"(3) TASK FORCES.—The Commission shall establish an aviation funding task force and an aviation safety task force to carry out the responsibilities of the Commission under this subsection.

"(4) FIRST MEETING.—The Commission may conduct its first meeting as soon as a majority of the members of the Commission are appointed.

"(5) HEARINGS AND CONSULTATION.—

"(A) HEARINGS.—The Commission shall take such testimony and solicit and receive such comments from the public and other interested parties as it considers appropriate, shall conduct 2 public hearings after affording adequate notice to the public thereof, and may conduct such additional hearings as may be necessary.

"(B) CONSULTATION.—The Commission shall consult on a regular and frequent basis with the Secretary, the Secretary of the Treasury, the Committee on Commerce, Science, and Transportation and the Committee on Finance of the Senate, and the Committee on Transportation and Infrastructure and the Committee on Ways and Means of the House of Representatives.

"(C) FACA NOT TO APPLY.—The Commission shall not be considered an advisory committee for purposes of the Federal Advisory Committee Act (5 U.S.C. App.).

"(6) DUTIES OF AVIATION FUNDING TASK FORCE.—

"(A) REPORT TO SECRETARY.—

"(i) IN GENERAL.—The aviation funding task force established pursuant to paragraph (3) shall submit a report setting forth a comprehensive analysis of the Administration's budgetary requirements through fiscal year 2002, based upon the independent assessment under subsection (a), that analyzes alternative financing and funding means for meeting the needs of the aviation system through the year 2002. The task force shall submit a preliminary report of that analysis to the Secretary not later than 6 months after the independent assessment is completed under subsection (a). The Secretary shall provide comments on the preliminary report to the task force within 30 days after receiving the report. The task force shall issue a final report of such com-

prehensive analysis within 30 days after receiving the Secretary's comments on its preliminary report.

“(ii) CONTENTS.—The report submitted by the aviation funding task force under clause (i)—

“(I) shall consider the independent assessment under subsection (a);

“(II) shall consider estimated cost savings, if any, resulting from the procurement and personnel reforms included in this Act [see Tables for classification] or in sections 40110(d) and 40122(g) of title 49, United States Code, and additional financial initiatives;

“(III) shall include specific recommendations to Congress on how the Administration can reduce costs, raise additional revenue for the support of agency operations, and accelerate modernization efforts; and

“(IV) shall include a draft bill containing the changes in law necessary to implement its recommendations.

“(B) RECOMMENDATIONS.—The aviation funding task force shall make such recommendations under subparagraph (A)(ii)(III) as the task force deems appropriate. Those recommendations may include—

“(i) proposals for off-budget treatment of the Airport and Airway Trust Fund;

“(ii) alternative financing and funding proposals, including linked financing proposals;

“(iii) modifications to existing levels of Airport and Airways Trust Fund receipts and taxes for each type of tax;

“(iv) establishment of a cost-based user fee system based on, but not limited to, criteria under subparagraph (F) and methods to ensure that costs are borne by users on a fair and equitable basis;

“(v) methods to ensure that funds collected from the aviation community are able to meet the needs of the agency;

“(vi) methods to ensure that funds collected from the aviation community and passengers are used to support the aviation system;

“(vii) means of meeting the airport infrastructure needs for large, medium, and small airports; and

“(viii) any other matter the task force deems appropriate to address the funding and needs of the Administration and the aviation system.

“(C) ADDITIONAL RECOMMENDATIONS.—The aviation funding task force report may also make recommendations concerning—

“(i) means of improving productivity by expanding and accelerating the use of automation and other technology;

“(ii) means of contracting out services consistent with this Act, other applicable law, and safety and national defense needs;

“(iii) methods to accelerate air traffic control modernization and improvements in aviation safety and safety services;

“(iv) the elimination of unneeded programs; and

“(v) a limited innovative program based on funding mechanisms such as loan guarantees, financial partnerships with for-profit private sector entities, government-sponsored enterprises, and revolving loan funds, as a means of funding specific facilities and equipment projects, and to provide limited additional funding alternatives for airport capacity development.

“(D) IMPACT ASSESSMENT FOR RECOMMENDATIONS.—For each recommendation contained in the aviation funding task force's report, the report shall include a full analysis and assessment of the impact implementation of the recommendation would have on—

“(i) safety;

“(ii) administrative costs;

“(iii) the congressional budget process;

“(iv) the economics of the industry (including the proportionate share of all users);

“(v) the ability of the Administration to utilize the sums collected; and

“(vi) the funding needs of the Administration.

“(E) TRUST FUND TAX RECOMMENDATIONS.—If the task force's report includes a recommendation that the existing Airport and Airways Trust Fund tax structure be modified, the report shall—

“(i) state the specific rates for each group affected by the proposed modifications;

“(ii) consider the impact such modifications shall have on specific users and the public (including passengers); and

“(iii) state the basis for the recommendations.

“(F) FEE SYSTEM RECOMMENDATIONS.—If the task force's report includes a recommendation that a fee system be established, including an air traffic control performance-based user fee system, the report shall consider—

“(i) the impact such a recommendation would have on passengers, air fares (including low-fare, high frequency service), service, and competition;

“(ii) existing contributions provided by individual air carriers toward funding the Administration and the air traffic control system through contributions to the Airport and Airways Trust Fund;

“(iii) continuing the promotion of fair and competitive practices;

“(iv) the unique circumstances associated with interisland air carrier service in Hawaii and rural air service in Alaska;

“(v) the impact such a recommendation would have on service to small communities;

“(vi) the impact such a recommendation would have on services provided by regional air carriers;

“(vii) alternative methodologies for calculating fees so as to achieve a fair and reasonable distribution of costs of service among users;

“(viii) the usefulness of phased-in approaches to implementing such a financing system;

“(ix) means of assuring the provision of general fund contributions, as appropriate, toward the support of the Administration; and

“(x) the provision of incentives to encourage greater efficiency in the provision of air traffic services by the Administration and greater efficiency in the use of air traffic services by aircraft operators.

“(7) DUTIES OF AVIATION SAFETY TASK FORCE.—

“(A) REPORT TO ADMINISTRATOR.—Not later than 1 year after the date of the enactment of this Act [Oct. 9, 1996], the aviation safety task force established pursuant to paragraph (3) shall submit to the Administrator a report setting forth a comprehensive analysis of aviation safety in the United States and emerging trends in the safety of particular sectors of the aviation industry.

“(B) CONTENTS.—The report to be submitted under subparagraph (A) shall include an assessment of—

“(i) the adequacy of staffing and training resources for safety personnel of the Administration, including safety inspectors;

“(ii) the Administration's processes for ensuring the public safety from fraudulent parts in civil aviation and the extent to which use of suspected unapproved parts requires additional oversight or enforcement action; and

“(iii) the ability of the Administration to anticipate changes in the aviation industry and to develop policies and actions to ensure the highest level of aviation safety in the 21st century.

“(8) ACCESS TO DOCUMENTS AND STAFF.—The Administration may give the Commission appropriate access to relevant documents and personnel of the Administration, and the Administrator shall make available, consistent with the authority to withhold commercial and other proprietary information under section 552 of title 5, United States Code (commonly known as the ‘Freedom of Information Act’), cost

data associated with the acquisition and operation of air traffic service systems. Any member of the Commission who receives commercial or other proprietary data from the Administrator shall be subject to the provisions of section 1905 of title 18, United States Code, pertaining to unauthorized disclosure of such information.

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

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

“(11) AUTHORIZATION OF APPROPRIATIONS.—There is authorized to be appropriated such sums as may be necessary to carry out the provisions of this subsection.

“(c) REPORTS TO CONGRESS.—

“(1) REPORT BY THE SECRETARY BASED ON FINAL REPORT OF AVIATION FUNDING TASK FORCE.—

“(A) CONSIDERATION OF TASK FORCE’S PRELIMINARY REPORT.—Not later than 30 days after receiving the preliminary report of the aviation funding task force, the Secretary, in consultation with the Secretary of the Treasury, shall furnish comments on the report to the task force.

“(B) REPORT TO CONGRESS.—Not later than 30 days after receiving the final report of the aviation funding task force, and in no event more than 1 year after the date of the enactment of this Act, the Secretary, after consulting the Secretary of the Treasury, shall transmit a report to the Committee on Commerce, Science, and Transportation and the Committee on Finance of the Senate, and the Committee on Transportation and Infrastructure and the Committee on Ways and Means of the House of Representatives. Such report shall be based upon the final report of the task force and shall contain the Secretary’s recommendations for funding the needs of the aviation system through the year 2002.

“(C) CONTENTS.—The Secretary shall include in the report to Congress under subparagraph (B)—

“(i) a copy of the final report of the task force; and

“(ii) a draft bill containing the changes in law necessary to implement the Secretary’s recommendations.

“(D) PUBLICATION.—The Secretary shall cause a copy of the report to be printed in the Federal Register upon its transmittal to Congress under subparagraph (B).

“(2) REPORT BY THE ADMINISTRATOR BASED ON FINAL REPORT OF AVIATION SAFETY TASK FORCE.—Not later than 30 days after receiving the report of the aviation safety task force, the Administrator shall transmit the report to Congress, together with the Administrator’s recommendations for improving aviation safety in the United States.

“(d) GAO AUDIT OF COST ALLOCATION.—The Comptroller General shall conduct an assessment of the manner in which costs for air traffic control services are allocated between the Administration and the Department of Defense. The Comptroller General shall report the results of the assessment, together with any recommendations the Comptroller General may have for reallocation of costs and for opportunities to increase the efficiency of air traffic control services provided by the Administration and by the Department of Defense, to the Commission, the Administrator, the Secretary of Defense, the Committee on Transportation and Infrastructure of the House of Representatives, and the Committee on Commerce, Science, and Transportation of the Senate not later than 180 days after the date of the enactment of this Act.

“(e) GAO ASSESSMENT.—Not later than 180 days after the date of the enactment of this Act, the Comptroller

General shall transmit to the Commission and Congress an independent assessment of airport development needs.”

JOINT AVIATION RESEARCH AND DEVELOPMENT PROGRAM

Pub. L. 103-305, title III, §303, Aug. 23, 1994, 108 Stat. 1590, provided that:

“(a) ESTABLISHMENT.—The Administrator [of the Federal Aviation Administration], in consultation with the heads of other appropriate Federal agencies, shall jointly establish a program to conduct research on aviation technologies that enhance United States competitiveness. The program shall include—

“(1) next-generation satellite communications, including global positioning satellites;

“(2) advanced airport and airplane security;

“(3) environmentally compatible technologies, including technologies that limit or reduce noise and air pollution;

“(4) advanced aviation safety programs; and

“(5) technologies and procedures to enhance and improve airport and airway capacity.

“(b) PROCEDURES FOR CONTRACTS AND GRANTS.—The Administrator and the heads of the other appropriate Federal agencies shall administer contracts and grants entered into under the program established under subsection (a) in accordance with procedures developed jointly by the Administrator and the heads of the other appropriate Federal agencies. The procedures should include an integrated acquisition policy for contract and grant requirements and for technical data rights that are not an impediment to joint programs among the Federal Aviation Administration, the other Federal agencies involved, and industry.

“(c) PROGRAM ELEMENTS.—The program established under subsection (a) shall include—

“(1) selected programs that jointly enhance public and private aviation technology development;

“(2) an opportunity for private contractors to be involved in such technology research and development; and

“(3) the transfer of Government-developed technologies to the private sector to promote economic strength and competitiveness.

“(d) AUTHORIZATION OF APPROPRIATIONS.—Of amounts authorized to be appropriated for fiscal years 1995 and 1996 under section 48102(a) of title 49, United States Code, as amended by section 302 of this title, there are authorized to be appropriated for fiscal years 1995 and 1996, respectively, such sums as may be necessary to carry out this section.”

AIR QUALITY IN AIRCRAFT CABINS

Pub. L. 108-176, title VIII, §815, Dec. 12, 2003, 117 Stat. 2592, provided that:

“(a) IN GENERAL.—The Administrator of the Federal Aviation Administration shall undertake the studies and analysis called for in the report of the National Research Council entitled ‘The Airliner Cabin Environment and the Health of Passengers and Crew’.

“(b) REQUIRED ACTIVITIES.—In carrying out this section, the Administrator, at a minimum, shall—

“(1) conduct surveillance to monitor ozone in the cabin on a representative number of flights and aircraft to determine compliance with existing Federal Aviation Regulations for ozone;

“(2) collect pesticide exposure data to determine exposures of passengers and crew;

“(3) analyze samples of residue from aircraft ventilation ducts and filters after air quality incidents to identify the contaminants to which passengers and crew were exposed;

“(4) analyze and study cabin air pressure and altitude; and

“(5) establish an air quality incident reporting system.

“(c) REPORT.—Not later than 30 months after the date of enactment of this Act [Dec. 12, 2003], the Adminis-

trator shall transmit to Congress a report on the findings of the Administrator under this section.”

Pub. L. 106-181, title VII, §725, Apr. 5, 2000, 114 Stat. 166, provided that:

“(a) STUDY OF AIR QUALITY IN PASSENGER CABINS IN COMMERCIAL AIRCRAFT.—

“(1) IN GENERAL.—Not later than 60 days after the date of the enactment of this Act [Apr. 5, 2000], the Administrator [of the Federal Aviation Administration] shall arrange for and provide necessary data to the National Academy of Sciences to conduct a 12-month, independent study of air quality in passenger cabins of aircraft used in air transportation and foreign air transportation, including the collection of new data, in coordination with the Federal Aviation Administration, to identify contaminants in the aircraft air and develop recommendations for means of reducing such contaminants.

“(2) ALTERNATIVE AIR SUPPLY.—The study should examine whether contaminants would be reduced by the replacement of engine and auxiliary power unit bleed air with an alternative supply of air for the aircraft passengers and crew.

“(3) SCOPE.—The study shall include an assessment and quantitative analysis of each of the following:

“(A) Contaminants of concern, as determined by the National Academy of Sciences.

“(B) The systems of air supply on aircraft, including the identification of means by which contaminants may enter such systems.

“(C) The toxicological and health effects of the contaminants of concern, their byproducts, and the products of their degradation.

“(D) Any contaminant used in the maintenance, operation, or treatment of aircraft, if a passenger or a member of the air crew may be directly exposed to the contaminant.

“(E) Actual measurements of the contaminants of concern in the air of passenger cabins during actual flights in air transportation or foreign air transportation, along with comparisons of such measurements to actual measurements taken in public buildings.

“(4) PROVISION OF CURRENT DATA.—The Administrator shall collect all data of the Federal Aviation Administration that is relevant to the study and make the data available to the National Academy of Sciences in order to complete the study.

“(b) COLLECTION OF AIRCRAFT AIR QUALITY DATA.—

“(1) IN GENERAL.—The Administrator may consider the feasibility of using the flight data recording system on aircraft to monitor and record appropriate data related to air inflow quality, including measurements of the exposure of persons aboard the aircraft to contaminants during normal aircraft operation and during incidents involving air quality problems.

“(2) PASSENGER CABINS.—The Administrator may also consider the feasibility of using the flight data recording system to monitor and record data related to the air quality in passengers cabins of aircraft.”

Pub. L. 103-305, title III, §304, Aug. 23, 1994, 108 Stat. 1591, provided that:

“(a) ESTABLISHMENT.—The Administrator [of the Federal Aviation Administration], in consultation with the heads of other appropriate Federal agencies, shall establish a research program to determine—

“(1) what, if any, aircraft cabin air conditions, including pressure altitude systems, on flights within the United States are harmful to the health of airline passengers and crew, as indicated by physical symptoms such as headaches, nausea, fatigue, and lightheadedness; and

“(2) the risk of airline passengers and crew contracting infectious diseases during flight.

“(b) CONTRACT WITH CENTER FOR DISEASE CONTROL.—In carrying out the research program established under subsection (a), the Administrator and the heads of the other appropriate Federal agencies shall contract with the Center for Disease Control [now Centers for Disease Control and Prevention] and other appropriate agencies

to carry out any studies necessary to meet the goals of the program set forth in subsection (c).

“(c) GOALS.—The goals of the research program established under subsection (a) shall be—

“(1) to determine what, if any, cabin air conditions currently exist on domestic aircraft used for flights within the United States that could be harmful to the health of airline passengers and crew, as indicated by physical symptoms such as headaches, nausea, fatigue, and lightheadedness, and including the risk of infection by bacteria and viruses;

“(2) to determine to what extent, changes in, cabin air pressure, temperature, rate of cabin air circulation, the quantity of fresh air per occupant, and humidity on current domestic aircraft would reduce or eliminate the risk of illness or discomfort to airline passengers and crew; and

“(3) to establish a long-term research program to examine potential health problems to airline passengers and crew that may arise in an airplane cabin on a flight within the United States because of cabin air quality as a result of the conditions and changes described in paragraphs (1) and (2).

“(d) PARTICIPATION.—In carrying out the research program established under subsection (a), the Administrator shall encourage participation in the program by representatives of aircraft manufacturers, air carriers, aviation employee organizations, airline passengers, and academia.

“(e) REPORT.—(1) Within six months after the date of enactment of this Act [Aug. 23, 1994], the Administrator shall submit to the Congress a plan for implementation of the research program established under subsection (a).

“(2) The Administrator shall annually submit to the Congress a report on the progress made during the year for which the report is submitted toward meeting the goals set forth in subsection (c).

“(f) AUTHORIZATION OF APPROPRIATIONS.—Of amounts authorized to be appropriated for fiscal years 1995 and 1996 under section 48102(a) of title 49, United States Code, as amended by section 302 of this title, there are authorized to be appropriated for fiscal years 1995 and 1996, respectively, such sums as may be necessary to carry out this section.”

INFORMATION ON DISINSECTION OF AIRCRAFT

Pub. L. 103-305, title V, §507, Aug. 23, 1994, 108 Stat. 1595, provided that:

“(a) AVAILABILITY OF INFORMATION.—In the interest of protecting the health of air travelers, the Secretary shall publish a list of the countries (as determined by the Secretary) that require disinsection of aircraft landing in such countries while passengers and crew are on board such aircraft.

“(b) REVISION.—The Secretary shall revise the list required under subsection (a) on a periodic basis.

“(c) PUBLICATION.—The Secretary shall publish the list required under subsection (a) not later than 30 days after the date of the enactment of this Act [Aug. 23, 1994]. The Secretary shall publish a revision to the list not later than 30 days after completing the revision under subsection (b).”

GENERAL AVIATION REVITALIZATION ACT OF 1994

Pub. L. 103-298, Aug. 17, 1994, 108 Stat. 1552, as amended by Pub. L. 105-102, §3(e), Nov. 20, 1997, 111 Stat. 2215, provided that:

“SECTION 1. SHORT TITLE.

“This Act may be cited as the ‘General Aviation Revitalization Act of 1994’.

“SEC. 2. TIME LIMITATIONS ON CIVIL ACTIONS AGAINST AIRCRAFT MANUFACTURERS.

“(a) IN GENERAL.—Except as provided in subsection (b), no civil action for damages for death or injury to persons or damage to property arising out of an accident involving a general aviation aircraft may be brought against the manufacturer of the aircraft or the

manufacturer of any new component, system, subassembly, or other part of the aircraft, in its capacity as a manufacturer if the accident occurred—

“(1) after the applicable limitation period beginning on—

“(A) the date of delivery of the aircraft to its first purchaser or lessee, if delivered directly from the manufacturer; or

“(B) the date of first delivery of the aircraft to a person engaged in the business of selling or leasing such aircraft; or

“(2) with respect to any new component, system, subassembly, or other part which replaced another component, system, subassembly, or other part originally in, or which was added to, the aircraft, and which is alleged to have caused such death, injury, or damage, after the applicable limitation period beginning on the date of completion of the replacement or addition.

“(b) EXCEPTIONS.—Subsection (a) does not apply—

“(1) if the claimant pleads with specificity the facts necessary to prove, and proves, that the manufacturer with respect to a type certificate or airworthiness certificate for, or obligations with respect to continuing airworthiness of, an aircraft or a component, system, subassembly, or other part of an aircraft knowingly misrepresented to the Federal Aviation Administration, or concealed or withheld from the Federal Aviation Administration, required information that is material and relevant to the performance or the maintenance or operation of such aircraft, or the component, system, subassembly, or other part, that is causally related to the harm which the claimant allegedly suffered;

“(2) if the person for whose injury or death the claim is being made is a passenger for purposes of receiving treatment for a medical or other emergency;

“(3) if the person for whose injury or death the claim is being made was not aboard the aircraft at the time of the accident; or

“(4) to an action brought under a written warranty enforceable under law but for the operation of this Act.

“(c) GENERAL AVIATION AIRCRAFT DEFINED.—For the purposes of this Act, the term ‘general aviation aircraft’ means any aircraft for which a type certificate or an airworthiness certificate has been issued by the Administrator of the Federal Aviation Administration, which, at the time such certificate was originally issued, had a maximum seating capacity of fewer than 20 passengers, and which was not, at the time of the accident, engaged in scheduled passenger-carrying operations as defined under regulations in effect under part A of subtitle VII of title 49, United States Code, at the time of the accident.

“(d) RELATIONSHIP TO OTHER LAWS.—This section supersedes any State law to the extent that such law permits a civil action described in subsection (a) to be brought after the applicable limitation period for such civil action established by subsection (a).

“SEC. 3. OTHER DEFINITIONS.

“For purposes of this Act—

“(1) the term ‘aircraft’ has the meaning given such term in section 40102(a)(6) of title 49, United States Code;

“(2) the term ‘airworthiness certificate’ means an airworthiness certificate issued under section 44704(c)(1) of title 49, United States Code, or under any predecessor Federal statute;

“(3) the term ‘limitation period’ means 18 years with respect to general aviation aircraft and the components, systems, subassemblies, and other parts of such aircraft; and

“(4) the term ‘type certificate’ means a type certificate issued under section 44704(a) of title 49, United States Code, or under any predecessor Federal statute.

“SEC. 4. EFFECTIVE DATE; APPLICATION OF ACT.

“(a) EFFECTIVE DATE.—Except as provided in subsection (b), this Act shall take effect on the date of the enactment of this Act [Aug. 17, 1994].

“(b) APPLICATION OF ACT.—This Act shall not apply with respect to civil actions commenced before the date of the enactment of this Act.”

NATIONAL COMMISSION TO ENSURE A STRONG COMPETITIVE AIRLINE INDUSTRY

Pub. L. 102-581, title II, §204, Oct. 31, 1992, 106 Stat. 4891, as amended Pub. L. 103-13, §1, Apr. 7, 1993, 107 Stat. 43, provided for establishment of National Commission to Ensure a Strong Competitive Airline Industry to make a complete investigation and study of financial condition of the airline industry, adequacy of competition in the airline industry, and legal impediments to a financially strong and competitive airline industry, to report to President and Congress not later than 90 days after the date on which initial appointments of members to the Commission were completed, and to terminate on the 30th day following transmission of report.

DEFINITIONS OF TERMS IN TITLE I OF DIV. V OF PUB. L. 116-260

Pub. L. 116-260, div. V, title I, §137, Dec. 27, 2020, 134 Stat. 2360, provided that: “In this title [see Tables for classification]:

“(1) ADMINISTRATION; FAA.—The terms ‘Administration’ and ‘FAA’ mean the Federal Aviation Administration.

“(2) ADMINISTRATOR.—The term ‘Administrator’ means the Administrator of the FAA.

“(3) CONGRESSIONAL COMMITTEES OF JURISDICTION.—The term ‘congressional committees of jurisdiction’ means the Committee on Transportation and Infrastructure of the House of Representatives and the Committee on Commerce, Science, and Transportation of the Senate.

“(4) ICAO.—The term ‘ICAO’ means the International Civil Aviation Organization.

“(5) ORGANIZATION DESIGNATION AUTHORIZATION.—The term ‘organization designation authorization’ has the same meaning given such term in section 44736(c) of title 49, United States Code.

“(6) TRANSPORT AIRPLANE.—The term ‘transport airplane’ means a transport category airplane designed for operation by an air carrier or foreign air carrier type-certificated with a passenger seating capacity of 30 or more or an all-cargo or combi derivative of such an airplane.

“(7) TYPE CERTIFICATE.—The term ‘type certificate’—

“(A) means a type certificate issued pursuant to section 44704(a) of title 49, United States Code, or an amendment to such certificate; and

“(B) does not include a supplemental type certificate issued under section 44704(b) of such section.”

DEFINITIONS OF TERMS IN PUB. L. 115-254

Pub. L. 115-254, div. B, §101, Oct. 5, 2018, 132 Stat. 3199, provided that: “In this division [see Tables for classification], the term ‘appropriate committees of Congress’ means the Committee on Commerce, Science, and Transportation of the Senate and the Committee on Transportation and Infrastructure of the House of Representatives.”

Pub. L. 115-254, div. B, title IV, §401, Oct. 5, 2018, 132 Stat. 3328, provided that: “In this title [see Tables for classification]:

“(1) COVERED AIR CARRIER.—The term ‘covered air carrier’ means an air carrier or a foreign air carrier as those terms are defined in section 40102 of title 49, United States Code.

“(2) ONLINE SERVICE.—The term ‘online service’ means any service available over the internet, or that connects to the internet or a wide-area network.

“(3) TICKET AGENT.—The term ‘ticket agent’ has the meaning given the term in section 40102 of title 49, United States Code.”

Pub. L. 115-254, div. B, title V, §501, Oct. 5, 2018, 132 Stat. 3350, provided that: “In this title [see Tables for classification], the following definitions apply:

“(1) ADMINISTRATION.—The term ‘Administration’ means the Federal Aviation Administration.

“(2) ADMINISTRATOR.—The term ‘Administrator’ means the Administrator of the FAA.

“(3) ADS-B.—The term ‘ADS-B’ means automatic dependent surveillance-broadcast.

“(4) ADS-B OUT.—The term ‘ADS-B Out’ means automatic dependent surveillance-broadcast with the ability to transmit information from the aircraft to ground stations and to other equipped aircraft.

“(5) FAA.—The term ‘FAA’ means the Federal Aviation Administration.

“(6) NEXTGEN.—The term ‘NextGen’ means the Next Generation Air Transportation System.”

Pub. L. 115-254, div. B, title VII, §702, Oct. 5, 2018, 132 Stat. 3409, provided that: “In this title [see Short Title of 2018 Amendment note set out above], the following definitions apply:

“(1) ADMINISTRATOR.—The term ‘Administrator’ means the Administrator of the Federal Aviation Administration.

“(2) FAA.—The term ‘FAA’ means the Federal Aviation Administration.

“(3) NASA.—The term ‘NASA’ means the National Aeronautics and Space Administration.

“(4) SECRETARY.—The term ‘Secretary’ means the Secretary of Transportation.”

DEFINITION OF TERM IN PUB. L. 114-190

Pub. L. 114-190, §2, July 15, 2016, 130 Stat. 617, provided that: “In this Act [see Tables for classification], unless expressly provided otherwise, the term ‘appropriate committees of Congress’ means the Committee on Commerce, Science, and Transportation of the Senate and the Committee on Transportation and Infrastructure of the House of Representatives.”

DEFINITIONS OF TERMS IN TITLE II OF PUB. L. 112-95

Pub. L. 112-95, title IX, §902, Feb. 14, 2012, 126 Stat. 138, provided that: “In this title [amending sections 44504, 44505, 44511, 44513, and 48102 of this title, enacting provisions set out as notes under this section and sections 44501, 44504, 44505, and 44513 of this title, and amending provisions set out as notes under section 44504 of this title], the following definitions apply:

“(1) ADMINISTRATOR.—The term ‘Administrator’ means the Administrator of the FAA.

“(2) FAA.—The term ‘FAA’ means the Federal Aviation Administration.

“(3) INSTITUTION OF HIGHER EDUCATION.—The term ‘institution of higher education’ has the same meaning given the term in section 101(a) of the Higher Education Act of 1965 (20 U.S.C. 1001(a)).

“(4) NASA.—The term ‘NASA’ means the National Aeronautics and Space Administration.

“(5) NOAA.—The term ‘NOAA’ means the National Oceanic and Atmospheric Administration.”

DEFINITIONS OF TERMS IN PUB. L. 107-71

For definitions of terms used in sections 127 and 145 of Pub. L. 107-71, set out above, see section 133 of Pub. L. 107-71, set out as a note under section 40102 of this title.

Executive Documents

EX. ORD. NO. 13479. TRANSFORMATION OF THE NATIONAL AIR TRANSPORTATION SYSTEM

Ex. Ord. No. 13479, Nov. 18, 2008, 73 F.R. 70241, provided:

By the authority vested in me as President by the Constitution and the laws of the United States of America, it is hereby ordered as follows:

SECTION 1. *Policy.* It is the policy of the United States to establish and maintain a national air transportation system that meets the present and future civil aviation, homeland security, economic, environmental protection, and national defense needs of the United States, including through effective implementation of

the Next Generation Air Transportation System (NextGen).

SEC. 2. *Definitions.* As used in this order the term “Next Generation Air Transportation System” means the system to which section 709 of the Vision 100—Century of Aviation Reauthorization Act (Public Law 108-176) (Act) refers.

SEC. 3. *Functions of the Secretary of Transportation.* Consistent with sections 709 and 710 of the Act and the policy set forth in section 1 of this order, the Secretary of Transportation shall:

(a) take such action within the authority of the Secretary, and recommend as appropriate to the President such action as is within the authority of the President, to implement the policy set forth in section 1 of this order and in particular to implement the NextGen in a safe, secure, timely, environmentally sound, efficient, and effective manner;

(b) convene quarterly, unless the Secretary determines that meeting less often is consistent with effective implementation of the policy set forth in section 1 of this order, the Senior Policy Committee established pursuant to section 710 of the Act (Committee);

(c) not later than 60 days after the date of this order, establish within the Department of Transportation a support staff (Staff), including employees from departments and agencies assigned pursuant to subsection 4(e) of this order, to support, as directed by the Secretary, the Secretary and the Committee in the performance of their duties relating to the policy set forth in section 1 of this order; and

(d) not later than 180 days after the date of this order, establish an advisory committee to provide advice to the Secretary and, through the Secretary, the Committee concerning the implementation of the policy set forth in section 1 of this order, including aviation-related subjects and any related performance measures specified by the Secretary, pursuant to section 710 of the Act.

SEC. 4. *Functions of Other Heads of Executive Departments and Agencies.* Consistent with the policy set forth in section 1 of this order:

(a) the Secretary of Defense shall assist the Secretary of Transportation by:

(i) collaborating, as appropriate, and verifying that the NextGen meets the national defense needs of the United States consistent with the policies and plans established under applicable Presidential guidance; and

(ii) furnishing, as appropriate, data streams to integrate national defense capabilities of the United States civil and military systems relating to the national air transportation system, and coordinating the development of requirements and capabilities to address tracking and other activities relating to non-cooperative aircraft in consultation with the Secretary of Homeland Security, as appropriate;

(b) the Secretary of Commerce shall:

(i) develop and make available, as appropriate, the capabilities of the Department of Commerce, including those relating to aviation weather and spectrum management, to support the NextGen; and

(ii) take appropriate account of the needs of the NextGen in the trade, commerce, and other activities of the Department of Commerce, including those relating to the development and setting of standards;

(c) the Secretary of Homeland Security shall assist the Secretary of Transportation by ensuring that:

(i) the NextGen includes the aviation-related security capabilities necessary to ensure the security of persons, property, and activities within the national air transportation system consistent with the policies and plans established under applicable Presidential guidance; and

(ii) the Department of Homeland Security shall continue to carry out all statutory and assigned responsibilities relating to aviation security, border security, and critical infrastructure protection in consultation with the Secretary of Defense, as appropriate;

(d) the Administrator of the National Aeronautics and Space Administration shall carry out the Administrator's duties under Executive Order 13419 of December 20, 2006, in a manner consistent with that order and the policy set forth in section 1 of this order;

(e) the heads of executive departments and agencies shall provide to the Secretary of Transportation such information and assistance, including personnel and other resources for the Staff to which subsection 3(c) of this order refers, as may be necessary and appropriate to implement this order as agreed to by the heads of the departments and agencies involved; and

(f) the Director of the Office of Management and Budget may issue such instructions as may be necessary to implement subsection 5(b) of this order.

SEC. 5. *Additional Functions of the Senior Policy Committee.* In addition to performing the functions specified in section 710 of the Act, the Committee shall:

(a) report not less often than every 2 years to the President, through the Secretary of Transportation, on progress made and projected to implement the policy set forth in section 1 of this order, together with such recommendations including performance measures for administrative or other action as the Committee determines appropriate;

(b) review the proposals by the heads of executive departments and agencies to the Director of the Office of Management and Budget with respect to programs affecting the policy set forth in section 1 of this order, and make recommendations including performance measures thereon, through the Secretary of Transportation, to the Director; and

(c) advise the Secretary of Transportation and, through the Secretary of Transportation, the Secretaries of Defense, Commerce, and Homeland Security, and the Administrator of the National Aeronautics and Space Administration, with respect to the activities of their departments and agencies in the implementation of the policy set forth in section 1 of this order.

SEC. 6. *General Provisions.* (a) Nothing in this order shall be construed to impair or otherwise affect:

(i) authority granted by law to a department or agency, or the head thereof; or

(ii) functions of the Director of the Office of Management and Budget relating to budget, administrative, or legislative proposals.

(b) This order shall be implemented consistent with applicable law and subject to the availability of appropriations.

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

GEORGE W. BUSH.

§ 40102. Definitions

(a) GENERAL DEFINITIONS.—In this part—

(1) “aeronautics” means the science and art of flight.

(2) “air carrier” means a citizen of the United States undertaking by any means, directly or indirectly, to provide air transportation.

(3) “air commerce” means foreign air commerce, interstate air commerce, the transportation of mail by aircraft, the operation of aircraft within the limits of a Federal airway, or the operation of aircraft that directly affects, or may endanger safety in, foreign or interstate air commerce.

(4) “air navigation facility” means a facility used, available for use, or designed for use, in aid of air navigation, including—

(A) a landing area;

(B) runway lighting and airport surface visual and other navigation aids;

(C) apparatus, equipment, software, or service for distributing aeronautical and meteorological information to air traffic control facilities or aircraft;

(D) communication, navigation, or surveillance equipment for air-to-ground or air-to-air applications;

(E) any structure, equipment, or mechanism for guiding or controlling flight in the air or the landing and takeoff of aircraft; and

(F) buildings, equipment, and systems dedicated to the national airspace system.

(5) “air transportation” means foreign air transportation, interstate air transportation, or the transportation of mail by aircraft.

(6) “aircraft” means any contrivance invented, used, or designed to navigate, or fly in, the air.

(7) “aircraft engine” means an engine used, or intended to be used, to propel an aircraft, including a part, appurtenance, and accessory of the engine, except a propeller.

(8) “airman” means an individual—

(A) in command, or as pilot, mechanic, or member of the crew, who navigates aircraft when under way;

(B) except to the extent the Administrator of the Federal Aviation Administration may provide otherwise for individuals employed outside the United States, who is directly in charge of inspecting, maintaining, overhauling, or repairing aircraft, aircraft engines, propellers, or appliances; or

(C) who serves as an aircraft dispatcher or air traffic control-tower operator.

(9) “airport” means a landing area used regularly by aircraft for receiving or discharging passengers or cargo.

(10) “all-cargo air transportation” means the transportation by aircraft in interstate air transportation of only property or only mail, or both.

(11) “appliance” means an instrument, equipment, apparatus, a part, an appurtenance, or an accessory used, capable of being used, or intended to be used, in operating or controlling aircraft in flight, including a parachute, communication equipment, and another mechanism installed in or attached to aircraft during flight, and not a part of an aircraft, aircraft engine, or propeller.

(12) “cargo” means property, mail, or both.

(13) “charter air carrier” means an air carrier holding a certificate of public convenience and necessity that authorizes it to provide charter air transportation.

(14) “charter air transportation” means charter trips in air transportation authorized under this part.

(15) “citizen of the United States” means—

(A) an individual who is a citizen of the United States;

(B) a partnership each of whose partners is an individual who is a citizen of the United States; or

(C) a corporation or association organized under the laws of the United States or a State, the District of Columbia, or a territory or possession of the United States, of

which the president and at least two-thirds of the board of directors and other managing officers are citizens of the United States, which is under the actual control of citizens of the United States, and in which at least 75 percent of the voting interest is owned or controlled by persons that are citizens of the United States.

(16) "civil aircraft" means an aircraft except a public aircraft.

(17) "civil aircraft of the United States" means an aircraft registered under chapter 441 of this title.

(18) "conditional sales contract" means a contract—

(A) for the sale of an aircraft, aircraft engine, propeller, appliance, or spare part, under which the buyer takes possession of the property but title to the property vests in the buyer at a later time on—

- (i) paying any part of the purchase price;
- (ii) performing another condition; or
- (iii) the happening of a contingency; or

(B) to bail or lease an aircraft, aircraft engine, propeller, appliance, or spare part, under which the bailee or lessee—

(i) agrees to pay an amount substantially equal to the value of the property; and

(ii) is to become, or has the option of becoming, the owner of the property on complying with the contract.

(19) "conveyance" means an instrument, including a conditional sales contract, affecting title to, or an interest in, property.

(20) "Federal airway" means a part of the navigable airspace that the Administrator designates as a Federal airway.

(21) "foreign air carrier" means a person, not a citizen of the United States, undertaking by any means, directly or indirectly, to provide foreign air transportation.

(22) "foreign air commerce" means the transportation of passengers or property by aircraft for compensation, the transportation of mail by aircraft, or the operation of aircraft in furthering a business or vocation, between a place in the United States and a place outside the United States when any part of the transportation or operation is by aircraft.

(23) "foreign air transportation" means the transportation of passengers or property by aircraft as a common carrier for compensation, or the transportation of mail by aircraft, between a place in the United States and a place outside the United States when any part of the transportation is by aircraft.

(24) "interstate air commerce" means the transportation of passengers or property by aircraft for compensation, the transportation of mail by aircraft, or the operation of aircraft in furthering a business or vocation—

(A) between a place in—

(i) a State, territory, or possession of the United States and a place in the District of Columbia or another State, territory, or possession of the United States;

(ii) a State and another place in the same State through the airspace over a place outside the State;

(iii) the District of Columbia and another place in the District of Columbia; or

(iv) a territory or possession of the United States and another place in the same territory or possession; and

(B) when any part of the transportation or operation is by aircraft.

(25) "interstate air transportation" means the transportation of passengers or property by aircraft as a common carrier for compensation, or the transportation of mail by aircraft—

(A) between a place in—

(i) a State, territory, or possession of the United States and a place in the District of Columbia or another State, territory, or possession of the United States;

(ii) Hawaii and another place in Hawaii through the airspace over a place outside Hawaii;

(iii) the District of Columbia and another place in the District of Columbia; or

(iv) a territory or possession of the United States and another place in the same territory or possession; and

(B) when any part of the transportation is by aircraft.

(26) "intrastate air carrier" means a citizen of the United States undertaking by any means to provide only intrastate air transportation.

(27) "intrastate air transportation" means the transportation by a common carrier of passengers or property for compensation, entirely in the same State, by turbojet-powered aircraft capable of carrying at least 30 passengers.

(28) "landing area" means a place on land or water, including an airport or intermediate landing field, used, or intended to be used, for the takeoff and landing of aircraft, even when facilities are not provided for sheltering, servicing, or repairing aircraft, or for receiving or discharging passengers or cargo.

(29) "large hub airport" means a commercial service airport (as defined in section 47102) that has at least 1.0 percent of the passenger boardings.

(30) "mail" means United States mail and foreign transit mail.

(31) "medium hub airport" means a commercial service airport (as defined in section 47102) that has at least 0.25 percent but less than 1.0 percent of the passenger boardings.

(32) "navigable airspace" means airspace above the minimum altitudes of flight prescribed by regulations under this subpart and subpart III of this part, including airspace needed to ensure safety in the takeoff and landing of aircraft.

(33) "navigate aircraft" and "navigation of aircraft" include piloting aircraft.

(34) "nonhub airport" means a commercial service airport (as defined in section 47102) that has less than 0.05 percent of the passenger boardings.

(35) "operate aircraft" and "operation of aircraft" mean using aircraft for the purposes of air navigation, including—

(A) the navigation of aircraft; and

(B) causing or authorizing the operation of aircraft with or without the right of legal control of the aircraft.

(36) “passenger boardings”—

(A) means, unless the context indicates otherwise, revenue passenger boardings in the United States in the prior calendar year on an aircraft in service in air commerce, as the Secretary determines under regulations the Secretary prescribes; and

(B) includes passengers who continue on an aircraft in international flight that stops at an airport in the 48 contiguous States, Alaska, or Hawaii for a nontraffic purpose.

(37) “person”, in addition to its meaning under section 1 of title 1, includes a governmental authority and a trustee, receiver, assignee, and other similar representative.

(38) “predatory” means a practice that violates the antitrust laws as defined in the first section of the Clayton Act (15 U.S.C. 12).

(39) “price” means a rate, fare, or charge.

(40) “propeller” includes a part, appurtenance, and accessory of a propeller.

(41) “public aircraft” means any of the following:

(A) Except with respect to an aircraft described in subparagraph (E), an aircraft used only for the United States Government, except as provided in section 40125(b).

(B) An aircraft owned by the Government and operated by any person for purposes related to crew training, equipment development, or demonstration, except as provided in section 40125(b).

(C) An aircraft owned and operated by the government of a State, the District of Columbia, or a territory or possession of the United States or a political subdivision of one of these governments, except as provided in section 40125(b).

(D) An aircraft exclusively leased for at least 90 continuous days by the government of a State, the District of Columbia, or a territory or possession of the United States or a political subdivision of one of these governments, except as provided in section 40125(b).

(E) An aircraft owned or operated by the armed forces or chartered to provide transportation or other commercial air service to the armed forces under the conditions specified by section 40125(c). In the preceding sentence, the term “other commercial air service” means an aircraft operation that (i) is within the United States territorial airspace; (ii) the Administrator of the Federal Aviation Administration determines is available for compensation or hire to the public, and (iii) must comply with all applicable civil aircraft rules under title 14, Code of Federal Regulations.

(F) An unmanned aircraft that is owned and operated by, or exclusively leased for at least 90 continuous days by, an Indian Tribal government, as defined in section 102 of the Robert T. Stafford Disaster Relief and Emergency Assistance Act (42 U.S.C. 5122), except as provided in section 40125(b).

(42) “small hub airport” means a commercial service airport (as defined in section 47102) that has at least 0.05 percent but less than 0.25 percent of the passenger boardings.

(43) “spare part” means an accessory, appurtenance, or part of an aircraft (except an aircraft engine or propeller), aircraft engine (except a propeller), propeller, or appliance, that is to be installed at a later time in an aircraft, aircraft engine, propeller, or appliance.

(44) “State authority” means an authority of a State designated under State law—

(A) to receive notice required to be given a State authority under subpart II of this part; or

(B) as the representative of the State before the Secretary of Transportation in any matter about which the Secretary is required to consult with or consider the views of a State authority under subpart II of this part.

(45) “ticket agent” means a person (except an air carrier, a foreign air carrier, or an employee of an air carrier or foreign air carrier) that as a principal or agent sells, offers for sale, negotiates for, or holds itself out as selling, providing, or arranging for, air transportation.

(46) “United States” means the States of the United States, the District of Columbia, and the territories and possessions of the United States, including the territorial sea and the overlying airspace.

(47) “air traffic control system” means the combination of elements used to safely and efficiently monitor, direct, control, and guide aircraft in the United States and United States-assigned airspace, including—

(A) allocated electromagnetic spectrum and physical, real, personal, and intellectual property assets making up facilities, equipment, and systems employed to detect, track, and guide aircraft movement;

(B) laws, regulations, orders, directives, agreements, and licenses;

(C) published procedures that explain required actions, activities, and techniques used to ensure adequate aircraft separation; and

(D) trained personnel with specific technical capabilities to satisfy the operational, engineering, management, and planning requirements for air traffic control.

(b) LIMITED DEFINITION.—In subpart II of this part, “control” means control by any means.

(Pub. L. 103–272, §1(e), July 5, 1994, 108 Stat. 1097; Pub. L. 103–305, title VI, §601(b)(2)(B), Aug. 23, 1994, 108 Stat. 1606; Pub. L. 103–411, §3(a), Oct. 25, 1994, 108 Stat. 4236; Pub. L. 103–429, §6(46), Oct. 31, 1994, 108 Stat. 4384; Pub. L. 105–137, §6, Dec. 2, 1997, 111 Stat. 2641; Pub. L. 106–181, title III, §301, title VII, §702(a), Apr. 5, 2000, 114 Stat. 115, 155; Pub. L. 108–176, title II, §225(a), title VIII, §807, Dec. 12, 2003, 117 Stat. 2528, 2588; Pub. L. 110–181, div. A, title X, §1078(a), Jan. 28, 2008, 122 Stat. 334; Pub. L. 112–95, title II, §205, Feb. 14, 2012, 126 Stat. 39; Pub. L. 115–254, div. B, title III, §355(a), Oct. 5, 2018, 132 Stat. 3305.)

HISTORICAL AND REVISION NOTES
PUB. L. 103-272

Revised Section	Source (U.S. Code)	Source (Statutes at Large)
40102(a)(1) ..	49 App.:1301(2).	Aug. 23, 1958, Pub. L. 85-726, §§101(2), (3) (less proviso), (5)-(10), 413, 72 Stat. 737, 770.
40102(a)(2) ..	49 App.:1301(3) (less proviso).	
40102(a)(3) ..	49 App.:1301(4).	Aug. 23, 1958, Pub. L. 85-726, §101(4), 72 Stat. 737; Sept. 5, 1961, Pub. L. 87-197, §3, 75 Stat. 467.
40102(a)(4) ..	49 App.:1301(8).	
40102(a)(5) ..	49 App.:1301(10).	
40102(a)(6), (7).	49 App.:1301(5), (6).	
40102(a)(8) ..	49 App.:1301(7), 49 App.:1655(c)(1).	Oct. 15, 1966, Pub. L. 89-670, §6(c)(1), 80 Stat. 938; Jan. 12, 1983, Pub. L. 97-449, §7(b), 96 Stat. 2444.
40102(a)(9) ..	49 App.:1301(9).	
40102(a)(10)	49 App.:1301(11).	Aug. 23, 1958, Pub. L. 85-726, 72 Stat. 731, §101(11); added Nov. 9, 1977, Pub. L. 95-163, §17(b)(2), 91 Stat. 1286; restated Oct. 4, 1984, Pub. L. 98-443, §9(a)(1), 98 Stat. 1706.
40102(a)(11)	49 App.:1301(12).	Aug. 23, 1958, Pub. L. 85-726, §101(12), (16)-(34), (37), (40), (41), 72 Stat. 737, 739; July 10, 1962, Pub. L. 87-528, §1, 76 Stat. 143; Sept. 26, 1968, Pub. L. 90-514, §1, 82 Stat. 867; Oct. 14, 1970, Pub. L. 91-449, §1(2), 84 Stat. 921; Aug. 5, 1974, Pub. L. 93-366, §206, 88 Stat. 419; Nov. 9, 1977, Pub. L. 95-163, §17(b)(1), 91 Stat. 1286; Oct. 24, 1978, Pub. L. 95-504, §2(a)(4), (b), 92 Stat. 1705.
40102(a)(12)	(no source).	
40102(a)(13)	49 App.:1301(14) (less certificate).	Aug. 23, 1958, Pub. L. 85-726, 72 Stat. 731, §101(14) (less certificate), (15); added Oct. 24, 1978, Pub. L. 95-504, §2(a)(1), 92 Stat. 1705.
40102(a)(14)	49 App.:1301(15), 49 App.:1551(b)(1)(E).	Aug. 23, 1958, Pub. L. 85-726, 72 Stat. 731, §1601(b)(1)(E); added Oct. 4, 1984, Pub. L. 98-443, §3(e), 98 Stat. 1704.
40102(a)(15)-(18).	49 App.:1301(16)-(19).	
40102(a)(19)	49 App.:1301(20).	
40102(a)(20)	49 App.:1301(21).	
40102(a)(21)	49 App.:1655(c)(1).	
40102(a)(22)	49 App.:1301(22).	
40102(a)(23)	49 App.:1301(23) (related to foreign air commerce).	
40102(a)(24)	49 App.:1301(24) (related to foreign air transportation).	
40102(a)(25)	49 App.:1301(23) (related to interstate and overseas air commerce).	
40102(a)(26)-(32).	49 App.:1301(24) (related to interstate and overseas air transportation).	
40102(a)(33)	49 App.:1305(b)(2), (d) (related to (b)(2)).	Aug. 23, 1958, Pub. L. 85-726, 72 Stat. 731, §105(b)(2), (d) (related to (b)(2)); added Oct. 24, 1978, Pub. L. 95-504, §4(a), 92 Stat. 1708.
40102(a)(34)	49 App.:1301(25)-(31).	
40102(a)(35)	49 App.:1301(32).	
40102(a)(36)	49 App.:1301(35).	Aug. 23, 1958, Pub. L. 85-726, 72 Stat. 731, §101(35), (39); added Oct. 24, 1978, Pub. L. 95-504, §2(a)(2), (3), (b), 92 Stat. 1705.
40102(a)(37)	(no source).	
40102(a)(38)	49 App.:1301(33), (34).	

HISTORICAL AND REVISION NOTES—CONTINUED
PUB. L. 103-272

Revised Section	Source (U.S. Code)	Source (Statutes at Large)
40102(a)(37)	49 App.:1301(36).	Aug. 23, 1958, Pub. L. 85-726, §101(36), 72 Stat. 739; Aug. 5, 1974, Pub. L. 93-366, §206, 88 Stat. 419; Nov. 9, 1977, Pub. L. 95-163, §17(b)(1), 91 Stat. 1286; Oct. 24, 1978, Pub. L. 95-504, §2, 92 Stat. 1705; Dec. 30, 1987, Pub. L. 100-223, §207, 101 Stat. 1523.
40102(a)(38)	49 App.:1301(37).	
40102(a)(39)	49 App.:1301(39).	
40102(a)(40)	49 App.:1301(40).	
40102(a)(41)	49 App.:1301(41).	
40102(b)	49 App.:1383.	

In subsection (a)(2), the words “by any means” are substituted for “whether . . . or by a lease or any other arrangement” to eliminate unnecessary words. The word “provide” is substituted for “engage in” for consistency in the revised title.

In subsection (a)(3), the words “or navigation” are omitted as being included in the definition of “operation of aircraft” in this subsection.

In subsection (a)(4)(D), the words “having a similar purpose” are omitted as surplus.

In subsection (a)(6), the words “now known or hereafter” are omitted as surplus.

In subsection (a)(7), the words “of the engine” are substituted for “thereof” for clarity.

In subsection (a)(8)(A), the words “as the person” are omitted as surplus.

In subsection (a)(10), the word “transportation” is substituted for “carriage” for consistency in the revised title.

In subsection (a)(11), the words “of whatever description” are omitted as surplus. The word “navigation” is omitted as being included in the definition of “operate aircraft” in this subsection. The words “or mechanisms” are omitted because of I:1.

Subsection (a)(12) is added for clarity to distinguish between cargo (which includes mail) and property (which does not include mail).

In subsection (a)(13), the word “provide” is substituted for “engage in” for consistency in the revised title.

In subsection (a)(14), the words “including inclusive tour charter trips” are omitted as obsolete. The words “authorized under this part” are substituted for “rendered pursuant to authority conferred under this chapter under regulations prescribed by the Board” to eliminate unnecessary words.

In subsection (a)(15)(A), the words “or of one of its possessions” are omitted as being included in the definition of “United States” in this subsection.

In subsection (a)(15)(C), the words “created or” are omitted as being included in “organized”.

In subsection (a)(17), the words “chapter 441 of this title” are substituted for “this chapter” for clarity because aircraft are registered only under chapter 441.

In subsection (a)(18), the text of 49 App.:1301(19) (last sentence) is omitted as surplus.

In subsection (a)(18)(A), before subclause (i), the words “title to” are added for clarity and consistency in this section.

In subsection (a)(18)(B)(i), the words “as compensation” are omitted as surplus.

In subsection (a)(18)(B)(ii), the words “it is agreed that”, “bound”, “full”, and “the terms of” are omitted as surplus.

In subsection (a)(19), the words “bill of sale . . . mortgage, assignment of mortgage, or other” are omitted as being included in “instrument”.

In subsection (a)(20), the words “of the United States” are omitted for consistency in the revised title and because of the definition of “navigable airspace” in this subsection.

In subsection (a)(21), the words “by any means” are substituted for “whether . . . or by lease or any other arrangement” to eliminate unnecessary words. The word “provide” is substituted for “engage in” for consistency in the revised title.

In subsection (a)(22)–(25) and (27), the words “transportation” and “passengers” are substituted for “carriage” and “persons”, respectively, for consistency in the revised title. The word “compensation” is substituted for, and is coextensive with, “compensation or hire”.

In subsection (a)(22) and (24), the words “or navigation” are omitted as being included in the definition of “operation of aircraft” in this subsection. The words “the conduct or” and “in commerce” are omitted as surplus. The words “when any part of the transportation or operation is by aircraft” are substituted for 49 App.:1301(23) (words after last semicolon) to eliminate unnecessary words.

In subsection (a)(23) and (25), the words “in commerce” are omitted as surplus. The words “when any part of the transportation is by aircraft” are substituted for 49 App.:1301(24) (words after last semicolon) to eliminate unnecessary words.

In subsection (a)(24), (25), and (27), the words “of the United States” are omitted as surplus.

In subsection (a)(24)(A)(i) and (25)(A)(i), the words “or the District of Columbia” the first time they appear are omitted as surplus.

In subsection (a)(25)(A)(ii), the text of 49 App.:1301(24)(a) (words between semicolons) is omitted because 49 App.:1305(b)(2) removes the subject matter of the text from the definition. See H. Rept. No. 95-1211, 95th Cong., 2d Sess., p.16 (1978).

In subsection (a)(26), the words “by any means” are substituted for “whether . . . or by a lease or any other arrangement” to eliminate unnecessary words. The word “provide” is substituted for “engage” for consistency in the revised title.

In subsection (a)(28), the word “place” is substituted for “locality” for consistency in the revised title.

In subsection (a)(32)(B), the words “(in the capacity of owner, lessee, or otherwise)” are omitted as surplus.

In subsection (a)(33), the words “in addition to its meaning under section 1 of title 1” are substituted for “any individual, firm, copartnership, corporation, company, association, joint stock association” for clarity because 1:1 is applicable to all laws unless otherwise provided. The words “governmental authority” are substituted for “body politic” for consistency in the revised title and with other titles of the United States Code.

Subsection (a)(35) is added to eliminate repetition of the words “rates, fares, or charges” throughout this part.

In subsection (a)(36), the text of 49 App.:1301(34) (1st sentence) is omitted as obsolete. Reference to the Canal Zone is omitted because of the Panama Canal Treaty of 1977. The text of 49 App.:1301(34) (last sentence) is omitted because of 48:734.

Subsection (a)(37)(A)(i) is substituted for “used exclusively in the service of any government” and “For purposes of this paragraph, ‘used exclusively in the service of’ means, for other than the Federal Government” for clarity and to eliminate unnecessary words.

Subsection (a)(37)(A)(ii) is substituted for “used exclusively in the service of any government or of any political subdivision thereof, including the government of any State, Territory, or possession of the United States, or the District of Columbia” and “For purposes of this paragraph, ‘used exclusively in the service of’ means, for other than the Federal Government, an aircraft which is owned and operated by a governmental entity for other than commercial purposes or which is exclusively leased by such governmental entity for not less than 90 continuous days” for clarity and to eliminate unnecessary words.

In subsection (a)(37)(B), the words “transporting passengers or property” are substituted for “engaged in carrying persons or property” for consistency in the revised title.

In subsection (a)(38), the words “that is to be installed at a later time” are substituted for “maintained for installation or use . . . but which at the time are not installed therein or attached thereto” to eliminate unnecessary words.

In subsection (a)(39), the word “authority” is substituted for “agency” and “entity” for consistency in the revised title. Before subclause (A), the words “department, agency, officer, or other” are omitted as being included in “authority”.

In subsection (a)(40), the words “bona fide” and “by solicitation, advertisement, or otherwise” are omitted as surplus. The words “furnishes, contracts” are omitted as being included in “providing, or arranging”.

In subsection (a)(41), the words “States of the United States” are substituted for “several States”, and the word “sea” is substituted for “waters”, for consistency in the revised title and with other titles of the Code.

Subsection (b) is substituted for 49 App.:1383 to eliminate unnecessary words.

PUB. L. 103-429

This makes a conforming amendment for consistency with the style of title 49.

Editorial Notes

AMENDMENTS

2018—Subsec. (a)(41)(F). Pub. L. 115-254 added subpar. (F).

2012—Subsec. (a)(4). Pub. L. 112-95 added subpars. (B) to (D), redesignated former subpar. (D) as (E) and substituted “any structure, equipment,” for “another structure” and “; and” for period at end, added subpar. (F), and struck out former subpars. (B) and (C) which read as follows:

“(B) a light;

“(C) apparatus or equipment for distributing weather information, signaling, radio-directional finding, or radio or other electromagnetic communication; and”.

2008—Subsec. (a)(41)(E). Pub. L. 110-181 inserted “or other commercial air service” after “transportation” and inserted at end “In the preceding sentence, the term ‘other commercial air service’ means an aircraft operation that (i) is within the United States territorial airspace; (ii) the Administrator of the Federal Aviation Administration determines is available for compensation or hire to the public, and (iii) must comply with all applicable civil aircraft rules under title 14, Code of Federal Regulations.”

2003—Subsec. (a)(15)(C). Pub. L. 108-176, §807, inserted “which is under the actual control of citizens of the United States,” before “and in which”.

Subsec. (a)(29) to (47). Pub. L. 108-176, §225(a), added pars. (29), (31), (34), (36), and (42) and redesignated former pars. (29), (30), (31), (32), (33), (34), (35), (36), (37), (38), (39), (40), (41), and (42) as (30), (32), (33), (35), (37), (38), (39), (40), (41), (43), (44), (45), (46), and (47), respectively.

2000—Subsec. (a)(37). Pub. L. 106-181, §702(a), amended par. (37) generally, revising and restating provisions defining “public aircraft” to include references to qualifications found in section 40125(b) and (c).

Subsec. (a)(42). Pub. L. 106-181, §301, added par. (42).

1997—Subsec. (a)(37)(A). Pub. L. 105-137 struck out “or” at end of cl. (i), added cl. (ii), and redesignated former cl. (ii) as (iii).

1994—Subsec. (a)(30). Pub. L. 103-429 substituted “this subpart and subpart III” for “subparts I and III”.

Subsec. (a)(35). Pub. L. 103-305 struck out “for air transportation” after “charge”.

Subsec. (a)(37)(B). Pub. L. 103-411 added subpar. (B) and struck out former subpar. (B) which read as follows: “does not include a government-owned aircraft transporting passengers or property for commercial purposes.”

Statutory Notes and Related Subsidiaries

EFFECTIVE DATE OF 2003 AMENDMENT

Amendment by Pub. L. 108-176 applicable only to fiscal years beginning after Sept. 30, 2003, except as other-

wise 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 1994 AMENDMENTS

Amendment by Pub. L. 103-429 effective July 5, 1994, see section 9 of Pub. L. 103-429, set out as a note under section 321 of this title.

Amendment by Pub. L. 103-411 effective on the 180th day following Oct. 25, 1994, see section 3(d) of Pub. L. 103-411, set out as a note under section 1131 of this title.

Amendment by Pub. L. 103-305 effective Jan. 1, 1995, see section 601(d) of Pub. L. 103-305, set out as a note under section 10521 of this title.

DEFINITIONS OF TERMS IN PUB. L. 107-71

Pub. L. 107-71, title I, §133, Nov. 19, 2001, 115 Stat. 636, provided that: "Except as otherwise explicitly provided, any term used in this title [see Tables for classification] that is defined in section 40102 of title 49, United States Code, has the meaning given that term in that section."

DEFINITIONS APPLICABLE TO PUB. L. 106-181

Pub. L. 106-181, §4, Apr. 5, 2000, 114 Stat. 64, provided that: "Except as otherwise provided in this Act [see Tables for classification], the following definitions apply:

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

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

DEFINITIONS APPLICABLE TO PUB. L. 103-305

Pub. L. 103-305, §2, Aug. 23, 1994, 108 Stat. 1570, provided that: "In this Act [see Short Title of 1994 Amendment note set out under section 40101 of this title], the following definitions apply:

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

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

Executive Documents

TERRITORIAL SEA OF UNITED STATES

For extension of territorial sea of United States, see Proc. No. 5928, set out as a note under section 1331 of Title 43, Public Lands.

§ 40103. Sovereignty and use of airspace

(a) SOVEREIGNTY AND PUBLIC RIGHT OF TRANSIT.—(1) The United States Government has exclusive sovereignty of airspace of the United States.

(2) A citizen of the United States has a public right of transit through the navigable airspace. To further that right, the Secretary of Transportation shall consult with the Architectural and Transportation Barriers Compliance Board established under section 502 of the Rehabilitation Act of 1973 (29 U.S.C. 792) before prescribing a regulation or issuing an order or procedure that will have a significant impact on the accessibility of commercial airports or commercial air transportation for handicapped individuals.

(b) USE OF AIRSPACE.—(1) The Administrator of the Federal Aviation Administration shall develop plans and policy for the use of the navi-

gable airspace and assign by regulation or order the use of the airspace necessary to ensure the safety of aircraft and the efficient use of airspace. The Administrator may modify or revoke an assignment when required in the public interest.

(2) The Administrator shall prescribe air traffic regulations on the flight of aircraft (including regulations on safe altitudes) for—

(A) navigating, protecting, and identifying aircraft;

(B) protecting individuals and property on the ground;

(C) using the navigable airspace efficiently; and

(D) preventing collision between aircraft, between aircraft and land or water vehicles, and between aircraft and airborne objects.

(3) To establish security provisions that will encourage and allow maximum use of the navigable airspace by civil aircraft consistent with national security, the Administrator, in consultation with the Secretary of Defense, shall—

(A) establish areas in the airspace the Administrator decides are necessary in the interest of national defense; and

(B) by regulation or order, restrict or prohibit flight of civil aircraft that the Administrator cannot identify, locate, and control with available facilities in those areas.

(4) Notwithstanding the military exception in section 553(a)(1) of title 5, subchapter II of chapter 5 of title 5 applies to a regulation prescribed under this subsection.

(c) FOREIGN AIRCRAFT.—A foreign aircraft, not part of the armed forces of a foreign country, may be navigated in the United States as provided in section 41703 of this title.

(d) AIRCRAFT OF ARMED FORCES OF FOREIGN COUNTRIES.—Aircraft of the armed forces of a foreign country may be navigated in the United States only when authorized by the Secretary of State.

(e) NO EXCLUSIVE RIGHTS AT CERTAIN FACILITIES.—A person does not have an exclusive right to use an air navigation facility on which Government money has been expended. However, providing services at an airport by only one fixed-based operator is not an exclusive right if—

(1) it is unreasonably costly, burdensome, or impractical for more than one fixed-based operator to provide the services; and

(2) allowing more than one fixed-based operator to provide the services requires a reduction in space leased under an agreement existing on September 3, 1982, between the operator and the airport.

(Pub. L. 103-272, §1(e), July 5, 1994, 108 Stat. 1101.)

HISTORICAL AND REVISION NOTES

Revised Section	Source (U.S. Code)	Source (Statutes at Large)
40103(a)(1) ..	49 App.:1508(a) (1st sentence).	Aug. 23, 1958, Pub. L. 85-726, §§307(a), (c), (d), 308(a) (3d sentence), 1108(a), 1201, 1202, 72 Stat. 749, 750, 751, 798, 800.
40103(a)(2) ..	49 App.:1304.	Aug. 23, 1958, Pub. L. 85-726, §104, 72 Stat. 740; Oct. 4, 1984, Pub. L. 98-443, §14, 98 Stat. 1711.

HISTORICAL AND REVISION NOTES—CONTINUED

Revised Section	Source (U.S. Code)	Source (Statutes at Large)
	49 App.:1551(b)(1)(E).	Aug. 28, 1958, Pub. L. 85-726, 72 Stat. 731, §1601(b)(1)(E); added Oct. 4, 1984, Pub. L. 98-443, §3(e), 98 Stat. 1704.
40103(b)(1) ..	49 App.:1348(a). 49 App.:1655(c)(1).	Oct. 15, 1966, Pub. L. 89-670, §6(c)(1), 80 Stat. 938; Jan. 12, 1983, Pub. L. 97-449, §7(b), 96 Stat. 2444.
40103(b)(2) ..	49 App.:1348(c).	
40103(b)(3) ..	49 App.:1655(c)(1). 49 App.:1521. 49 App.:1522.	
40103(b)(4) ..	49 App.:1655(c)(1).	
40103(c)	49 App.:1348(d).	
40103(d)	(no source).	
40103(e)	49 App.:1508(a) (last sentence). 49 App.:1349(a) (3d sentence). 49 App.:1349(a) (last sentence).	Aug. 23, 1958, Pub. L. 85-726, 72 Stat. 731, §308(a) (last sentence); added Sept. 3, 1982, Pub. L. 97-248, §524(a)(1), 96 Stat. 695.

In subsection (a)(1), the word “has” is substituted for “is declared to possess and exercise complete and” to eliminate surplus words. The word “national” is omitted as surplus. The text of 49 App.:1508(a) (1st sentence words after 1st comma) is omitted as surplus.

In subsection (a)(2), the words “of the United States” are omitted for consistency in the revised title and because of the definition of “navigable airspace” in section 40102(a) of the revised title. The words “or amending” are omitted as surplus.

In subsection (b), the word “Administrator” in section 307(a), (c), and (d) of the Federal Aviation Act of 1958 (Public Law 85-726, 72 Stat. 749, 750) is retained on authority of 49:106(g).

In subsection (b)(1) and (3)(B), the word “rule” is omitted as being synonymous with “regulation”.

In subsection (b)(1), the words “under such terms, conditions, and limitations as he may deem” are omitted as surplus. The words “In the exercise of his authority under section 1348(a) of this Appendix” in 49 App.:1522 are omitted as unnecessary because of the re-statement.

In subsection (b)(2), before clause (A), the word “shall” is substituted for “is further authorized and directed” for consistency in the revised title and to eliminate unnecessary words.

In subsection (b)(3), before clause (A), the words “In the exercise of his authority under section 1348(a) of this Appendix” in 49 App.:1522 are omitted as surplus. The word “navigable” is added for clarity and consistency. In clause (A), the words “such zones or” are omitted as surplus.

In subsection (b)(4), the words “the military exception” are substituted for “any exception relating to military or naval functions” to eliminate unnecessary words and because “naval” is included in “military”. The words “applies to a regulation prescribed under” are substituted for “In the exercise of the rulemaking authority . . . the Secretary of Transportation shall be subject to” to eliminate unnecessary words and because “rules” and “regulations” are synonymous.

Subsection (c) is added for clarity.

In subsection (d), the words “including the Canal Zone” are omitted because of the Panama Canal Treaty of 1977.

In subsection (e), before clause (1), the words “any landing area” are omitted as being included in the definition of “air navigation facility” in section 40102(a) of the revised title. The word “only” is added for clarity. In clause (2), the words “on September 3, 1982” are added for clarity.

Statutory Notes and Related Subsidiaries

REGULATIONS

Pub. L. 85-726, title VI, §613(a), (b), as added by Pub. L. 101-508, title IX, §9124, Nov. 5, 1990, 104 Stat. 1388-370, provided that:

“(a) NATIONAL DISASTER AREAS.—Before the 180th day following the date of the enactment of this section [Nov. 5, 1990], the Administrator, for safety and humanitarian reasons, shall issue such regulations as may be necessary to prohibit or otherwise restrict aircraft overflights of any inhabited area which has been declared a national disaster area in the State of Hawaii.

“(b) EXCEPTIONS.—Regulations issued pursuant to subsection (a) shall not be applicable in the case of aircraft overflights involving an emergency or a legitimate [sic] scientific purpose.”

DEPLOYMENT OF REAL-TIME STATUS OF SPECIAL USE AIRSPACE

Pub. L. 116-283, div. A, title X, §1085, Jan. 1, 2021, 134 Stat. 3877, provided that: “Not later than 180 days after the date of the enactment of this Act [Jan. 1, 2021], to the maximum extent practicable, the Administrator of the Federal Aviation Administration, in coordination with the Secretary of Defense, shall enable the automated public dissemination of information on the real-time status of the activation or deactivation of military operations areas and restricted areas in a manner that is similar to the manner that temporary flight restrictions are published and disseminated.”

AIR TRAFFIC CONTROL OPERATIONAL CONTINGENCY PLANS

Pub. L. 115-254, div. B, title V, §504, Oct. 5, 2018, 132 Stat. 3353, provided that:

“(a) AIR TRAFFIC CONTROL OPERATIONAL CONTINGENCY PLANS.—Not later than 1 year after the date of enactment of this Act [Oct. 5, 2018], the Administrator [of the Federal Aviation Administration] shall review the Administration’s air traffic control operational contingency plans (FAA Order JO 1900.47E), and, as the Administrator considers appropriate, update such plans, to address potential air traffic facility outages that could have a major impact on the operation of the national airspace system, including the most recent findings and recommendations in the report under subsection (c).

“(b) UPDATES.—Not later than 60 days after the date the air traffic control operational contingency plans are reviewed under subsection (a), the Administrator shall submit to the appropriate committees of Congress [Committee on Commerce, Science, and Transportation of the Senate and Committee on Transportation and Infrastructure of the House of Representatives] a report on the review, including any recommendations for ensuring air traffic facility outages do not have a major impact on the operation of the national airspace system.

“(c) RESILIENCY RECOMMENDATIONS.—Not later than 180 days after the date of enactment of this Act, and periodically thereafter as the Administrator considers appropriate, the Administrator shall convene NextGen [Next Generation Air Transportation System] program officials to evaluate, expedite, and complete a report on how planned NextGen capabilities can enhance the resiliency and continuity of national airspace system operations and mitigate the impact of future air traffic control disruptions.”

AIR SHOWS

Pub. L. 115-254, div. B, title V, §512, Oct. 5, 2018, 132 Stat. 3356, provided that: “On an annual basis, the Administrator [of the Federal Aviation Administration] shall work with representatives of [Federal Aviation] Administration-approved air shows, the general aviation community, and stadiums and other large outdoor events and venues to identify and resolve, to the maximum extent practicable, scheduling conflicts between

Administration-approved air shows and large outdoor events and venues where—

“(1) flight restrictions will be imposed pursuant to section 521 of title V of division F of Public Law 108–199 (118 Stat. 343) [set out below]; or

“(2) any other restriction will be imposed pursuant to Federal Aviation Administration Flight Data Center Notice to Airmen 4/3621 (or any successor notice to airmen).”

AIR TRAFFIC SERVICES AT AVIATION EVENTS

Pub. L. 115–254, div. B, title V, §530, Oct. 5, 2018, 132 Stat. 3365, provided that:

“(a) REQUIREMENT TO PROVIDE SERVICES AND RELATED SUPPORT.—The Administrator [of the Federal Aviation Administration] shall provide air traffic services and aviation safety support for large, multiday aviation events, including airshows and fly-ins, where the average daily number of manned operations were 1,000 or greater in at least one of the preceding two years, without the imposition or collection of any fee, tax, or other charge for that purpose. Amounts for the provision of such services and support shall be derived from amounts appropriated or otherwise available for the [Federal Aviation] Administration.

“(b) DETERMINATION OF SERVICES AND SUPPORT TO BE PROVIDED.—In determining the services and support to be provided for an aviation event for purposes of subsection (a), the Administrator shall take into account the following:

“(1) The services and support required to meet levels of activity at prior events, if any, similar to the event.

“(2) The anticipated need for services and support at the event.”

ENHANCED AIR TRAFFIC SERVICES

Pub. L. 115–254, div. B, title V, §547, Oct. 5, 2018, 132 Stat. 3377, provided that:

“(a) IN GENERAL.—Not later than 180 days after the date of enactment of this Act [Oct. 5, 2018], the Administrator [of the Federal Aviation Administration] shall establish a pilot program to provide air traffic control services on a preferential basis to aircraft equipped with certain NextGen [Next Generation Air Transportation System] avionics that—

“(1) lasts at least 2 years; and

“(2) operates in at least 3 suitable airports.

“(b) DURATION OF DAILY SERVICE.—The air traffic control services provided under the pilot program established under subsection (a) shall occur for at least 3 consecutive hours between 0600 and 2200 local time during each day of the pilot program.

“(c) AIRPORT SELECTION.—The Administrator shall designate airports for participation in the pilot program after consultation with aircraft operators, manufacturers, and airport sponsors.

“(d) DEFINITIONS.—

“(1) CERTAIN NEXTGEN AVIONICS.—The term ‘certain NextGen avionics’ means those avionics and related software designated by the Administrator after consultations with aircraft operators and manufacturers.

“(2) PREFERENTIAL BASIS.—The term ‘preferential basis’ means—

“(A) prioritizing aircraft equipped with certain NextGen avionics during a Ground Delay Program by assigning them fewer minutes of delay relative to other aircraft based upon principles established after consultation with aircraft operators and manufacturers; or

“(B) sequencing aircraft equipped with certain NextGen avionics ahead of other aircraft in the Traffic Flow Management System to the maximum extent consistent with safety.

“(e) SUNSET.—The pilot program established under subsection (a) shall terminate on September 30, 2023.

“(f) REPORT.—Not later than 90 days after the date on which the pilot program terminates, the Administrator shall submit to the appropriate committees of Congress

[Committee on Commerce, Science, and Transportation of the Senate and Committee on Transportation and Infrastructure of the House of Representatives] a report on the results of the pilot program.”

MAINTAINING RESTRICTIONS UNDER CERTAIN NOTAMS

Pub. L. 108–199, div. F, title V, §521, Jan. 23, 2004, 118 Stat. 343, provided that:

“(a) IN GENERAL.—The Secretary of Transportation—

“(1) shall, without regard to any fiscal year limitation, maintain in full force and effect the restrictions imposed under Federal Aviation Administration Notices to Airmen FDC 3/2122, FDC 3/2123, and FDC 2/0199; and

“(2) may not grant any waivers or exemptions from such restrictions, except—

“(A) as authorized by air traffic control for operational or safety purposes;

“(B) with respect to an event, stadium, or other venue—

“(i) for operational purposes;

“(ii) for the transport of team members, officials of the governing body, and immediate family members and guests of such team members and officials to and from such event, stadium, or venue;

“(iii) in the case of a sporting event, for the transport of equipment or parts to and from such sporting event;

“(iv) to permit a broadcast rights holder to provide broadcast coverage of such event, stadium, or venue; and

“(v) for safety and security purposes related to such event, stadium, or venue; and

“(C) to allow the operation of an aircraft in restricted airspace to the extent necessary to arrive at or depart from an airport using standard air traffic control procedures.

“(b) LIMITATIONS ON USE OF FUNDS.—None of the funds appropriated or otherwise made available by title I of this Act [div. F of Pub. L. 108–199, see Tables for classification] may be obligated or expended to terminate or limit the restrictions imposed under the Federal Aviation Administration Notices to Airmen referred to in subsection (a), or to grant waivers of, or exemptions from, such restrictions except as provided under subsection (a)(2).

“(c) BROADCAST CONTRACTS NOT AFFECTED.—Nothing in this section shall be construed to affect contractual rights pertaining to any broadcasting agreement.”

NATIONAL AIRSPACE REDESIGN

Pub. L. 106–181, title VII, §736, Apr. 5, 2000, 114 Stat. 171, provided that:

“(a) FINDINGS.—Congress makes the following findings:

“(1) The national airspace, comprising more than 29 million square miles, handles more than 55,000 flights per day.

“(2) Almost 2,000,000 passengers per day traverse the United States through 20 major en route centers, including more than 700 different sectors.

“(3) Redesign and review of the national airspace may produce benefits for the travelling public by increasing the efficiency and capacity of the air traffic control system and reducing delays.

“(4) Redesign of the national airspace should be a high priority for the Federal Aviation Administration and the air transportation industry.

“(b) REDESIGN.—The Administrator [of the Federal Aviation Administration], with advice from the aviation industry and other interested parties, shall conduct a comprehensive redesign of the national airspace system.

“(c) REPORT.—Not later than December 31, 2000, the Administrator shall transmit to the Committee on Commerce, Science, and Transportation of the Senate and the Committee on Transportation and Infrastructure of the House of Representatives a report on the

Administrator's comprehensive national airspace redesign. The report shall include projected milestones for completion of the redesign and shall also include a date for completion.

“(d) AUTHORIZATION.—There is authorized to be appropriated to the Administrator to carry out this section \$12,000,000 for each of fiscal years 2000, 2001, and 2002.”

§ 40104. Promotion of civil aeronautics and safety of air commerce

(a) DEVELOPING CIVIL AERONAUTICS AND SAFETY OF AIR COMMERCE.—The Administrator of the Federal Aviation Administration shall encourage the development of civil aeronautics and safety of air commerce in and outside the United States. In carrying out this subsection, the Administrator shall take action that the Administrator considers necessary to establish, within available resources, a program to distribute civil aviation information in each region served by the Administration. The program shall provide, on request, informational material and expertise on civil aviation to State and local school administrators, college and university officials, and officers of other interested organizations.

(b) INTERNATIONAL ROLE OF THE FAA.—

(1) IN GENERAL.—The Administrator shall promote and achieve global improvements in the safety, efficiency, and environmental effect of air travel by exercising leadership with the Administrator's foreign counterparts, in the International Civil Aviation Organization and its subsidiary organizations, and other international organizations and fora, and with the private sector.

(2) BILATERAL AND MULTILATERAL ENGAGEMENT; TECHNICAL ASSISTANCE.—The Administrator shall—

(A) in consultation with the Secretary of State, engage bilaterally and multilaterally, including with the International Civil Aviation Organization, on an ongoing basis to bolster international collaboration, data sharing, and harmonization of international aviation safety requirements including through—

(i) sharing of continued operational safety information;

(ii) prioritization of pilot training deficiencies, including manual flying skills and flight crew training, to discourage over reliance on automation, further bolstering the components of airmanship;

(iii) encouraging the consideration of the safety advantages of appropriate Federal regulations, which may include relevant Federal regulations pertaining to flight crew training requirements; and

(iv) prioritizing any other flight crew training areas that the Administrator believes will enhance all international aviation safety; and

(B) seek to expand technical assistance provided by the Federal Aviation Administration in support of enhancing international aviation safety, including by—

(i) promoting and enhancing effective oversight systems, including operational safety enhancements identified through data collection and analysis;

(ii) promoting and encouraging compliance with international safety standards by counterpart civil aviation authorities;

(iii) minimizing cybersecurity threats and vulnerabilities across the aviation ecosystem;

(iv) supporting the sharing of safety information, best practices, risk assessments, and mitigations through established international aviation safety groups; and

(v) providing technical assistance on any other aspect of aviation safety that the Administrator determines is likely to enhance international aviation safety.

(c) AIRPORT CAPACITY ENHANCEMENT PROJECTS AT CONGESTED AIRPORTS.—In carrying out subsection (a), the Administrator shall take action to encourage the construction of airport capacity enhancement projects at congested airports as those terms are defined in section 47175.

(d) PROMOTION OF UNITED STATES AEROSPACE STANDARDS, PRODUCTS, AND SERVICES ABROAD.—The Secretary shall take appropriate actions to—

(1) promote United States aerospace-related safety standards abroad;

(2) facilitate and vigorously defend approvals of United States aerospace products and services abroad;

(3) with respect to bilateral partners, utilize bilateral safety agreements and other mechanisms to improve validation of United States certificated aeronautical products, services, and appliances and enhance mutual acceptance in order to eliminate redundancies and unnecessary costs; and

(4) with respect to the aeronautical safety authorities of a foreign country, streamline validation and coordination processes.

(Pub. L. 103-272, §1(e), July 5, 1994, 108 Stat. 1102; Pub. L. 103-429, §6(47), Oct. 31, 1994, 108 Stat. 4384; Pub. L. 104-264, title IV, §401(b)(1), Oct. 9, 1996, 110 Stat. 3255; Pub. L. 108-176, title III, §303, title VIII, §813, Dec. 12, 2003, 117 Stat. 2533, 2590; Pub. L. 115-254, div. B, title II, §241, title V, §539(a), Oct. 5, 2018, 132 Stat. 3257, 3370; Pub. L. 116-260, div. V, title I, §119(f)(1), (2), Dec. 27, 2020, 134 Stat. 2342.)

HISTORICAL AND REVISION NOTES
PUB. L. 103-272

Revised Section	Source (U.S. Code)	Source (Statutes at Large)
40104	49 App.:1346. 49 App.:1346a. 49 App.:1655(c)(1).	Aug. 23, 1958, Pub. L. 85-726, §305, 72 Stat. 749. July 12, 1976, Pub. L. 94-353, §21, 90 Stat. 884. Oct. 15, 1966, Pub. L. 89-670, §6(c)(1), 80 Stat. 938; Jan. 12, 1983, Pub. L. 97-449, §7(b), 96 Stat. 2444.

The words “and foster” in 49 App.:1346 are omitted as surplus. The words “In carrying out this section” are substituted for “In furtherance of his mandate to promote civil aviation” in 49 App.:1346a because of the re-statement. The word “Administrator” is substituted for “Secretary of Transportation acting through the Administrator of the Federal Aviation Administration” for consistency with the source provisions restated in this section. The words “be designed so as to”, “various aspects of”, and “civil and” are omitted as surplus.

PUB. L. 103-429, §6(47)(A), (B)

This makes conforming amendments to 49:40104, as enacted by section 1 of the Act of July 5, 1994 (Public Law 103-272, 108 Stat. 1102), because of the restatement of 49 App.:1655(c)(1) (words after last comma) as 49:40104(b) by section 6(47)(C) of the bill.

PUB. L. 103-429, §6(47)(C)

Revised Section	Source (U.S. Code)	Source (Statutes at Large)
40104(b)	49 App.:1655(c)(1) (words after last comma).	Oct. 15, 1966, Pub. L. 89-670, §6(c)(1) (words after last comma), 80 Stat. 938; Jan. 12, 1983, Pub. L. 97-449, §7(b), 96 Stat. 2444.

Editorial Notes

AMENDMENTS

2020—Subsec. (b). Pub. L. 116-260 designated existing provisions as par. (1), inserted heading, and added par. (2).

2018—Subsec. (c). Pub. L. 115-254, §539(a), substituted “section 47175” for “section 47176”.

Subsec. (d). Pub. L. 115-254, §241, added subsec. (d).

2003—Subsec. (b). Pub. L. 108-176, §813, amended heading and text of subsec. (b) generally. Prior to amendment, text read as follows: “The Secretary of Transportation may develop and construct a civil supersonic aircraft.”

Subsec. (c). Pub. L. 108-176, §303, added subsec. (c).

1996—Pub. L. 104-264, §401(b)(1)(A), inserted “safety of” before “air commerce” in section catchline.

Subsec. (a). Pub. L. 104-264, §401(b)(1)(B), (C), inserted “SAFETY OF” before “AIR COMMERCE” in heading and “safety of” before “air commerce” in text.

1994—Pub. L. 103-429 designated existing provisions as subsec. (a), inserted heading, substituted “carrying out this subsection” for “carrying out this section”, and added subsec. (b).

Statutory Notes and Related Subsidiaries

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 1996 AMENDMENT

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

EFFECTIVE DATE OF 1994 AMENDMENT

Amendment by Pub. L. 103-429 effective July 5, 1994, see section 9 of Pub. L. 103-429, set out as a note under section 321 of this title.

INTERNATIONAL PILOT TRAINING

Pub. L. 116-260, div. V, title I, §119(e), Dec. 27, 2020, 134 Stat. 2341, provided that:

“(1) IN GENERAL.—The Secretary of Transportation, the Administrator, and other appropriate officials of the Government shall exercise leadership in setting global standards to improve air carrier pilot training and qualifications for—

“(A) monitoring and managing the behavior and performance of automated systems;

“(B) controlling the flightpath of aircraft without autoflight systems engaged;

“(C) effectively utilizing and managing autoflight systems, when appropriate;

“(D) effectively identifying situations in which the use of autoflight systems is appropriate and when such use is not appropriate; and

“(E) recognizing and responding appropriately to non-normal conditions.

“(2) INTERNATIONAL LEADERSHIP.—The Secretary, the Administrator, and other appropriate officials of the Government shall exercise leadership under paragraph (1) by working with—

“(A) foreign counterparts of the Administrator in the ICAO and its subsidiary organizations;

“(B) other international organizations and fora; and

“(C) the private sector.

“(3) CONSIDERATIONS.—In exercising leadership under paragraph (1), the Secretary, the Administrator, and other appropriate officials of the Government shall consider—

“(A) the latest information relating to human factors;

“(B) aircraft manufacturing trends, including those relating to increased automation in the cockpit;

“(C) the extent to which cockpit automation improves aviation safety and introduces novel risks;

“(D) the availability of opportunities for pilots to practice manual flying skills;

“(E) the need for consistency in maintaining and enhancing manual flying skills worldwide;

“(F) recommended practices of other countries that enhance manual flying skills and automation management; and

“(G) whether a need exists for initial and recurrent training standards for improve pilots’ proficiency in manual flight and in effective management of autoflight systems.

“(4) CONGRESSIONAL BRIEFING.—The Secretary, the Administrator, and other appropriate officials of the Government shall provide to the congressional committees of jurisdiction regular briefings on the status of efforts undertaken pursuant to this subsection.”

[For definitions of terms used in section 119(e) of div. V of Pub. L. 116-260, set out above, see section 137 of div. V of Pub. L. 116-260, set out as a note under section 40101 of this title.]

INTERNATIONAL EFFORTS REGARDING TRACKING OF CIVIL AIRCRAFT

Pub. L. 115-254, div. B, title III, §304, Oct. 5, 2018, 132 Stat. 3261, provided that: “The Administrator [of the Federal Aviation Administration] shall exercise leadership on creating a global approach to improving aircraft tracking by working with—

“(1) foreign counterparts of the Administrator in the International Civil Aviation Organization and its subsidiary organizations;

“(2) other international organizations and fora; and

“(3) the private sector.”

§ 40105. International negotiations, agreements, and obligations

(a) ADVICE AND CONSULTATION.—The Secretary of State shall advise the Administrator of the Federal Aviation Administration and the Secretaries of Transportation and Commerce, and consult with them as appropriate, about negotiations for an agreement with a government of a foreign country to establish or develop air navigation, including air routes and services. The Secretary of Transportation shall consult with the Secretary of State in carrying out this part to the extent this part is related to foreign air transportation.

(b) ACTIONS OF SECRETARY AND ADMINISTRATOR.—(1) In carrying out this part, the Secretary of Transportation and the Administrator—

(A) shall act consistently with obligations of the United States Government under an international agreement;

(B) shall consider applicable laws and requirements of a foreign country; and

(C) may not limit compliance by an air carrier with obligations or liabilities imposed by the government of a foreign country when the Secretary takes any action related to a certificate of public convenience and necessity issued under chapter 411 of this title.

(2) This subsection does not apply to an agreement between an air carrier or an officer or representative of an air carrier and the government of a foreign country, if the Secretary of Transportation disapproves the agreement because it is not in the public interest. Section 40106(b)(2) of this title applies to this subsection.

(c) CONSULTATION ON INTERNATIONAL AIR TRANSPORTATION POLICY.—In carrying out section 40101(e) of this title, the Secretaries of State and Transportation, to the maximum extent practicable, shall consult on broad policy goals and individual negotiations with—

- (1) the Secretaries of Commerce and Defense;
- (2) airport operators;
- (3) scheduled air carriers;
- (4) charter air carriers;
- (5) airline labor;
- (6) consumer interest groups;
- (7) travel agents and tour organizers; and
- (8) other groups, institutions, and governmental authorities affected by international aviation policy.

(d) CONGRESSIONAL OBSERVERS AT INTERNATIONAL AVIATION NEGOTIATIONS.—The President shall grant to at least one representative of each House of Congress the privilege of attending international aviation negotiations as an observer if the privilege is requested in advance in writing.

(Pub. L. 103-272, §1(e), July 5, 1994, 108 Stat. 1102.)

HISTORICAL AND REVISION NOTES

<i>Revised Section</i>	<i>Source (U.S. Code)</i>	<i>Source (Statutes at Large)</i>
40105(a)	49 App.:1462. 49 App.:1551(b)(1)(B). 49 App.:1655(c)(1).	Aug. 23, 1958, Pub. L. 85-726, §802, 72 Stat. 783. Aug. 23, 1958, Pub. L. 85-726, 72 Stat. 731, §1601(b)(1)(B); added Oct. 24, 1978, Pub. L. 95-504, §40(a), 92 Stat. 1745. Oct. 15, 1966, Pub. L. 89-670, §6(c)(1), 80 Stat. 938; Jan. 12, 1983, Pub. L. 97-449, §7(b), 96 Stat. 2444.
40105(b)	49 App.:1502(a). 49 App.:1551(b)(1)(E).	Aug. 23, 1958, Pub. L. 85-726, §1102(a), 72 Stat. 797; Feb. 15, 1980, Pub. L. 96-192, §17, 94 Stat. 42. 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.
40105(c)	49 App.:1655(c)(1). 49 App.:1502(c).	Aug. 23, 1958, Pub. L. 85-726, 72 Stat. 731, §1102(c), (d); added Feb. 15, 1980, Pub. L. 96-192, §17, 94 Stat. 43.
40105(d)	49 App.:1551(b)(1)(E). 49 App.:1502(d).	

In subsection (a), the words “government of a foreign country” are substituted for “foreign governments” in 49 App.:1462 and “foreign country” in 49 App.:1502(a) for consistency in the revised title and with other titles of the United States Code. The words “Secretary of Transportation” are substituted for “Department of Transportation” in 49 App.:1551(b)(1)(B) because of 49:102(b). The words “Secretary of State” are substituted for “Department of State” because of 22:2651.

In subsection (b)(1), before clause (A), the words “carrying out” are substituted for “exercising and performing . . . powers and duties” for consistency in the revised title and with other titles of the Code. In clause (A), the words “an international agreement” are substituted for “any treaty, convention, or agreement that may be in force between the United States and any foreign country or foreign countries” for consistency and to eliminate unnecessary words. In clause (C), the word “public” is added for consistency in this part.

In subsection (b)(2), the words “obligation, duty, or liability arising out of a contract or other” and “heretofore or hereafter” are omitted as surplus. The words “government of a foreign country” are substituted for “foreign country” for consistency in the revised title and with other titles of the Code. The last sentence is inserted to inform the reader that section 40106(b)(2) of the revised title qualifies this subsection.

In subsection (c), before clause (1), the words “To assist” are omitted as surplus. The words “carrying out” are substituted for “developing and implementing” for consistency in the revised title and with other titles of the Code. The word “both” is omitted as surplus. In clause (8), the word “authorities” is substituted for “agencies” for consistency in the revised title and with other titles of the Code.

Statutory Notes and Related Subsidiaries

RECIPROCAL AIRWORTHINESS CERTIFICATION

Pub. L. 108-176, title VIII, §812, Dec. 12, 2003, 117 Stat. 2590, provided that:

“(a) IN GENERAL.—As part of their bilateral negotiations with foreign nations and their civil aviation counterparts, the Secretary of State and the Administrator of the Federal Aviation Administration shall facilitate the reciprocal airworthiness certification of aviation products.

“(b) RECIPROCAL AIRWORTHINESS DEFINED.—In this section, the term ‘reciprocal airworthiness certification of aviation products’ means that the regulatory authorities of each nation perform a similar review in certifying or validating the certification of aircraft and aircraft components of other nations.”

REPORT ON CERTAIN BILATERAL NEGOTIATIONS

Pub. L. 103-305, title V, §519, Aug. 23, 1994, 108 Stat. 1600, provided that: “The Secretary shall report every other month to the Committee on Public Works and Transportation [now Committee on Transportation and Infrastructure] of the House of Representatives and the Committee on Commerce, Science, and Transportation of the Senate on the status of all active aviation bilateral and multilateral negotiations and informal government-to-government consultations with United States aviation trade partners.”

§ 40106. Emergency powers

(a) DEVIATIONS FROM REGULATIONS.—Appropriate military authority may authorize aircraft of the armed forces of the United States to deviate from air traffic regulations prescribed under section 40103(b)(1) and (2) of this title when the authority decides the deviation is essential to the national defense because of a military emergency or urgent military necessity. The authority shall—

(1) give the Administrator of the Federal Aviation Administration prior notice of the deviation at the earliest practicable time; and

(2) to the extent time and circumstances allow, make every reasonable effort to consult with the Administrator and arrange for the deviation in advance on a mutually agreeable basis.

(b) SUSPENSION OF AUTHORITY.—(1) When the President decides that the government of a for-

eign country is acting inconsistently with the Convention for the Suppression of Unlawful Seizure of Aircraft or that the government of a foreign country allows territory under its jurisdiction to be used as a base of operations or training of, or as a sanctuary for, or arms, aids, or abets, a terrorist organization that knowingly uses the unlawful seizure, or the threat of an unlawful seizure, of an aircraft as an instrument of policy, the President may suspend the authority of—

(A) an air carrier or foreign air carrier to provide foreign air transportation to and from that foreign country;

(B) a person to operate aircraft in foreign air commerce to and from that foreign country;

(C) a foreign air carrier to provide foreign air transportation between the United States and another country that maintains air service with the foreign country; and

(D) a foreign person to operate aircraft in foreign air commerce between the United States and another country that maintains air service with the foreign country.

(2) The President may act under this subsection without notice or a hearing. The suspension remains in effect for as long as the President decides is necessary to ensure the security of aircraft against unlawful seizure. Notwithstanding section 40105(b) of this title, the authority of the President to suspend rights under this subsection is a condition to a certificate of public convenience and necessity, air carrier operating certificate, foreign air carrier or foreign aircraft permit, or foreign air carrier operating specification issued by the Secretary of Transportation under this part.

(3) An air carrier or foreign air carrier may not provide foreign air transportation, and a person may not operate aircraft in foreign air commerce, in violation of a suspension of authority under this subsection.

(Pub. L. 103-272, §1(e), July 5, 1994, 108 Stat. 1103.)

HISTORICAL AND REVISION NOTES

Revised Section	Source (U.S. Code)	Source (Statutes at Large)
40106(a)	49 App.:1348(f). 49 App.:1655(c)(1).	Aug. 23, 1958, Pub. L. 85-726, §307(f), 72 Stat. 750. Oct. 15, 1966, Pub. L. 89-670, §6(c)(1), 80 Stat. 938; Jan. 12, 1983, Pub. L. 97-449, §7(b), 96 Stat. 2444.
40106(b)	49 App.:1514. 49 App.:1551(b)(1)(E). 49 App.:1655(c)(1).	Aug. 23, 1958, Pub. L. 85-726, 72 Stat. 731, §1114; added Aug. 5, 1974, Pub. L. 93-366, §106, 88 Stat. 413. Aug. 23, 1958, Pub. L. 85-726, 72 Stat. 731, §1601(b)(1)(E); added Oct. 4, 1984, Pub. L. 98-443, §3(e), 98 Stat. 1704.

In subsection (a), before clause (1), the words “armed forces” are substituted for “national defense forces” because of 10:101. The words “section 40103(b)(1) and (2) of this title” are substituted for “this subchapter” as being more precise. In clauses (1) and (2), the word “Administrator” in section 307(f) of the Federal Aviation Act of 1958 (Public Law 85-726, 72 Stat. 750) is retained on authority of 49:106(g). In clause (2), the words “fully” and “required” are omitted as surplus.

In subsection (b)(1), the words “government of a foreign country” are substituted for “foreign nation” for consistency in the revised title and with other titles of

the Code. Before clause (A), the words “in a manner” and “in any way” are omitted as surplus. The word “authority” is substituted for “right” as being more precise and for consistency in the revised title.

In subsection (b)(2), the words “deemed to be” are omitted because a legal conclusion is being stated.

In subsection (b)(3), the words “by the President” are omitted as surplus.

Statutory Notes and Related Subsidiaries

AIRCRAFT PIRACY

The United States is a party to the Convention for the Suppression of Unlawful Seizure of Aircraft, signed at The Hague, Dec. 16, 1970, entered into force as to the United States, Oct. 14, 1971, 22 UST 1641.

§ 40107. Presidential transfers

(a) GENERAL AUTHORITY.—The President may transfer to the Administrator of the Federal Aviation Administration a duty, power, activity, or facility of a department, agency, or instrumentality of the executive branch of the United States Government, or an officer or unit of a department, agency, or instrumentality of the executive branch, related primarily to selecting, developing, testing, evaluating, establishing, operating, or maintaining a system, procedure, facility, or device for safe and efficient air navigation and air traffic control. In making a transfer, the President may transfer records and property and make officers and employees from the department, agency, instrumentality, or unit available to the Administrator.

(b) DURING WAR.—If war occurs, the President by executive order may transfer to the Secretary of Defense a duty, power, activity, or facility of the Administrator. In making the transfer, the President may transfer records, property, officers, and employees of the Administration to the Department of Defense.

(Pub. L. 103-272, §1(e), July 5, 1994, 108 Stat. 1104.)

HISTORICAL AND REVISION NOTES

Revised Section	Source (U.S. Code)	Source (Statutes at Large)
40107(a)	49 App.:1345. 49 App.:1655(c)(1).	Aug. 23, 1958, Pub. L. 85-726, §§302(e), 304, 72 Stat. 746, 749. Oct. 15, 1966, Pub. L. 89-670, §6(c)(1), 80 Stat. 938; Jan. 12, 1983, Pub. L. 97-449, §7(b), 96 Stat. 2444.
40107(b)	49 App.:1343(c). 49 App.:1655(c)(1).	

In this section, the words “functions (including . . . parts of functions)” are omitted as included in “duty, power, activity, or facility”.

In subsection (a), the words “of a department, agency, or instrumentality of the executive branch of the United States Government” are substituted for “the executive departments or agencies of the Government” for consistency in the revised title and with other titles of the United States Code. The word “unit” is substituted for “organizational entity” for clarity. The words “appropriate” and “civilian and military” are omitted as surplus. The words “officers and employees” are substituted for “personnel” for consistency in the revised title and with other titles of the Code. The words “to the Administrator” are added for clarity.

In subsection (b), the text of 49 App.:1343(c) (words before proviso) is omitted as obsolete. The words “Secretary of Defense” are substituted for “Department of Defense” because of 10:133(a). The words “prior to en-

actment of such proposed legislation" are omitted as obsolete because the legislation was not enacted. The word "appropriate" is omitted as surplus. The words "of the Administration to the Department of Defense" are added for clarity.

Executive Documents

EX. ORD. NO. 10786. TRANSFER OF FUNCTIONS OF THE AIRWAYS MODERNIZATION BOARD TO THE ADMINISTRATOR

Ex. Ord. No. 10786, Nov. 1, 1958, 23 F.R. 8573, provided:

SECTION 1. All functions (including powers, duties, activities, and parts of functions) of the Airways Modernization Board, including those of the Chairman thereof, are hereby transferred to the Administrator of the Federal Aviation Agency; and all records, property, facilities, employees, and unexpended balances of appropriations, allocations, and other funds of the Airways Modernization Board, are hereby transferred to the Federal Aviation Agency [now Federal Aviation Administration].

SEC. 2. Such further measures and dispositions, if any, as the Director of the Bureau of the Budget [now the Office of Management and Budget] shall determine to be necessary in connection with the transfers provided for hereinabove in respect of records, property, facilities, employees, and balances shall be carried out in such manner as he shall direct and by such agencies as he shall designate.

SEC. 3. The provisions of this order shall become effective concurrently with the entering upon office as Administrator of the Federal Aviation Agency [now Federal Aviation Administration] of the first person appointed as Administrator. The functions transferred by section 1 hereof may be performed by the Administrator until the effective date of the repeal [Aug. 23, 1958] of the Airways Modernization Act of 1957 [former 49 U.S.C. 1211 et seq.] effected by section 1401(d) of the Federal Aviation Act of 1958 [Pub. L. 85-726].

DWIGHT D. EISENHOWER.

EX. ORD. NO. 10797. DELEGATION OF AUTHORITY TO THE DIRECTOR OF THE OFFICE OF MANAGEMENT AND BUDGET

Ex. Ord. No. 10797, Dec. 24, 1958, 23 F.R. 10391, provided:

SECTION 1. There is hereby delegated to the Director of the Bureau of the Budget [now the Office of Management and Budget] all authority vested in the President by the last sentence of section 304 [see 49 U.S.C. 40107(a)], and by sections 1502(a) and 1502(b), of the Federal Aviation Act of 1958 (72 Stat. 749, 810) [Pub. L. 85-726, former 49 U.S.C. 1341 note], relating, respectively, (1) to providing in connection with transfers of functions made under other provisions of section 304, (i) for appropriate transfers of records and property, and (ii) for necessary civilian and military personnel to be made available from any office, department, or other agency from which transfers of functions are so made; (2) to determining the employees and property (including office equipment and official equipment and official records) employed by the Civil Aeronautics Board in the exercise and performance of those powers and duties which are vested in and imposed upon it by the Civil Aeronautics Act of 1938, as amended [former 49 U.S.C. 401 et seq.], and which are vested by the Federal Aviation Act of 1958 [see 49 U.S.C. 40101 et seq.] in the Federal Aviation Agency, and to specifying the date or dates upon which the transfers of officers, employees, and property (including office equipment and official records) under section 1502(a) shall occur; and (3) specifying the date or dates upon which transfers of unexpended balances of appropriations under section 1502(b) shall occur. Such further measures and dispositions as the Director of the Bureau of the Budget [now the Office of Management and Budget] shall determine to be necessary in connection with the exercise of the authority delegated to him by this section shall be carried out in such manner as he shall direct and by such agencies as he shall designate.

SEC. 2. Executive Order No. 10731 of October 10, 1957, delegating to the Director of the Bureau of the Budget [now the Office of Management and Budget] the authority vested in the President by a certain provision of the Airways Modernization Act of 1957 [former 49 U.S.C. 1211 et seq.], is hereby revoked, such revocation to become effective on the date the repeal of that act takes effect under sections 1401(d) [repealing former 49 U.S.C. 1211-1215] and 1505(2) [former 49 U.S.C. 1301 note] of the Federal Aviation Act of 1958 (72 Stat. 806, 811).

SEC. 3. Except as otherwise provided in section 2 hereof, the provisions of this order shall become effective immediately.

DWIGHT D. EISENHOWER.

EX. ORD. NO. 11047. DELEGATION OF AUTHORITY TO SECRETARY OF DEFENSE AND ADMINISTRATOR

Ex. Ord. No. 11047, Aug. 28, 1962, 27 F.R. 8665, as amended by Ex. Ord. No. 12608, Sept. 9, 1987, 52 F.R. 34617, provided:

By the virtue of the authority vested in me by section 301 of title 3 of the United States Code, and as President of the United States, it is ordered as follows:

SECTION 1. The Secretary of Defense and the Administrator of the Federal Aviation Administration are hereby designated and empowered to exercise jointly, without the approval, ratification, or other action of the President, the authority vested in the President by the first sentence of section 304 of the Federal Aviation Act of 1958 (72 Stat. 749; 49 U.S.C. 1345 (first sentence)) [see 49 U.S.C. 40107(a)] to transfer functions (including, as used in this order, powers, duties, activities, facilities, and parts of functions) as described in that sentence to the extent that the said authority is in respect of transfers from the Department of Defense or any officer or organizational entity thereof to the Administrator of the Federal Aviation Administration of functions relating to flight inspection of air navigation facilities.

SEC. 2. The Administrator and the Secretary shall exercise the authority hereinabove delegated to them only as they shall deem such exercise to be necessary or desirable in the interest of promoting, in respect of either civil or military aviation or both, safe and efficient air navigation and air traffic control.

SEC. 3. (a) To the extent necessitated by transfers of functions effected under the provisions of Section 1 of this order:

(1) Transfers of balances of appropriations available and necessary to finance and discharge the transferred functions shall be made under the authority of Section 202(b) of the Budget and Accounting Procedures Act of 1950 (31 U.S.C. 581c(b) [see 31 U.S.C. 1531]) as affected by the provisions of section 1(k) of Executive Order No. 10530 of May 10, 1954 [set out as a note under section 301 of Title 3, The President].

(2) Provisions for appropriate transfers of records and property shall be made under the authority of the last sentence of Section 304 of the Federal Aviation Act of 1958 [see 49 U.S.C. 40107(a)] as affected by the provisions of Section 1 of Executive Order No. 10797 of December 24, 1958 [set out above].

(b) Neither this order nor the said Executive Order No. 10797 shall be deemed to require or authorize the transfer of any civilian or military personnel from the Department of Defense to the Federal Aviation Administration, under authority of the said Section 304 [see 49 U.S.C. 40107(a)], in connection with transfers of functions effected under the provisions of Section 1 of this order.

SEC. 4. (a) In order to facilitate the orderly and timely accomplishment of the transfers and other arrangements mentioned in Section 3(a) of this order, the Secretary of Defense and the Administrator of the Federal Aviation Administration shall transmit to the Director of the Office of Management and Budget, not less than 30 days prior to the execution by them of any order or other transfer instrument in pursuance of the provisions of Section 1 of this order, all appropriate information in respect to any transfers or other arrangements

proposed to be made in connection therewith under the provisions of Section 3 hereof, together with copy of the order or other transfer instrument proposed to be executed by them.

(b) In connection with any particular action or actions under Section 1 of this order, the Director of the Office of Management and Budget may either waive the requirements of Section 4(a), above, or reduce the 30 day period there prescribed.

EX. ORD. NO. 11161. TRANSFER OF FEDERAL AVIATION AGENCY TO DEFENSE DEPARTMENT IN EVENT OF WAR

Ex. Ord. No. 11161, eff. July 7, 1964, 29 F.R. 9317, as amended by Ex. Ord. No. 11382, eff. Nov. 28, 1967, 32 F.R. 16247, provided:

WHEREAS Section 302(e) of the Federal Aviation Act of 1958 [see 49 U.S.C. 40107(b)] provides, in part, that in the event of war the President by Executive order may transfer to the Department of Defense any functions (including powers, duties, activities, facilities, and parts of functions) of the Federal Aviation Administration; and

WHEREAS it appears that the defense of the United States would require the transfer of the Federal Aviation Administration to the Department of Defense in the event of war; and

WHEREAS if any such transfer were to be made it would be essential to the defense of the United States that the transition be accomplished promptly and with maximum ease and effectiveness; and

WHEREAS these objectives require that the relationships that would obtain in the event of such a transfer as between the Federal Aviation Administration and the Department of Defense be understood in advance by the two agencies concerned and be developed in necessary detail by them in advance of transfer:

NOW, THEREFORE, by virtue of the authority vested in me by Section 302(e) (72 Stat. 746; 49 U.S.C. 1343(c)) [see 49 U.S.C. 40107(b)], and as President of the United States and Commander in Chief of the Armed Forces of the United States, it is hereby ordered as follows:

SECTION 1. The Secretary of Defense and the Secretary of Transportation are hereby directed to prepare and develop plans, procedures, policies, programs, and courses of action in anticipation of the probable transfer of the Federal Aviation Administration to the Department of Defense in the event of war. Those plans, policies, procedures, programs, and courses of action shall be prepared and developed in conformity with the following-described standards and conditions—

(A) The Federal Aviation Administration will function as an adjunct of the Department of Defense with the Federal Aviation Administrator being responsible directly to the Secretary of Defense and subject to his authority, direction, and control to the extent deemed by the Secretary to be necessary for the discharge of his responsibilities as Secretary of Defense.

(B) To the extent deemed by the Secretary of Defense to be necessary for the accomplishment of the military mission, he will be empowered to direct the Administrator to place operational elements of the Federal Aviation Administration under the direct operational control of appropriate military commanders.

(C) While functioning as an adjunct of the Department of Defense, the Federal Aviation Administration will remain organizationally intact and the Administrator thereof will retain responsibility for administration of his statutory functions, subject to the authority, direction, and control of the Secretary of Defense to the extent deemed by the Secretary to be necessary for the discharge of his responsibilities as Secretary of Defense.

SEC. 2. In furtherance of the objectives of the foregoing provisions of this order, the Secretary of Defense and the Secretary of Transportation shall, to the extent permitted by law, make such arrangements and take such actions as they deem necessary to assure—

(A) That the functions of the Federal Aviation Administration are performed during any period of national emergency short of war in a manner that will as-

sure that essential national defense requirements will be satisfied during any such period of national emergency.

(B) Consistent with the provisions of paragraphs (A), (B), and (C) of Section 1 of this order, that any transfer of the Federal Aviation Administration to the Department of Defense, in the event of war, will be accomplished smoothly and rapidly and effective operation of the agencies and functions affected by the transfer will be achieved after the transfer.

LYNDON B. JOHNSON.

§ 40108. Training schools

(a) AUTHORITY TO OPERATE.—The Administrator of the Federal Aviation Administration may operate schools to train officers and employees of the Administration to carry out duties, powers, and activities of the Administrator.

(b) ATTENDANCE.—The Administrator may authorize officers and employees of other departments, agencies, or instrumentalities of the United States Government, officers and employees of governments of foreign countries, and individuals from the aeronautics industry to attend those schools. However, if the attendance of any of those officers, employees, or individuals increases the cost of operating the schools, the Administrator may require the payment or transfer of amounts or other consideration to offset the additional cost. The amount received may be credited to the appropriation current when the expenditures are or were paid, the appropriation current when the amount is received, or both.

(Pub. L. 103-272, §1(e), July 5, 1994, 108 Stat. 1104.)

HISTORICAL AND REVISION NOTES

Revised Section	Source (U.S. Code)	Source (Statutes at Large)
40108(a)	49 App.:1354(d) (1st sentence). 49 App.:1655(c)(1).	Aug. 23, 1958, Pub. L. 85-726, §313(d), 72 Stat. 753. Oct. 15, 1966, Pub. L. 89-670, §6(c)(1), 80 Stat. 938; Jan. 12, 1963, Pub. L. 97-449, §7(b), 96 Stat. 2444.
40108(b)	49 App.:1354(d) (2d-last sentences). 49 App.:1655(c)(1).	

In this section, the word “Administrator” in section 313(d) of the Federal Aviation Act of 1958 (Public Law 85-726, 72 Stat. 753) is retained on authority of 49:106(g). The words “school or” are omitted because of 1:1.

In subsection (a), the words “officers and” are added for clarity and consistency in the revised title and with other titles of the United States Code. The words “to carry out duties, powers, and activities of the Administrator” are substituted for “in those subjects necessary for the proper performance of all authorized functions of the Administration” for clarity and consistency in the revised title.

In subsection (b), the words “officers and employees” are substituted for “personnel”, the words “departments, agencies, or instrumentalities of the United States Government” are substituted for “governmental”, and the words “governments of foreign countries” are substituted for “foreign governments”, for consistency in the revised title and with other titles of the Code. The words “courses given in”, “sufficient”, and “appropriate” are omitted as surplus. The text of 49 App.:1354(d) (3d sentence) is omitted as unnecessary because chapter 41 of title 5, United States Code, applies to all training of employees. The words “or both” are substituted for “(3) in part as provided under clause

(1) and in part as provided under clause (2)' to eliminate unnecessary words.

§ 40109. Authority to exempt

(a) AIR CARRIERS AND FOREIGN AIR CARRIERS NOT ENGAGED DIRECTLY IN OPERATING AIRCRAFT.—(1) The Secretary of Transportation may exempt from subpart II of this part—

(A) an air carrier not engaged directly in operating aircraft in air transportation; or

(B) a foreign air carrier not engaged directly in operating aircraft in foreign air transportation.

(2) The exemption is effective to the extent and for periods that the Secretary decides are in the public interest.

(b) SAFETY REGULATION.—The Administrator of the Federal Aviation Administration may grant an exemption from a regulation prescribed in carrying out sections¹ 40103(b)(1) and (2) of this title when the Administrator decides the exemption is in the public interest.

(c) OTHER ECONOMIC REGULATION.—Except as provided in this section, the Secretary may exempt to the extent the Secretary considers necessary a person or class of persons from a provision of chapter 411, chapter 413 (except sections 41307 and 41310(b)–(f)), chapter 415 (except sections 41502, 41505, and 41507–41509), chapter 417 (except sections 41703, 41704, 41710, 41713, and 41714), chapter 419, subchapter II of chapter 421, and sections 44909(a), 44909(b), and 46301(b) of this title, or a regulation or term prescribed under any of those provisions, when the Secretary decides that the exemption is consistent with the public interest.

(d) LABOR REQUIREMENTS.—The Secretary may not exempt an air carrier from section 42112 of this title. However, the Secretary may exempt from section 42112(b)(1) and (2) an air carrier not providing scheduled air transportation, and the operations conducted during daylight hours by an air carrier providing scheduled air transportation, when the Secretary decides that—

(1) because of the limited extent of, or unusual circumstances affecting, the operation of the air carrier, the enforcement of section 42112(b)(1) and (2) of this title is or would be an unreasonable burden on the air carrier that would obstruct its development and prevent it from beginning or continuing operations; and

(2) the exemption would not affect adversely the public interest.

(e) MAXIMUM FLYING HOURS.—The Secretary may not exempt an air carrier under this section from a provision referred to in subsection (c) of this section, or a regulation or term prescribed under any of those provisions, that sets maximum flying hours for pilots or copilots.

(f) SMALLER AIRCRAFT.—(1) An air carrier is exempt from section 41101(a)(1) of this title, and the Secretary may exempt an air carrier from another provision of subpart II of this part, if the air carrier—

(A)(i) provides passenger transportation only with aircraft having a maximum capacity of 55 passengers; or

(ii) provides the transportation of cargo only with aircraft having a maximum payload of less than 18,000 pounds; and

(B) complies with liability insurance requirements and other regulations the Secretary prescribes.

(2) The Secretary may increase the passenger or payload capacities when the public interest requires.

(3)(A) An exemption under this subsection applies to an air carrier providing air transportation between 2 places in Alaska, or between Alaska and Canada, only if the carrier is authorized by Alaska to provide the transportation.

(B) The Secretary may limit the number or location of places that may be served by an air carrier providing transportation only in Alaska under an exemption from section 41101(a)(1) of this title, or the frequency with which the transportation may be provided, only when the Secretary decides that providing the transportation substantially impairs the ability of an air carrier holding a certificate issued by the Secretary to provide its authorized transportation, including the minimum transportation requirement for Alaska specified under section 41732(b)(1)(B) of this title.

(g) EMERGENCY AIR TRANSPORTATION BY FOREIGN AIR CARRIERS.—(1) To the extent that the Secretary decides an exemption is in the public interest, the Secretary may exempt by order a foreign air carrier from the requirements and limitations of this part for not more than 30 days to allow the foreign air carrier to carry passengers or cargo in interstate air transportation in certain markets if the Secretary finds that—

(A) because of an emergency created by unusual circumstances not arising in the normal course of business, air carriers holding certificates under section 41102 of this title cannot accommodate traffic in those markets;

(B) all possible efforts have been made to accommodate the traffic by using the resources of the air carriers, including the use of—

(i) foreign aircraft, or sections of foreign aircraft, under lease or charter to the air carriers; and

(ii) the air carriers' reservations systems to the extent practicable;

(C) the exemption is necessary to avoid unreasonable hardship for the traffic in the markets that cannot be accommodated by the air carriers; and

(D) granting the exemption will not result in an unreasonable advantage to any party in a labor dispute where the inability to accommodate traffic in a market is a result of the dispute.

(2) When the Secretary grants an exemption to a foreign air carrier under this subsection, the Secretary shall—

(A) ensure that air transportation that the foreign air carrier provides under the exemption is made available on reasonable terms;

(B) monitor continuously the passenger load factor of air carriers in the market that hold certificates under section 41102 of this title; and

(C) review the exemption at least every 30 days (or, in the case of an exemption that is necessary to provide and sustain air transportation in American Samoa between the islands

¹ So in original. Probably should be "section".

of Tutuila and Manu'a, at least every 180 days) to ensure that the unusual circumstances that established the need for the exemption still exist.

(3) RENEWAL OF EXEMPTIONS.—

(A) IN GENERAL.—Except as provided in subparagraph (B), the Secretary may renew an exemption (including renewals) under this subsection for not more than 30 days.

(B) EXCEPTION.—The Secretary may renew an exemption (including renewals) under this subsection that is necessary to provide and sustain air transportation in American Samoa between the islands of Tutuila and Manu'a for not more than 180 days.

(4) CONTINUATION OF EXEMPTIONS.—An exemption granted by the Secretary under this subsection may continue for not more than 5 days after the unusual circumstances that established the need for the exemption cease.

(h) NOTICE AND OPPORTUNITY FOR HEARING.—The Secretary may act under subsections (d) and (f)(3)(B) of this section only after giving the air carrier notice and an opportunity for a hearing.

(Pub. L. 103–272, §1(e), July 5, 1994, 108 Stat. 1104; Pub. L. 104–287, §5(65), Oct. 11, 1996, 110 Stat. 3395; Pub. L. 115–254, div. B, title IV, §402, div. K, title I, §1991(c)(1), Oct. 5, 2018, 132 Stat. 3328, 3627.)

In this section, the words “requirements of”, “term”, and “or limitation” are omitted as surplus. The word “rule” is omitted as being synonymous with “regulation”. The word “unreasonable” is substituted for “undue” for consistency in the revised title and with other titles of the United States Code.

In subsection (a)(1), before clause (A), the words “by order” are omitted as unnecessary because of 5:ch. 5, subch. II. The word “exempt” is substituted for “relieve” for consistency in this section.

In subsection (a)(2), the words “that the Secretary decides” are added for clarity.

In subsections (b), (c), and (f)(1)(B), the words “from time to time” are omitted as unnecessary.

In subsection (b), the word “Administrator” in section 307(e) of the Federal Aviation Act of 1958 (Public Law 85–726, 72 Stat. 750) is retained on authority of 49:106(g).

In subsection (d), before clause (1), the words “to the extent” are omitted as surplus.

In subsection (f)(1), before clause (A), the words “Subject to paragraph (5) of this subsection” and “in air transportation” are omitted as surplus. The words “the Secretary may exempt” are substituted for “as may be prescribed in regulations promulgated by the Board” for clarity and to eliminate unnecessary words. In clause (A)(ii), the word “capacity” is omitted as surplus. In clause (B), the word “reasonable” is omitted as surplus. The word “prescribes” is substituted for “adopt” for consistency in the revised title and with other titles of the Code. The words “in the public interest” are omitted as surplus.

In subsection (f)(2), the words “by regulation” are omitted as surplus. The word “payload” is substituted for “property” for consistency in this subsection. The words “specified in this paragraph” are omitted as surplus.

In subsection (f)(3), the words “the State of” are omitted as surplus.

In subsection (f)(3)(A), the words “under this subsection” are substituted for “from section 1371 of this title or any other requirement of this chapter”, the words “2 places” are substituted for “points both of which are”, and the word “between” is substituted for “one of which is in . . . and the other in”, to eliminate unnecessary words.

In subsection (f)(3)(B), the word “only” is added for clarity. The words “promulgated by the Board”, “by such air carrier to points within such State”, and “but not limited to” are omitted as surplus. The word “Alaska” is substituted for “such State” for clarity. The cross-reference is to section 41732(b)(1)(B) to correct an error in the source provisions. The cross-reference in 49 App.:1386(b)(6) to 49 App.:1389(c)(2) should have been to 49 App.:1389(f)(2). This error was not corrected when 49 App.:1389 was restated by section 202(b) of the Airport and Airway Safety and Capacity Expansion Act of 1987 (Public Law 100–223, 101 Stat. 1508). The comparable provision is 49 App.:1389(k)(1)(A)(ii), restated as section 41732(b)(1)(B).

In subsection (g), the word “exemption” is substituted for “authorization” and “authority” for clarity and consistency.

In subsection (g)(1), before clause (A), the words “required”, “a period”, and “to the extent necessary” are omitted as surplus. The word “mail” is omitted as being included in “cargo”. In clause (B), before subclause (i), the words “for example” are omitted as surplus.

In subsection (g)(3), the words “a period” are omitted as surplus.

In subsection (h), the words “The Secretary may act under subsections (d) and (f)(3)(B) of this section” are added because of the restatement. The word “notice” does not appear in 49 App.:1386(b)(6) (words between 5th and 6th commas) but is made applicable to both of the restated source provisions for consistency with subchapter II of chapter 5 of title 5, United States Code. The words “opportunity for a” are added for consistency in the revised title.

HISTORICAL AND REVISION NOTES
PUB. L. 103–272

Revised Section	Source (U.S. Code)	Source (Statutes at Large)
40109(a)	49 App.:1301(3) (proviso). 49 App.:1386(b)(3). 49 App.:1551(b)(1)(E).	Aug. 23, 1958, Pub. L. 85–726, §§101(3) (proviso), 307(e), 416(b)(2), 72 Stat. 737, 750, 771. Aug. 23, 1958, Pub. L. 85–726, 72 Stat. 731, §416(b)(3)–(6); added Oct. 24, 1978, Pub. L. 95–504, §§31(b), 32, 92 Stat. 1732. Aug. 23, 1958, Pub. L. 85–726, 72 Stat. 731, §1601(b)(1)(E); added Oct. 4, 1994, Pub. L. 98–443, §3(e), 98 Stat. 1704.
40109(b)	49 App.:1348(e). 49 App.:1551(b)(1)(E). 49 App.:1655(c)(1).	Oct. 15, 1966, Pub. L. 89–670, §6(c)(1), 80 Stat. 938; Jan. 12, 1983, Pub. L. 97–449, §7(b), 96 Stat. 2444.
40109(c)	49 App.:1386(b)(1).	Aug. 23, 1958, Pub. L. 85–726, §416(b)(1), 72 Stat. 771; restated Oct. 24, 1978, Pub. L. 95–504, §31(a), 92 Stat. 1731.
40109(d)	49 App.:1551(b)(1)(E). 49 App.:1386(b)(2) (less words between 6th and 7th commas, proviso). 49 App.:1551(b)(1)(E). 49 App.:1386(b)(2) (proviso).	
40109(e)	49 App.:1551(b)(1)(E). 49 App.:1386(b)(4), (5), (6) (less words between 5th and 6th commas).	
40109(f)	49 App.:1551(b)(1)(E). 49 App.:1386(b)(7).	
40109(g)	49 App.:1551(b)(1)(E). 49 App.:1386(b)(2) (words between 6th and 7th commas), (6) (words between 5th and 6th commas).	
40109(h)	49 App.:1551(b)(1)(E).	

PUB. L. 104-287

This amends 49:40109(c) to correct an error in the codification enacted by section 1 of the Act of July 5, 1994 (Public Law 103-272, 108 Stat. 1105), to include in the cross-reference sections enacted after the cutoff date for the codification of title 49 as enacted by section 1 of the Act (Public Law 103-272, 108 Stat. 745), and to make it easier to include future sections in the cross-reference by restating it in terms of chapters.

Editorial Notes

AMENDMENTS

2018—Subsec. (b). Pub. L. 115-254, §1991(c)(1)(A), struck out “, 40119, 44901, 44903, 44906, and 44935-44937” before “of this title”.

Subsec. (c). Pub. L. 115-254, §1991(c)(1)(B), substituted “sections 44909(a), 44909(b), and” for “sections 44909 and”.

Subsec. (g)(2)(C). Pub. L. 115-254, §402(1), added subpar. (C) and struck out former subpar. (C) which read as follows: “review the exemption at least every 30 days to ensure that the unusual circumstances that established the need for the exemption still exist.”

Subsec. (g)(3), (4). Pub. L. 115-254, §402(2), added pars. (3) and (4) and struck out former par. (3) which read as follows: “The Secretary may renew an exemption (including renewals) under this subsection for not more than 30 days. An exemption may continue for not more than 5 days after the unusual circumstances that established the need for the exemption cease.”

1996—Subsec. (c). Pub. L. 104-287, §5(65)(B), substituted “sections 44909 and 46301(b)” for “section 46301(b)”.

Pub. L. 104-287, §5(65)(A), substituted “chapter 413 (except sections 41307 and 41310(b)-(f)), chapter 415 (except sections 41502, 41505, and 41507-41509), chapter 417 (except sections 41703, 41704, 41710, 41713, and 41714),” for “sections 41301-41306, 41308-41310(a), 41501, 41503, 41504, 41506, 41510, 41511, 41701, 41702, 41705-41709, 41711, 41712, and 41731-41742.”

Statutory Notes and Related Subsidiaries

EFFECTIVE DATE OF 1996 AMENDMENT

Amendment by Pub. L. 104-287 effective July 5, 1994, see section 8(1) of Pub. L. 104-287, set out as a note under section 5303 of this title.

AUTHORITY TO GRANT EXEMPTIONS TO GOVERNMENT AIRCRAFT

Pub. L. 103-411, §3(b), Oct. 25, 1994, 108 Stat. 4237, provided that:

“(1) IN GENERAL.—The Administrator of the Federal Aviation Administration may grant an exemption to any unit of Federal, State, or local government from any requirement of part A of subtitle VII of title 49, United States Code, that would otherwise be applicable to current or future aircraft of such unit of government as a result of the amendment made by subsection (a) of this section [amending section 40102 of this title].

“(2) REQUIREMENTS.—The Administrator may grant an exemption under paragraph (1) only if—

“(A) the Administrator finds that granting the exemption is necessary to prevent an undue economic burden on the unit of government; and

“(B) the Administrator certifies that the aviation safety program of the unit of government is effective and appropriate to ensure safe operations of the type of aircraft operated by the unit of government.”

§ 40110. General procurement authority

(a) GENERAL.—In carrying out this part, the Administrator of the Federal Aviation Administration—

(1) to the extent that amounts are available for obligation, may acquire services or, by

condemnation or otherwise, an interest in property, including an interest in airspace immediately adjacent to and needed for airports and other air navigation facilities owned by the United States Government and operated by the Administrator;

(2) may construct and improve laboratories and other test facilities; and

(3) may dispose of any interest in property for adequate compensation, and the amount so received shall—

(A) be credited to the appropriation current when the amount is received;

(B) be merged with and available for the purposes of such appropriation; and

(C) remain available until expended.

(b) PURCHASE OF HOUSING UNITS.—

(1) AUTHORITY.—In carrying out this part, the Administrator may purchase a housing unit (including a condominium or a housing unit in a building owned by a cooperative) that is located outside the contiguous United States if the cost of the unit is \$300,000 or less.

(2) ADJUSTMENTS FOR INFLATION.—For fiscal years beginning after September 30, 1997, the Administrator may adjust the dollar amount specified in paragraph (1) to take into account increases in local housing costs.

(3) CONTINUING OBLIGATIONS.—Notwithstanding section 1341 of title 31, the Administrator may purchase a housing unit under paragraph (1) even if there is an obligation thereafter to pay necessary and reasonable fees duly assessed upon such unit, including fees related to operation, maintenance, taxes, and insurance.

(4) CERTIFICATION TO CONGRESS.—The Administrator may purchase a housing unit under paragraph (1) only if, at least 30 days before completing the purchase, the Administrator transmits to the Committee on Transportation and Infrastructure of the House of Representatives and the Committee on Commerce, Science, and Transportation of the Senate a report containing—

(A) a description of the housing unit and its price;

(B) a certification that the price does not exceed the median price of housing units in the area; and

(C) a certification that purchasing the housing unit is the most cost-beneficial means of providing necessary accommodations in carrying out this part.

(5) PAYMENT OF FEES.—The Administrator may pay, when due, fees resulting from the purchase of a housing unit under this subsection from any amounts made available to the Administrator.

(c) DUTIES AND POWERS.—When carrying out subsection (a) of this section, the Administrator of the Federal Aviation Administration may—

(1) notwithstanding section 1341(a)(1) of title 31, lease an interest in property for not more than 20 years;

(2) consider the reasonable probable future use of the underlying land in making an award for a condemnation of an interest in airspace;

(3) construct, or acquire an interest in, a public building (as defined in section 3301(a) of

title 40) only under a delegation of authority from the Administrator of General Services; and

(4) dispose of property under subsection (a)(2) of this section, except for airport and airway property and technical equipment used for the special purposes of the Administration, only under sections 121, 123, and 126 and chapter 5 of title 40.

(d) ACQUISITION MANAGEMENT SYSTEM.—

(1) IN GENERAL.—In consultation with such non-governmental experts in acquisition management systems as the Administrator may employ, and notwithstanding provisions of Federal acquisition law, the Administrator shall develop and implement an acquisition management system for the Administration that addresses the unique needs of the agency and, at a minimum, provides for—

(A) more timely and cost-effective acquisitions of equipment, services, property, and materials; and

(B) the resolution of bid protests and contract disputes related thereto, using consensual alternative dispute resolution techniques to the maximum extent practicable.

(2) APPLICABILITY OF FEDERAL ACQUISITION LAW.—The following provisions of Federal acquisition law shall not apply to the new acquisition management system developed and implemented pursuant to paragraph (1):

(A) Division C (except sections 3302, 3501(b), 3509, 3906, 4710, and 4711) of subtitle I of title 41.

(B) Division B (except sections 1704 and 2303) of subtitle I of title 41.

(C) The Federal Acquisition Streamlining Act of 1994 (Public Law 103-355). However, section 4705 of title 41 shall apply to the new acquisition management system developed and implemented pursuant to paragraph (1). For the purpose of applying section 4705 of title 41 to the system, the term “executive agency” is deemed to refer to the Federal Aviation Administration.

(D) The Small Business Act (15 U.S.C. 631 et seq.), except that all reasonable opportunities to be awarded contracts shall be provided to small business concerns and small business concerns owned and controlled by socially and economically disadvantaged individuals.

(E) The Competition in Contracting Act.

(F) Subchapter V of chapter 35 of title 31, relating to the procurement protest system.

(G) The Federal Acquisition Regulation and any laws not listed in subparagraphs (A) through (F) providing authority to promulgate regulations in the Federal Acquisition Regulation.

(3) CERTAIN PROVISIONS OF DIVISION B (EXCEPT SECTIONS 1704 AND 2303) OF SUBTITLE I OF TITLE 41.—Notwithstanding paragraph (2)(B), chapter 21 of title 41 shall apply to the new acquisition management system developed and implemented under paragraph (1) with the following modifications:

(A) Sections 2101 and 2106 of title 41 shall not apply.

(B) Within 90 days after the date of the enactment of the Wendell H. Ford Aviation In-

vestment and Reform Act for the 21st Century, the Administrator shall adopt definitions for the acquisition management system that are consistent with the purpose and intent of the Office of Federal Procurement Policy Act.¹

(C) After the adoption of those definitions, the criminal, civil, and administrative remedies provided under the Office of Federal Procurement Policy Act¹ apply to the acquisition management system.

(D) In the administration of the acquisition management system, the Administrator may take adverse personnel action under section 27(e)(3)(A)(iv) of the Office of Federal Procurement Policy Act¹ in accordance with the procedures contained in the Administration’s personnel management system.

(4) ADJUDICATION OF CERTAIN BID PROTESTS AND CONTRACT DISPUTES.—A bid protest or contract dispute that is not addressed or resolved through alternative dispute resolution shall be adjudicated by the Administrator through Dispute Resolution Officers or Special Masters of the Federal Aviation Administration Office of Dispute Resolution for Acquisition, acting pursuant to sections 46102, 46104, 46105, 46106 and 46107 and shall be subject to judicial review under section 46110 and to section 504 of title 5.

(5) ANNUAL REPORT ON THE PURCHASE OF FOREIGN MANUFACTURED ARTICLES.—

(A) REPORT.—(i) Not later than 90 days after the end of the fiscal year, the Secretary of Transportation shall submit a report to Congress on the dollar amount of acquisitions subject to the Buy American Act made by the agency from entities that manufacture the articles, materials, or supplies outside of the United States in such fiscal year.

(ii) The report required by clause (i) shall only include acquisitions with total value exceeding the micro-purchase level.

(B) CONTENTS.—The report required by subparagraph (A) shall separately indicate—

(i) the dollar value of any articles, materials, or supplies purchased that were manufactured outside of the United States; and

(ii) a summary of the total procurement funds spent on goods manufactured in the United States versus funds spent on goods manufactured outside of the United States.

(C) AVAILABILITY OF REPORT.—The Secretary shall make the report under subparagraph (A) publicly available on the agency’s website not later than 30 days after submission to Congress.

(e) PROHIBITION ON RELEASE OF OFFEROR PROPOSALS.—

(1) GENERAL RULE.—Except as provided in paragraph (2), a proposal in the possession or control of the Administrator may not be made available to any person under section 552 of title 5.

(2) EXCEPTION.—Paragraph (1) shall not apply to any portion of a proposal of an offeror

¹ See References in Text note below.

the disclosure of which is authorized by the Administrator pursuant to procedures published in the Federal Register. The Administrator shall provide an opportunity for public comment on the procedures for a period of not less than 30 days beginning on the date of such publication in order to receive and consider the views of all interested parties on the procedures. The procedures shall not take effect before the 60th day following the date of such publication.

(3) PROPOSAL DEFINED.—In this subsection, the term “proposal” means information contained in or originating from any proposal, including a technical, management, or cost proposal, submitted by an offeror in response to the requirements of a solicitation for a competitive proposal.

(Pub. L. 103–272, §1(e), July 5, 1994, 108 Stat. 1106; Pub. L. 103–429, §6(48), (80), Oct. 31, 1994, 108 Stat. 4384, 4388; Pub. L. 104–264, title XII, §1201, Oct. 9, 1996, 110 Stat. 3279; Pub. L. 106–181, title III, §307(b), title VII, §703, Apr. 5, 2000, 114 Stat. 125, 156; Pub. L. 107–217, §3(n)(5), Aug. 21, 2002, 116 Stat. 1302; Pub. L. 108–176, title II, §§222, 224(a), (b), Dec. 12, 2003, 117 Stat. 2527; Pub. L. 108–178, §4(k), Dec. 15, 2003, 117 Stat. 2642; Pub. L. 111–350, §5(o)(7), Jan. 4, 2011, 124 Stat. 3853; Pub. L. 112–95, title II, §§206, 210, Feb. 14, 2012, 126 Stat. 39, 44; Pub. L. 115–254, div. B, title V, §544, Oct. 5, 2018, 132 Stat. 3374.)

HISTORICAL AND REVISION NOTES
PUB. L. 103–272

<i>Revised Section</i>	<i>Source (U.S. Code)</i>	<i>Source (Statutes at Large)</i>
40110(a)	49 App.:1344(a)(1) (less term of lease), (2) (words before 1st semicolon), (3).	Aug. 23, 1958, Pub. L. 85–726, §303(a)–(d), 72 Stat. 747; May 21, 1970, Pub. L. 91–258, §51(a)(1), 84 Stat. 234; July 12, 1976, Pub. L. 94–353, §16, 90 Stat. 882; Oct. 19, 1980, Pub. L. 96–470, §112(e), 94 Stat. 2240; Jan. 12, 1983, Pub. L. 97–449, §7(b), 96 Stat. 2444; restated Nov. 5, 1990, Pub. L. 101–508, §9118(a), 104 Stat. 1388–365.
40110(b)(1) ..	49 App.:1344(d).	
40110(b)(2)(A).	49 App.:1344(a)(1) (related to term of lease).	
40110(b)(2)(B).	49 App.:1344(b)(1).	
40110(b)(2)(C).	49 App.:1344(b)(2).	
40110(b)(2)(D).	49 App.:1344(c).	
40110(b)(2)(E).	49 App.:1344(g).	Aug. 23, 1958, Pub. L. 85–726, 72 Stat. 747, §303(g); added Oct. 31, 1992, Pub. L. 102–581, §201(a), 106 Stat. 4890.
40110(b)(2)(F).	49 App.:1344(a)(2) (words after 1st semicolon).	

In this section, the word “Administrator” in section 303(a)–(d) of the Federal Aviation Act of 1958 (Public Law 85–726, 72 Stat. 747) is retained on authority of 49:106(g).

In subsection (a), before clause (1), the words “In carrying out this part” are added for clarity. The words “on behalf of the United States . . . where appropriate” are omitted as surplus. In clause (1), the words “made by the Congress”, “by purchase, condemnation . . . or otherwise”, and “easements through or other” are omitted as surplus. In clause (2), the words “by sale, lease, or otherwise” and “real or personal” are omitted as surplus. In clause (3), the word “renovate” is omitted as surplus. The words “and to purchase or other-

wise acquire real property required therefor” are omitted as surplus because of the authority of the Administrator to acquire real property under clause (1) of this subsection.

In subsection (b)(1), the words “procedures other than competitive procedures” are substituted for “non-competitive procedures” for consistency with subsection (b)(2)(D) of this section and 41:253(f).

In subsection (b)(2)(B), the text of 49 App.:1344(b)(1) (words before semicolon) and the words “easements through or other” are omitted as surplus.

In subsection (b)(2)(C), the words “by purchase, condemnation, or lease” are omitted as surplus.

Subsection (b)(2)(E) is substituted for 49 App.:1344(g) to eliminate the cross-references to other laws and for clarity and is based on the text of 10:2304(c)(1).

PUB. L. 103–429

This amends 49:40110(a) to clarify the restatement of 49 App.:1344(a)(1)–(3) by section 1 of the Act of July 5, 1994 (Public Law 103–272, 108 Stat. 1106).

Editorial Notes

REFERENCES IN TEXT

The Federal Acquisition Streamlining Act of 1994, referred to in subsec. (d)(2)(C), is Pub. L. 103–355, Oct. 13, 1994, 108 Stat. 3243. For complete classification of this Act to the Code, see Short Title of 1994 Act note set out under section 101 of Title 41, Public Contracts, and Tables.

The Small Business Act, referred to in subsec. (d)(2)(D), is Pub. L. 85–536, §2(1 et seq.), July 18, 1958, 72 Stat. 384, which is classified generally to chapter 14A (§631 et seq.) of Title 15, Commerce and Trade. For complete classification of this Act to the Code, see Short Title note set out under section 631 of Title 15 and Tables.

The Competition in Contracting Act, referred to in subsec. (d)(2)(E), probably means the Competition in Contracting Act of 1984, which is title VII of Pub. L. 98–369, div. B, July 18, 1984, 98 Stat. 1175. For complete classification of this Act to the Code, see Short Title of 1984 Act note set out under section 101 of Title 41, Public Contracts, and Tables.

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

The Office of Federal Procurement Policy Act, referred to in subsec. (d)(3)(B), (C), is Pub. L. 93–400, Aug. 30, 1974, 88 Stat. 796, which was classified principally to chapter 7 (§401 et seq.) of former Title 41, Public Contracts, and was substantially repealed and restated in division B (§1101 et seq.) of subtitle I of Title 41, Public Contracts, by Pub. L. 111–350, §§3, 7(b), Jan. 4, 2011, 124 Stat. 3677, 3855. Section 27(e)(3)(A)(iv) of the Act was repealed and restated as section 2105(c)(1)(D) of Title 41. For complete classification of this Act to the Code, see Short Title of 1974 Act note set out under section 101 of Title 41 and Tables. For disposition of sections of former Title 41, see Disposition Table preceding section 101 of Title 41.

The Buy American Act, referred to in subsec. (d)(5)(A), is title III of act Mar. 3, 1933, ch. 212, 47 Stat. 1520, which was classified generally to sections 10a, 10b, and 10c of former Title 41, Public Contracts, and was substantially repealed and restated in chapter 83 (§8301 et seq.) of Title 41, Public Contracts, by Pub. L. 111–350, §§3, 7(b), Jan. 4, 2011, 124 Stat. 3677, 3855. For complete classification of this Act to the Code, see Short Title of 1933 Act note set out under section 101 of Title 41 and Tables. For disposition of sections of former Title 41, see Disposition Table preceding section 101 of Title 41.

AMENDMENTS

2018—Subsec. (d)(5). Pub. L. 115–254 added par. (5).
2012—Subsec. (a)(2), (3). Pub. L. 112–95, §210, added pars. (2) and (3) and struck out former pars. (2) and (3) which read as follows:

“(2) may dispose of an interest in property for adequate compensation; and

“(3) may construct and improve laboratories and other test facilities.”

Subsec. (c)(3) to (5). Pub. L. 112-95, §206, inserted “and” at end of par. (3), redesignated par. (5) as (4), and struck out former par. (4) which read as follows: “use procedures other than competitive procedures only when the property or services needed by the Administrator of the Federal Aviation Administration are available from only one responsible source or only from a limited number of responsible sources and no other type of property or services will satisfy the needs of the Administrator; and”.

2011—Subsec. (d)(2)(A). Pub. L. 111-350, §5(o)(7)(A), substituted “Division C (except sections 3302, 3501(b), 3509, 3906, 4710, and 4711) of subtitle I of title 41” for “Title III of the Federal Property and Administrative Services Act of 1949 (41 U.S.C. 252-266)”.

Subsec. (d)(2)(B). Pub. L. 111-350, §5(o)(7)(B), substituted “Division B (except sections 1704 and 2303) of subtitle I of title 41” for “The Office of Federal Procurement Policy Act (41 U.S.C. 401 et seq.)”.

Subsec. (d)(2)(C). Pub. L. 111-350, §5(o)(7)(C), substituted “(Public Law 103-355). However, section 4705 of title 41 shall apply to the new acquisition management system developed and implemented pursuant to paragraph (1). For the purpose of applying section 4705 of title 41 to the system,” for “(Public Law 103-355), except for section 315 (41 U.S.C. 265). For the purpose of applying section 315 of that Act to the system,”.

Subsec. (d)(3). Pub. L. 111-350, §5(o)(7)(D)(i), (ii), substituted “division b (except sections 1704 and 2303) of subtitle i of title 41” for “the office of federal procurement policy act” in heading and “chapter 21 of title 41” for “section 27 of the Office of Federal Procurement Policy Act (41 U.S.C. 423)” in text.

Subsec. (d)(3)(A). Pub. L. 111-350, §5(o)(7)(D)(iii), substituted “Sections 2101 and 2106 of title 41” for “Subsections (f) and (g)”.

2003—Subsec. (c). Pub. L. 108-176, §224(a), struck out par. (1), which related to the senior procurement executive, par. (2) designation before “may—”, and subpar. (D) of par. (2), which related to use procedures other than competitive procedures, redesignated subpars. (A), (B), (C), (E), and (F) of par. (2) as pars. (1) to (5), respectively, and realigned margins.

Subsec. (d)(1). Pub. L. 108-176, §224(b)(1), struck out “, not later than January 1, 1996,” after “shall develop and implement”, substituted “provides for—” for “provides for more timely and cost-effective acquisitions of equipment and materials.”, and added subpars. (A) and (B).

Subsec. (d)(2)(C). Pub. L. 108-176, §222, substituted “(Public Law 103-355), except for section 315 (41 U.S.C. 265). For the purpose of applying section 315 of that Act to the system, the term ‘executive agency’ is deemed to refer to the Federal Aviation Administration.” for “(Public Law 103-355).”

Subsec. (d)(2)(G). Pub. L. 108-178, §4(k)(3), substituted “subparagraphs (A) through (F)” for “subparagraphs (A) through (G)”.

Pub. L. 108-178, §4(k)(1), (2), redesignated subpar. (H) as (G) and struck out former subpar. (G) which read as follows: “The Brooks Automatic Data Processing Act (40 U.S.C. 759).”

Subsec. (d)(2)(H). Pub. L. 108-178, §4(k)(2), redesignated subpar. (H) as (G).

Subsec. (d)(4). Pub. L. 108-176, §224(b)(2), added par. (4) and struck out heading and text of former par. (4). Text read as follows: “This subsection shall take effect on April 1, 1996.”

2002—Subsec. (c)(2)(C). Pub. L. 107-217, §3(n)(5)(A), substituted “(as defined in section 3301(a) of title 40)” for “(as defined in section 13 of the Public Buildings Act of 1959 (40 U.S.C. 612))”.

Subsec. (c)(2)(F). Pub. L. 107-217, §3(n)(5)(B), substituted “sections 121, 123, and 126 and chapter 5 of title 40” for “title II of the Federal Property and Administrative Services Act of 1949 (40 U.S.C. 481 et seq.)”.

2000—Subsecs. (d), (e). Pub. L. 106-181 added subsecs. (d) and (e).

1996—Subsecs. (b), (c). Pub. L. 104-264 added subsec. (b) and redesignated former subsec. (b) as (c).

1994—Subsec. (a). Pub. L. 103-429, §6(48), in introductory provisions, struck out “may” after “Administration”, in par. (1), struck out “acquire,” before “to the extent” and substituted “may acquire services or, by condemnation or otherwise,” for “services or”, and in pars. (2) and (3), inserted “may” after par. designation.

Subsec. (b)(2)(A). Pub. L. 103-429, §6(80), inserted “notwithstanding section 1341(a)(1) of title 31,” before “lease”.

Statutory Notes and Related Subsidiaries

EFFECTIVE DATE OF 2003 AMENDMENTS

Amendment by Pub. L. 108-178 effective Aug. 21, 2002, see section 5 of Pub. L. 108-178, set out as a note under section 5334 of Title 5, Government Organization and Employees.

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.

EFFECTIVE DATE OF 1994 AMENDMENT

Amendment by Pub. L. 103-429 effective July 5, 1994, see section 9 of Pub. L. 103-429, set out as a note under section 321 of this title.

CONTRACTING

Pub. L. 112-95, title VIII, §814, Feb. 14, 2012, 126 Stat. 125, provided that: “When drafting contract proposals for training facilities under the general contracting authority of the Federal Aviation Administration, the Administrator of the Federal Aviation Administration shall ensure—

“(1) the proposal is drafted so that all parties can fairly compete; and

“(2) the proposal takes into consideration the most cost-effective location, accessibility, and services options.”

FAA EVALUATION OF LONG-TERM CAPITAL LEASING

Pub. L. 106-181, title VII, §704, Apr. 5, 2000, 114 Stat. 157, authorized the Administrator of the Federal Aviation Administration to carry out a pilot program in fiscal years 2001 through 2003 to test and evaluate the benefits of long-term contracts for the leasing of aviation equipment and facilities and to enter into certain types of contracts for this purpose.

ASSESSMENT OF ACQUISITION MANAGEMENT SYSTEM

Pub. L. 104-264, title II, §251, Oct. 9, 1996, 110 Stat. 3236, provided that: “Not later than April 1, 1999, the Administrator [of the Federal Aviation Administration] shall employ outside experts to provide an independent evaluation of the effectiveness of the Administration’s [Federal Aviation Administration] acquisition management system within 3 months after such date. The Administrator shall transmit a copy of the evaluation to the Committee on Commerce, Science, and Transportation of the Senate and the Committee on

Transportation and Infrastructure of the House of Representatives.”

Pub. L. 104-205, title III, §351, Sept. 30, 1996, 110 Stat. 2979, provided that: “Not later than December 31, 1997, the Administrator of the Federal Aviation Administration shall—

“(a) take such action as may be necessary to provide for an independent assessment of the acquisition management system of the Federal Aviation Administration that includes a review of any efforts of the Administrator in promoting and encouraging the use of full and open competition as the preferred method of procurement with respect to any contract that involves an amount greater than \$50,000,000; and

“(b) submit to the Congress a report on the findings of that independent assessment: *Provided*, That for purposes of this section, the term ‘full and open competition’ has the meaning provided that term in section 4(6) of the Office of Federal Procurement Policy Act (41 U.S.C. 403(6)).”

ACQUISITION MANAGEMENT SYSTEM FOR FEDERAL AVIATION ADMINISTRATION

Pub. L. 104-50, title III, §348, Nov. 15, 1995, 109 Stat. 460, required the Administrator of the Federal Aviation Administration to develop and implement, not later than Jan. 1, 1996, an acquisition management system, exempt from specified federal procurement and acquisition laws, to provide for more timely and cost-effective acquisitions of equipment and materials, prior to repeal by Pub. L. 106-181, title III, §307(d), Apr. 5, 2000, 114 Stat. 126.

ALTERNATIVE PROCUREMENT AND ACQUISITION PILOT PROGRAM

Pub. L. 103-355, title V, §5063, Oct. 13, 1994, 108 Stat. 3356, provided that:

“(a) **AUTHORITY.**—The Secretary of Transportation may conduct a test of alternative and innovative procurement procedures in carrying out acquisitions for one of the modernization programs under the Airway Capital Investment Plan prepared pursuant to section 44501(b) of title 49, United States Code. In conducting such test, the Secretary shall consult with the Administrator for Federal Procurement Policy.

“(b) **PILOT PROGRAM IMPLEMENTATION.**—(1) The Secretary of Transportation should prescribe policies and procedures for the interaction of the program manager and the end user executive responsible for the requirement for the equipment acquired. Such policies and procedures should include provisions for enabling the end user executive to participate in acceptance testing.

“(2) Not later than 45 days after the date of enactment of this Act [Oct. 13, 1994], the Secretary of Transportation shall identify for the pilot program quantitative measures and goals for reducing acquisition management costs.

“(3) The Secretary of Transportation shall establish for the pilot program a review process that provides senior acquisition officials with reports on the minimum necessary data items required to ensure the appropriate expenditure of funds appropriated for the program and that—

“(A) contain essential information on program results at appropriate intervals, including the criteria to be used in measuring the success of the program; and

“(B) reduce data requirements from the current program review reporting requirements.

“(c) **SPECIAL AUTHORITIES.**—The authority provided by subsection (a) shall include authority for the Secretary of Transportation—

“(1) to apply any amendment or repeal of a provision of law made in this Act [see Short Title of 1994 Amendment note set out under section 251 of Title 41, Public Contracts] to the pilot program before the effective date of such amendment or repeal; and

“(2) to apply to a procurement of items other than commercial items under such program—

“(A) any authority provided in this Act (or in an amendment made by a provision of this Act) to waive a provision of law in the case of commercial items, and

“(B) any exception applicable under this Act (or an amendment made by a provision of this Act) in the case of commercial items, before the effective date of such provision (or amendment) to the extent that the Secretary determines necessary to test the application of such waiver or exception to procurements of items other than commercial items.

“(d) **APPLICABILITY.**—Subsection (c) applies with respect to—

“(1) a contract that is awarded or modified after the date occurring 45 days after the date of the enactment of this Act [Oct. 13, 1994]; and

“(2) a contract that is awarded before such date and is to be performed (or may be performed), in whole or in part, after such date.

“(e) **PROCEDURES AUTHORIZED.**—The test conducted under this section may include any of the following procedures:

“(1) Restriction of competitions to sources determined capable in a precompetition screening process, provided that the screening process affords all interested sources a fair opportunity to be considered.

“(2) Restriction of competitions to sources of preevaluated products, provided that the preevaluation process affords all interested sources a fair opportunity to be considered.

“(3) Alternative notice and publication requirements.

“(4) A process in which—

“(A) the competitive process is initiated by publication in the Commerce Business Daily, or by dissemination through FACNET, of a notice that—

“(i) contains a synopsis of the functional and performance needs of the executive agency conducting the test, and, for purposes of guidance only, other specifications; and

“(ii) invites any interested source to submit information or samples showing the suitability of its product for meeting those needs, together with a price quotation, or, if appropriate, showing the source’s technical capability, past performance, product supportability, or other qualifications (including, as appropriate, information regarding rates and other cost-related factors);

“(B) contracting officials develop a request for proposals (including appropriate specifications and evaluation criteria) after reviewing the submissions of interested sources and, if the officials determine necessary, after consultation with those sources; and

“(C) a contract is awarded after a streamlined competition that is limited to all sources that timely provided product information in response to the notice or, if appropriate, to those sources determined most capable based on the qualification-based factors included in an invitation to submit information pursuant to subparagraph (A).

“(f) **WAIVER OF PROCUREMENT REGULATIONS.**—(1) In conducting the test under this section, the Secretary of Transportation, with the approval of the Administrator for Federal Procurement Policy, may waive—

“(A) any provision of the Federal Acquisition Regulation that is not required by statute; and

“(B) any provision of the Federal Acquisition Regulation that is required by a provision of law described in paragraph (2), the waiver of which the Administrator determines in writing to be necessary to test procedures authorized by subsection (e).

“(2) The provisions of law referred to in paragraph (1) are as follows:

“(A) Subsections (e), (f), and (g) of section 8 of the Small Business Act (15 U.S.C. 637).

“(B) The following provisions of the Federal Property and Administrative Services Act of 1949:

“(i) Section 303 ([former] 41 U.S.C. 253) [see 41 U.S.C. 3105, 3301, 3303 to 3305].

“(ii) Section 303A ([former] 41 U.S.C. 253a) [see 41 U.S.C. 3306].

“(iii) Section 303B ([former] 41 U.S.C. 253b) [now 41 U.S.C. 3308, 3701 to 3708, 4702].

“(iv) Section 303C [former] (41 U.S.C. 253c) [now 41 U.S.C. 3311].

“(C) The following provisions of the Office of Federal Procurement Policy Act:

“(i) Section 4(6) ([former] 41 U.S.C. 403(6)) [see 41 U.S.C. 107].

“(ii) Section 18 ([former] 41 U.S.C. 416) [see 41 U.S.C. 1708].

“(g) DEFINITION.—In this section, the term ‘commercial item’ has the meaning provided that term in section 4(12) of the Office of Federal Procurement Policy Act [see 41 U.S.C. 103].

“(h) EXPIRATION OF AUTHORITY.—The authority to conduct the test under subsection (a) and to award contracts under such test shall expire 4 years after the date of the enactment of this Act. Contracts entered into before such authority expires shall remain in effect, notwithstanding the expiration of the authority to conduct the test under this section.

“(i) RULE OF CONSTRUCTION.—Nothing in this section shall be construed as authorizing the appropriation or obligation of funds for the test conducted pursuant to subsection (a).”

§ 40111. Multiyear procurement contracts for services and related items

(a) GENERAL AUTHORITY.—Notwithstanding section 1341(a)(1)(B) of title 31, the Administrator of the Federal Aviation Administration may make a contract of not more than 5 years for the following types of services and items of supply related to those services for which amounts otherwise would be available for obligation only in the fiscal year for which appropriated:

- (1) operation, maintenance, and support of facilities and installations.
- (2) operation, maintenance, and modification of aircraft, vehicles, and other highly complex equipment.
- (3) specialized training requiring high quality instructor skills, including training of pilots and aircrew members and foreign language training.
- (4) base services, including ground maintenance, aircraft refueling, bus transportation, and refuse collection and disposal.

(b) REQUIRED FINDINGS.—The Administrator may make a contract under this section only if the Administrator finds that—

- (1) there will be a continuing requirement for the service consistent with current plans for the proposed contract period;
- (2) providing the service will require a substantial initial investment in plant or equipment, or will incur a substantial contingent liability for assembling, training, or transporting a specialized workforce; and
- (3) the contract will promote the best interests of the United States by encouraging effective competition and promoting economies in operation.

(c) CONSIDERATIONS.—When making a contract under this section, the Administrator shall be guided by the following:

- (1) The part of the cost of a plant or equipment amortized as a cost of contract performance may not be more than the ratio between the period of contract performance and the an-

ticipated useful commercial life (instead of physical life) of the plant or equipment, considering the location and specialized nature of the plant or equipment, obsolescence, and other similar factors.

(2) The Administrator shall consider the desirability of—

- (A) obtaining an option to renew the contract for a reasonable period of not more than 3 years, at a price that does not include charges for nonrecurring costs already amortized; and
- (B) reserving in the Administrator the right, on payment of the unamortized part of the cost of the plant or equipment, to take title to the plant or equipment under appropriate circumstances.

(d) ENDING CONTRACTS.—A contract made under this section shall be ended if amounts are not made available to continue the contract into a subsequent fiscal year. The cost of ending the contract may be paid from—

- (1) an appropriation originally available for carrying out the contract;
- (2) an appropriation currently available for procuring the type of service concerned and not otherwise obligated; or
- (3) amounts appropriated for payments to end the contract.

(Pub. L. 103-272, §1(e), July 5, 1994, 108 Stat. 1107.)

HISTORICAL AND REVISION NOTES

Revised Section	Source (U.S. Code)	Source (Statutes at Large)
40111(a)	49 App.:1344(e)(1).	Aug. 23, 1958, Pub. L. 85-726, §303(e), 72 Stat. 747; May 21, 1970, Pub. L. 91-258, §51(a)(1), 84 Stat. 234; July 12, 1976, Pub. L. 94-353, §16, 90 Stat. 882; Oct. 19, 1980, Pub. L. 96-470, §112(e), 94 Stat. 2240; Jan. 12, 1983, Pub. L. 97-449, §7(b), 96 Stat. 2444; re-stated Nov. 5, 1990, Pub. L. 101-508, §9118(a), 104 Stat. 1388-366.
40111(b)	49 App.:1344(e)(2).	
40111(c)	49 App.:1344(e)(3).	
40111(d)	49 App.:1344(e)(4).	

In this section, the word “Administrator” in section 303(e) of the Federal Aviation Act of 1958 (Public Law 85-726, 72 Stat. 747) is retained on authority of 49:106(g).

In subsection (a), before clause (1), the words “periods of” are omitted as surplus. In clause (3), the words “training of” are added for clarity. In clause (4), the word “aircraft” is substituted for “in-plane” for clarity.

In subsection (c)(2)(A), the words “plant, equipment, and other” are omitted as surplus.

In subsection (d), the words “canceled or” and “cancellation or” are omitted as being included in “ended” and “ending”, respectively.

§ 40112. Multiyear procurement contracts for property

(a) GENERAL AUTHORITY.—Notwithstanding section 1341(a)(1)(B) of title 31 and to the extent that amounts otherwise are available for obligation, the Administrator of the Federal Aviation Administration may make a contract of more than one but not more than 5 fiscal years to purchase property, except a contract to construct, alter, or make a major repair or improvement to real property.

(b) **REQUIRED FINDINGS.**—The Administrator may make a contract under this section if the Administrator finds that—

- (1) the contract will promote the safety or efficiency of the national airspace system and will result in reduced total contract costs;
- (2) the minimum need for the property to be purchased is expected to remain substantially unchanged during the proposed contract period in terms of production rate, procurement rate, and total quantities;
- (3) there is a reasonable expectation that throughout the proposed contract period the Administrator will request appropriations for the contract at the level required to avoid cancellation;
- (4) there is a stable design for the property to be acquired and the technical risks associated with the property are not excessive; and
- (5) the estimates of the contract costs and the anticipated savings from the contract are realistic.

(c) **REGULATIONS.**—The Administrator shall prescribe regulations for acquiring property under this section to promote the use of contracts under this section in a way that will allow the most efficient use of those contracts. The regulations may provide for a cancellation provision in the contract to the extent the provision is necessary and in the best interest of the United States. The provision may include consideration of recurring and nonrecurring costs of the contractor associated with producing the item to be delivered under the contract. The regulations shall provide that, to the extent practicable—

- (1) to broaden the aviation industrial base—
 - (A) a contract under this section shall be used to seek, retain, and promote the use under that contract of subcontractors, vendors, or suppliers; and
 - (B) on accrual of a payment or other benefit accruing on a contract under this section to a subcontractor, vendor, or supplier participating in the contract, the payment or benefit shall be delivered in the most expeditious way practicable; and
- (2) this section and regulations prescribed under this section may not be carried out in a way that precludes or curtails the existing ability of the Administrator to provide for—
 - (A) competition in producing items to be delivered under a contract under this section; or
 - (B) ending a prime contract when performance is deficient with respect to cost, quality, or schedule.

(d) **CONTRACT PROVISIONS.**—(1) A contract under this section may—

- (A) be used for the advance procurement of components, parts, and material necessary to manufacture equipment to be used in the national airspace system;
- (B) provide that performance under the contract after the first year is subject to amounts being appropriated; and
- (C) contain a negotiated priced option for varying the number of end items to be procured over the period of the contract.

(2) If feasible and practicable, an advance procurement contract may be made to achieve economic-lot purchases and more efficient production rates.

(e) **CANCELLATION PAYMENT AND NOTICE OF CANCELLATION CEILING.**—(1) If a contract under this section provides that performance is subject to an appropriation being made, it also may provide for a cancellation payment to be made to the contractor if the appropriation is not made.

(2) Before awarding a contract under this section containing a cancellation ceiling of more than \$100,000,000, the Administrator shall give written notice of the proposed contract and cancellation ceiling to the Committee on Commerce, Science, and Transportation of the Senate and the Committee on Transportation and Infrastructure of the House of Representatives. The contract may not be awarded until the end of the 30-day period beginning on the date of the notice.

(f) **ENDING CONTRACTS.**—A contract made under this section shall be ended if amounts are not made available to continue the contract into a subsequent fiscal year. The cost of ending the contract may be paid from—

- (1) an appropriation originally available for carrying out the contract;
- (2) an appropriation currently available for procuring the type of property concerned and not otherwise obligated; or
- (3) amounts appropriated for payments to end the contract.

(Pub. L. 103-272, §1(e), July 5, 1994, 108 Stat. 1108; Pub. L. 104-106, div. E, title LVI, §5606, Feb. 10, 1996, 110 Stat. 700; Pub. L. 104-287, §5(9), Oct. 11, 1996, 110 Stat. 3389.)

HISTORICAL AND REVISION NOTES

Revised Section	Source (U.S. Code)	Source (Statutes at Large)
40112(a)	49 App.:1344(f)(1) (words before 4th comma), (6), (7) (1st sentence).	Aug. 23, 1958, Pub. L. 85-726, §303(f), 72 Stat. 747; May 21, 1970, Pub. L. 91-258, §51(a)(1), 84 Stat. 234; July 12, 1976, Pub. L. 94-353, §16, 90 Stat. 882; Oct. 19, 1980, Pub. L. 96-470, §112(e), 94 Stat. 2240; Jan. 12, 1983, Pub. L. 97-449, §7(b), 96 Stat. 2444; re-stated Nov. 5, 1990, Pub. L. 101-508, §9118(a), 104 Stat. 1388-367.
40112(b)	49 App.:1344(f)(1) (words after 4th comma).	
40112(c)	49 App.:1344(f)(2).	
40112(d)	49 App.:1344(f)(4)	
(1)(A).	(words before 3d comma).	
40112(d)	49 App.:1344(f)(7) (last sentence words before "and (if)").	
(1)(B).		
40112(d)	49 App.:1344(f)(8).	
(1)(C).		
40112(d)(2) ..	49 App.:1344(f)(4) (words after 3d comma).	
40112(e)(1) ..	49 App.:1344(f)(7) (last sentence words after "of funds").	
40112(e)(2) ..	49 App.:1344(f)(3).	
40112(f)	49 App.:1344(f)(5).	

In this section, the word "Administrator" in section 303(f) of the Federal Aviation Act of 1958 (Public Law 85-726, 72 Stat. 747) is retained on authority of 49:106(g).

In subsection (a), the reference in 49 App.:1344(f)(7) to a contract for the purchase of services is omitted as surplus because 49 App.:1344(f)(1) states that the subsection is concerned only with contracts for the purchase of property.

In subsection (b)(5), the word “savings” is substituted for “cost avoidance” for clarity.

In subsection (c), before clause (1), the word “both” is omitted as surplus. In clause (1)(A), the words “in such a manner as” and “companies that are” are omitted as surplus. In clause (1)(B), the words “accruing on” are substituted for “under” for clarity. The words “subcontractor” and “contract” are substituted for “subcontract” and “contractor”, respectively, to correct errors in the source provisions being restated.

In subsection (d)(1)(B), the words “after the first year” are substituted for “during the second and subsequent years of the contract” to eliminate unnecessary words.

In subsection (e)(2), the words “a clause setting forth” are omitted as surplus.

In subsection (f), the words “canceled or” and “cancellation or” are omitted as being included in “ended” and “ending”, respectively.

Editorial Notes

AMENDMENTS

1996—Subsec. (a). Pub. L. 104-106 struck out “or a contract to purchase property to which section 111 of the Federal Property and Administrative Services Act of 1949 (40 U.S.C. 759) applies” after “improvement to real property”.

Subsec. (e)(2). Pub. L. 104-287 substituted “Transportation and Infrastructure” for “Public Works and Transportation”.

Statutory Notes and Related Subsidiaries

EFFECTIVE DATE OF 1996 AMENDMENT

Amendment by Pub. L. 104-106 effective 180 days after Feb. 10, 1996, see section 5701 of Pub. L. 104-106, Feb. 10, 1996, 110 Stat. 702.

§ 40113. Administrative

(a) GENERAL AUTHORITY.—The Secretary of Transportation (or the Administrator of the Transportation Security Administration with respect to security duties and powers designated to be carried out by that Administrator or the Administrator of the Federal Aviation Administration with respect to aviation safety duties and powers designated to be carried out by that Administrator) may take action the Secretary, Administrator of the Transportation Security Administration, or Administrator of the Federal Aviation Administration, as appropriate, considers necessary to carry out this part, including conducting investigations, prescribing regulations, standards, and procedures, and issuing orders.

(b) HAZARDOUS MATERIAL.—In carrying out this part, the Secretary has the same authority to regulate the transportation of hazardous material by air that the Secretary has under section 5103 of this title. However, this subsection does not prohibit or regulate the transportation of a firearm (as defined in section 232 of title 18) or ammunition for a firearm, when transported by an individual for personal use.

(c) GOVERNMENTAL ASSISTANCE.—The Secretary (or the Administrator of the Federal Aviation Administration with respect to aviation safety duties and powers designated to be carried out by the Administrator) may use the assistance of the Administrator of the National Aeronautics and Space Administration and any research or technical department, agency, or instrumentality of the United States Government

on matters related to aircraft fuel and oil, and to the design, material, workmanship, construction, performance, maintenance, and operation of aircraft, aircraft engines, propellers, appliances, and air navigation facilities. Each department, agency, and instrumentality may conduct scientific and technical research, investigations, and tests necessary to assist the Secretary or Administrator of the Federal Aviation Administration in carrying out this part. This part does not authorize duplicating laboratory research activities of a department, agency, or instrumentality.

(d) INDEMNIFICATION.—The Administrator of the Federal Aviation Administration may indemnify an officer or employee of the Federal Aviation Administration against a claim or judgment arising out of an act that the Administrator decides was committed within the scope of the official duties of the officer or employee.

(e) ASSISTANCE TO FOREIGN AVIATION AUTHORITIES.—

(1) SAFETY-RELATED TRAINING AND OPERATIONAL SERVICES.—The Administrator may provide safety-related training and operational services to foreign aviation authorities (whether public or private) with or without reimbursement, if the Administrator determines that providing such services promotes aviation safety or efficiency. The Administrator may also provide technical assistance related to all aviation safety-related training and operational services in connection with bilateral and multilateral agreements, including further bolstering the components of airmanship. The Administrator is authorized to participate in, and submit offers in response to, competitions to provide these services, and to contract with foreign aviation authorities to provide these services consistent with section 106(l)(6). To the extent practicable, air travel reimbursed under this subsection shall be conducted on United States air carriers.

(2) REIMBURSEMENT SOUGHT.—The Administrator shall actively seek reimbursement for services provided under this subsection from foreign aviation authorities capable of providing such reimbursement. The Administrator is authorized, notwithstanding any other provision of law or policy, to accept payments for services provided under this subsection in arrears.

(3) CREDITING APPROPRIATIONS.—Funds received by the Administrator pursuant to this section shall—

(A) be credited to the appropriation current when the amount is received;

(B) be merged with and available for the purposes of such appropriation; and

(C) remain available until expended.

(4) REPORTING.—Not later than December 31, 1995, and annually thereafter, the Administrator shall transmit to Congress a list of the foreign aviation authorities to which the Administrator provided services under this subsection in the preceding fiscal year. Such list shall specify the dollar value of such services and any reimbursement received for such services.

(5) AUTHORIZATION OF APPROPRIATIONS.—There is authorized to be appropriated to the

Administrator, \$5,000,000 for each of fiscal years 2021 through 2023, to carry out this subsection. Amounts appropriated under the preceding sentence for any fiscal year shall remain available until expended.

(f) APPLICATION OF CERTAIN REGULATIONS TO ALASKA.—In amending title 14, Code of Federal Regulations, in a manner affecting intrastate aviation in Alaska, the Administrator of the Federal Aviation Administration shall consider the extent to which Alaska is not served by transportation modes other than aviation, and shall establish such regulatory distinctions as the Administrator considers appropriate.

(Pub. L. 103-272, §1(e), July 5, 1994, 108 Stat. 1110; Pub. L. 103-305, title II, §202, Aug. 23, 1994, 108 Stat. 1582; Pub. L. 106-181, title I, §156(a), Apr. 5, 2000, 114 Stat. 89; Pub. L. 107-71, title I, §140(c), Nov. 19, 2001, 115 Stat. 641; Pub. L. 112-95, title II, §207, Feb. 14, 2012, 126 Stat. 39; Pub. L. 115-254, div. K, title I, §1991(c)(2), Oct. 5, 2018, 132 Stat. 3627; Pub. L. 116-260, div. V, title I, §119(g), Dec. 27, 2020, 134 Stat. 2342.)

HISTORICAL AND REVISION NOTES

<i>Revised Section</i>	<i>Source (U.S. Code)</i>	<i>Source (Statutes at Large)</i>
40113(a)	49 App.:1324(a). 49 App.:1354(a). 49 App.:1551(b)(1)(E). 49 App.:1655(c)(1).	Aug. 23, 1958, Pub. L. 85-726, §§204(a), 313(a), 72 Stat. 743, 752. Aug. 23, 1958, Pub. L. 85-726, 72 Stat. 731, §1601(b)(1)(E); added Oct. 4, 1984, Pub. L. 98-443, §3(e), 98 Stat. 1704. Oct. 15, 1966, Pub. L. 89-670, §6(c)(1), 80 Stat. 938; Jan. 12, 1983, Pub. L. 97-449, §7(b), 96 Stat. 2444.
40113(b)	49 App.:1472(h)(1), (3).	Aug. 23, 1958, Pub. L. 85-726, §902(h)(1), (3), 72 Stat. 785; restated Jan. 3, 1975, Pub. L. 93-633, §113(c), 88 Stat. 2162, 2163.
40113(c)	49 App.:1505.	Aug. 23, 1958, Pub. L. 85-726, §1105, 72 Stat. 798; Oct. 15, 1962, Pub. L. 87-810, §3, 76 Stat. 921.
40113(d)	49 App.:1655(c)(1). 49 App.:1354(e).	Aug. 23, 1958, Pub. L. 85-726, 72 Stat. 731, §313(e); added Dec. 30, 1987, Pub. L. 100-223, §205, 101 Stat. 1521.

In subsections (a), (c), and (d), the word “Administrator” in sections 313(a) and (e) and 1105 of the Federal Aviation Act of 1958 (Public Law 85-726, 72 Stat. 752, 798) is retained on authority of 49:106(g).

Subsection (a) is substituted for 49 App.:1324(a) and 1354(a) to eliminate unnecessary words. The word “standards” is added for consistency.

In subsection (b), the words “his responsibilities under” and “safe” are omitted as surplus.

In subsection (c), the words “department, agency, and instrumentality” are substituted for “agency” and “governmental agency” for consistency in the revised title and with other titles of the United States Code. The text of 49 App.:1505 (2d, 3d sentences) is omitted as superseded by 49 App.:1903(b), restated in sections 1105, 1110, and 1111 of the revised title. The word “existing” is omitted as surplus.

In subsection (d), the text of 49 App.:1354(e) (last sentence) is omitted because of 49:322(a).

Editorial Notes

AMENDMENTS

2020—Subsec. (e)(1). Pub. L. 116-260, §119(g)(1), inserted “The Administrator may also provide technical assistance related to all aviation safety-related train-

ing and operational services in connection with bilateral and multilateral agreements, including further bolstering the components of airmanship.” after “safety or efficiency.”

Subsec. (e)(5). Pub. L. 116-260, §119(g)(2), added par. (5).

2018—Subsec. (a). Pub. L. 115-254, §1991(c)(2)(A), substituted “the Administrator of the Transportation Security Administration with respect to security duties and powers designated to be carried out by that Administrator or” for “the Under Secretary of Transportation for Security with respect to security duties and powers designated to be carried out by the Under Secretary or”, “carried out by that Administrator” for “carried out by the Administrator”, and “, Administrator of the Transportation Security Administration, or Administrator of the Federal Aviation Administration,” for “, Under Secretary, or Administrator,”.

Subsec. (d). Pub. L. 115-254, §1991(c)(2)(B), struck out “Under Secretary of Transportation for Security or the” before “Administrator of the Federal Aviation Administration” and substituted “employee of the Federal Aviation Administration” for “employee of the Transportation Security Administration or Federal Aviation Administration, as the case may be,” and “that the Administrator” for “that the Under Secretary or Administrator, as the case may be,”.

2012—Subsec. (e)(1). Pub. L. 112-95, §207(1), inserted “(whether public or private)” after “authorities” and substituted “safety or efficiency. The Administrator is authorized to participate in, and submit offers in response to, competitions to provide these services, and to contract with foreign aviation authorities to provide these services consistent with section 106(l)(6).” for “safety.”

Subsec. (e)(2). Pub. L. 112-95, §207(2), inserted at end “The Administrator is authorized, notwithstanding any other provision of law or policy, to accept payments for services provided under this subsection in arrears.”

Subsec. (e)(3). Pub. L. 112-95, §207(3), added par. (3) and struck out former par. (3). Prior to amendment, text read as follows: “Funds received by the Administrator pursuant to this section shall be credited to the appropriation from which the expenses were incurred in providing such services.”

2001—Subsec. (a). Pub. L. 107-71, §140(c)(1), inserted “the Under Secretary of Transportation for Security with respect to security duties and powers designated to be carried out by the Under Secretary or” before “the Administrator of the Federal Aviation Administration” and substituted “, Under Secretary, or Administrator” for “or Administrator”.

Subsec. (d). Pub. L. 107-71, §140(c)(2), inserted “Under Secretary of Transportation for Security or the” after “The” and substituted “employee of the Transportation Security Administration or Federal Aviation Administration, as the case may be,” for “employee of the Administration” and “the Under Secretary or Administrator, as the case may be, decides” for “the Administrator decides”.

2000—Subsec. (f). Pub. L. 106-181 added subsec. (f).

1994—Subsec. (e). Pub. L. 103-305 added subsec. (e).

Statutory Notes and Related Subsidiaries

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.

TRANSFER OF FUNCTIONS

For transfer of functions, personnel, assets, and liabilities of the Transportation Security Administration of the Department of Transportation, including the functions of the Secretary of Transportation, and of the Under Secretary of Transportation for Security, relating thereto, to the Secretary of Homeland Secu-

rity, and for treatment of related references, see sections 203(2), 551(d), 552(d), and 557 of Title 6, Domestic Security, and the Department of Homeland Security Reorganization Plan of November 25, 2002, as modified, set out as a note under section 542 of Title 6.

INTRA-AGENCY COORDINATION

Pub. L. 115-254, div. B, title V, §520, Oct. 5, 2018, 132 Stat. 3362, provided that: “Not later than 120 days after the date of enactment of this Act [Oct. 5, 2018], the Administrator [of the Federal Aviation Administration] shall implement a policy that—

“(1) designates the Associate Administrator for Commercial Space Transportation as the primary liaison between the commercial space transportation industry and the [Federal Aviation] Administration;

“(2) recognizes the necessity of, and set [sic] forth processes for, launch license and permit holder coordination with the Air Traffic Organization on matters including—

“(A) the use of air navigation facilities;

“(B) airspace safety; and

“(C) planning of commercial space launch and launch support activities;

“(3) designates a single point of contact within the Air Traffic Organization who is responsible for—

“(A) maintaining letters of agreement between a launch license or permit holder and a Federal Aviation Administration facility;

“(B) making such letters of agreement available to the Associate Administrator for Commercial Space Transportation;

“(C) ensuring that a facility that has entered into such a letter of agreement is aware of and fulfills its responsibilities under the letter; and

“(D) liaising between the Air Traffic Organization and the Associate Administrator for Commercial Space Transportation on any matter relating to such a letter of agreement; and

“(4) requires the Associate Administrator for Commercial Space Transportation to facilitate, upon the request of a launch license or permit holder—

“(A) coordination between a launch license and permit holder and the Air Traffic Organization; and

“(B) the negotiation of letters of agreement between a launch license or permit holder and a Federal Aviation Administration facility or the Air Traffic Organization.”

ADMINISTRATIVE SERVICES FRANCHISE FUND

Pub. L. 104-205, title I, Sept. 30, 1996, 110 Stat. 2957, provided in part that: “There is hereby established in the Treasury a fund, to be available without fiscal year limitation, for the costs of capitalizing and operating such administrative services as the FAA Administrator determines may be performed more advantageously as centralized services, including accounting, international training, payroll, travel, duplicating, multimedia and information technology services: *Provided*, That any inventories, equipment, and other assets pertaining to the services to be provided by such fund, either on hand or on order, less the related liabilities or unpaid obligations, and any appropriations made prior to the current year for the purpose of providing capital shall be used to capitalize such fund: *Provided further*, That such fund shall be paid in advance from funds available to the FAA and other Federal agencies for which such centralized services are performed, at rates which will return in full all expenses of operation, including accrued leave, depreciation of fund plant and equipment, amortization of Automated Data Processing (ADP) software and systems (either required or donated), and an amount necessary to maintain a reasonable operating reserve, as determined by the FAA Administrator: *Provided further*, That such fund shall provide services on a competitive basis: *Provided further*, That an amount not to exceed four percent of the total annual income to such fund may be retained in the fund for fiscal year 1997 and each year thereafter,

to remain available until expended, to be used for the acquisition of capital equipment and for the improvement and implementation of FAA financial management, ADP, and support systems: *Provided further*, That no later than thirty days after the end of each fiscal year, amounts in excess of this reserve limitation shall be transferred to miscellaneous receipts in the Treasury.”

AIRCRAFT PURCHASE LOAN GUARANTEE PROGRAM

Pub. L. 106-69, title III, §337, Oct. 9, 1999, 113 Stat. 1022, which provided that none of the funds in Pub. L. 106-69 were to be available for activities under the Aircraft Purchase Loan Guarantee Program during fiscal year 2000, was from the Department of Transportation and Related Agencies Appropriations Act, 2000, and was not repeated in subsequent appropriations acts. Similar provisions were contained in the following prior appropriation acts:

Pub. L. 105-277, div. A, §101(g) [title I], Oct. 21, 1998, 112 Stat. 2681-439, 2681-446.

Pub. L. 105-66, title I, Oct. 27, 1997, 111 Stat. 1431.

Pub. L. 104-205, title I, Sept. 30, 1996, 110 Stat. 2957.

Pub. L. 104-50, title I, Nov. 15, 1995, 109 Stat. 442.

Pub. L. 103-331, title I, Sept. 30, 1994, 108 Stat. 2476.

Pub. L. 103-122, title I, Oct. 27, 1993, 107 Stat. 1205.

Pub. L. 102-388, title I, Oct. 6, 1992, 106 Stat. 1527.

Pub. L. 102-143, title I, Oct. 28, 1991, 105 Stat. 924.

Pub. L. 101-516, title I, Nov. 5, 1990, 104 Stat. 2161.

Pub. L. 101-164, title I, Nov. 21, 1989, 103 Stat. 1076.

Pub. L. 100-457, title I, Sept. 30, 1988, 102 Stat. 2131.

Pub. L. 100-202, §101(l) [title I], Dec. 22, 1987, 101 Stat. 1329-358, 1329-363.

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

Pub. L. 99-190, §101(e) [title I], Dec. 19, 1985, 99 Stat. 1267, 1273.

Pub. L. 98-473, title I, §3101(i) [title I], Oct. 12, 1984, 98 Stat. 1944, 1950.

Pub. L. 98-78, title I, Aug. 15, 1983, 97 Stat. 458.

Pub. L. 98-63, title I, July 30, 1983, 97 Stat. 339.

§ 40114. Reports and records

(a) WRITTEN REPORTS.—(1) Except as provided in this part, the Secretary of Transportation (or the Administrator of the Federal Aviation Administration with respect to aviation safety duties and powers designated to be carried out by the Administrator) shall make a written report of each proceeding and investigation under this part in which a formal hearing was held and shall provide a copy to each party to the proceeding or investigation. The report shall include the decision, conclusions, order, and requirements of the Secretary or Administrator as appropriate.

(2) The Secretary (or the Administrator with respect to aviation safety duties and powers designated to be carried out by the Administrator) shall have all reports, orders, decisions, and regulations the Secretary or Administrator, as appropriate, issues or prescribes published in the form and way best adapted for public use. A publication of the Secretary or Administrator is competent evidence of its contents.

(b) PUBLIC RECORDS.—Except as provided in subpart II of this part, copies of tariffs and arrangements filed with the Secretary under subpart II, and the statistics, tables, and figures contained in reports made to the Secretary under subpart II, are public records. The Secretary is the custodian of those records. A public record, or a copy or extract of it, certified by the Secretary under the seal of the Department

of Transportation is competent evidence in an investigation by the Secretary and in a judicial proceeding.

(Pub. L. 103-272, §1(e), July 5, 1994, 108 Stat. 1110.)

HISTORICAL AND REVISION NOTES

Revised Section	Source (U.S. Code)	Source (Statutes at Large)
40114(a)(1) ..	49 App.:1324(d) (1st, 2d sentences). 49 App.:1354(b) (1st, 2d sentences). 49 App.:1551(b)(1)(E).	Aug. 23, 1958, Pub. L. 85-726, §§204(d), 313(b), 1103, 72 Stat. 743, 753, 797.
40114(a)(2) ..	49 App.:1324(d) (3d, last sentences). 49 App.:1354(b) (3d, last sentences). 49 App.:1551(b)(1)(E). 49 App.:1655(c)(1).	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.
40114(b)	49 App.:1503. 49 App.:1551(b)(1)(E).	Oct. 15, 1966, Pub. L. 89-670, §6(c)(1), 80 Stat. 938; Jan. 12, 1983, Pub. L. 97-449, §7(b), 96 Stat. 2444.

In subsection (a), the word “Administrator” in section 313(b) of the Federal Aviation Act of 1958 (Public Law 85-726, 72 Stat. 753) is retained on authority of 49:106(g).

In subsection (a)(1), the words “otherwise”, “requirement in the premises”, and “shall be entered of record” are omitted as surplus.

In subsection (a)(2), the word “rules” is omitted as being synonymous with “regulations”. The word “prescribes” is added for consistency in the revised title and with other titles of the United States Code. The words “under this chapter” and “information and” are omitted as surplus. The words “A publication of the Secretary or Administrator is competent evidence of its contents” is substituted for 49 App.:1324(d) (last sentence) to eliminate unnecessary words and for consistency.

In subsection (b), the words “otherwise”, “all contracts, agreements, understandings, and”, “annual or other”, “of air carriers and other persons”, and “preserved as” are omitted as surplus. The last sentence is substituted for 49 App.:1503 (words after 7th comma) to eliminate unnecessary words and for consistency.

Statutory Notes and Related Subsidiaries

CONSOLIDATION OR ELIMINATION OF OBSOLETE, REDUNDANT, OR OTHERWISE UNNECESSARY REPORTS; USE OF ELECTRONIC MEDIA FORMAT

Pub. L. 112-95, title VIII, §806, Feb. 14, 2012, 126 Stat. 121, provided that:

“(a) CONSOLIDATION OR ELIMINATION OF REPORTS.—Not later than 2 years after the date of enactment of this Act [Feb. 14, 2012], and every 2 years thereafter, the Administrator of the Federal Aviation Administration shall submit to the Committee on Commerce, Science, and Transportation of the Senate and the Committee on Transportation and Infrastructure of the House of Representatives a report containing—

- “(1) a list of obsolete, redundant, or otherwise unnecessary reports the Administration is required by law to submit to Congress or publish that the Administrator recommends eliminating or consolidating with other reports; and
- “(2) an estimate of the cost savings that would result from the elimination or consolidation of those reports.

“(b) USE OF ELECTRONIC MEDIA FOR REPORTS.—

“(1) IN GENERAL.—Notwithstanding any other provision of law, the Administration—

- “(A) may not publish any report required or authorized by law in a printed format; and

“(B) shall publish any such report by posting it on the Administration’s Internet Web site in an easily accessible and downloadable electronic format.

“(2) EXCEPTION.—Paragraph (1) does not apply to any report with respect to which the Administrator determines that—

“(A) its publication in a printed format is essential to the mission of the Administration; or

“(B) its publication in accordance with the requirements of paragraph (1) would disclose matter—

“(i) described in section 552(b) of title 5, United States Code; or

“(ii) the disclosure of which would have an adverse impact on aviation safety or security, as determined by the Administrator.”

§ 40115. Withholding information

(a) OBJECTIONS TO DISCLOSURE.—(1) A person may object to the public disclosure of information—

(A) in a record filed under this part; or

(B) obtained under this part by the Secretary of Transportation or State or the United States Postal Service.

(2) An objection must be in writing and must state the reasons for the objection. The Secretary of Transportation or State or the Postal Service shall order the information withheld from public disclosure when the appropriate Secretary or the Postal Service decides that disclosure of the information would—

(A) prejudice the United States Government in preparing and presenting its position in international negotiations; or

(B) have an adverse effect on the competitive position of an air carrier in foreign air transportation.

(b) WITHHOLDING INFORMATION FROM CONGRESS.—This section does not authorize information to be withheld from a committee of Congress authorized to have the information.

(Pub. L. 103-272, §1(e), July 5, 1994, 108 Stat. 1111.)

HISTORICAL AND REVISION NOTES

Revised Section	Source (U.S. Code)	Source (Statutes at Large)
40115	49 App.:1504.	Aug. 23, 1958, Pub. L. 85-726, §1104, 72 Stat. 797; restated Oct. 24, 1978, Pub. L. 95-504, §39, 92 Stat. 1743; Feb. 15, 1980, Pub. L. 96-192, §19, 94 Stat. 43.

In subsection (a)(1)(B), the words “the Secretary of Transportation or State or the United States Postal Service” are substituted for “the Board, the Secretary of State, or the Secretary of Transportation” because under 49 App.:1551 the duties of the Civil Aeronautics Board were transferred to the Secretary of Transportation and the Postal Service.

In subsection (a)(2), the words “shall order the information withheld from public disclosure when the appropriate Secretary or the Postal Service decides that disclosure of the information” are substituted for “shall be withheld from public disclosure by the Board, the Secretary of State or the Secretary of Transportation” for clarity and because of the restatement.

In subsection (b), the words “The Board, the Secretary of State, or the Secretary of Transportation, as the case may be, shall be responsible for classified information in accordance with appropriate law” are omitted as surplus.

§ 40116. State taxation

(a) DEFINITION.—In this section, “State” includes the District of Columbia, a territory or possession of the United States, and a political authority of at least 2 States.

(b) PROHIBITIONS.—Except as provided in subsection (c) of this section and section 40117 of this title, a State, a political subdivision of a State, and any person that has purchased or leased an airport under section 47134 of this title may not levy or collect a tax, fee, head charge, or other charge on—

- (1) an individual traveling in air commerce;
- (2) the transportation of an individual traveling in air commerce;
- (3) the sale of air transportation; or
- (4) the gross receipts from that air commerce or transportation.

(c) AIRCRAFT TAKING OFF OR LANDING IN STATE.—A State or political subdivision of a State may levy or collect a tax on or related to a flight of a commercial aircraft or an activity or service on the aircraft only if the aircraft takes off or lands in the State or political subdivision as part of the flight.

(d) UNREASONABLE BURDENS AND DISCRIMINATION AGAINST INTERSTATE COMMERCE.—(1) In this subsection—

(A) “air carrier transportation property” means property (as defined by the Secretary of Transportation) that an air carrier providing air transportation owns or uses.

(B) “assessment” means valuation for a property tax levied by a taxing district.

(C) “assessment jurisdiction” means a geographical area in a State used in determining the assessed value of property for ad valorem taxation.

(D) “commercial and industrial property” means property (except transportation property and land used primarily for agriculture or timber growing) devoted to a commercial or industrial use and subject to a property tax levy.

(2)(A) A State, political subdivision of a State, or authority acting for a State or political subdivision may not do any of the following acts because those acts unreasonably burden and discriminate against interstate commerce:

(i) assess air carrier transportation property at a value that has a higher ratio to the true market value of the property than the ratio that the assessed value of other commercial and industrial property of the same type in the same assessment jurisdiction has to the true market value of the other commercial and industrial property.

(ii) levy or collect a tax on an assessment that may not be made under clause (i) of this subparagraph.

(iii) levy or collect an ad valorem property tax on air carrier transportation property at a tax rate greater than the tax rate applicable to commercial and industrial property in the same assessment jurisdiction.

(iv) levy or collect a tax, fee, or charge, first taking effect after August 23, 1994, exclusively upon any business located at a commercial service airport or operating as a permittee of such an airport other than a tax, fee, or charge

wholly utilized for airport or aeronautical purposes.

(v) except as otherwise provided under section 47133, levy or collect a tax, fee, or charge, first taking effect after the date of enactment of this clause, upon any business located at a commercial service airport or operating as a permittee of such an airport that is not generally imposed on sales or services by that State, political subdivision, or authority unless wholly utilized for airport or aeronautical purposes.

(B) Subparagraph (A) of this paragraph does not apply to an in lieu tax completely used for airport and aeronautical purposes.

(e) OTHER ALLOWABLE TAXES AND CHARGES.—Except as provided in subsection (d) of this section, a State or political subdivision of a State may levy or collect—

(1) taxes (except those taxes enumerated in subsection (b) of this section), including property taxes, net income taxes, franchise taxes, and sales or use taxes on the sale of goods or services; and

(2) reasonable rental charges, landing fees, and other service charges from aircraft operators for using airport facilities of an airport owned or operated by that State or subdivision.

(f) PAY OF AIR CARRIER EMPLOYEES.—(1) In this subsection—

(A) “pay” means money received by an employee for services.

(B) “State” means a State of the United States, the District of Columbia, and a territory or possession of the United States.

(C) an employee is deemed to have earned 50 percent of the employee’s pay in a State or political subdivision of a State in which the scheduled flight time of the employee in the State or subdivision is more than 50 percent of the total scheduled flight time of the employee when employed during the calendar year.

(2) The pay of an employee of an air carrier having regularly assigned duties on aircraft in at least 2 States is subject to the income tax laws of only the following:

(A) the State or political subdivision of the State that is the residence of the employee.

(B) the State or political subdivision of the State in which the employee earns more than 50 percent of the pay received by the employee from the carrier.

(3) Compensation paid by an air carrier to an employee described in subsection (a) in connection with such employee’s authorized leave or other authorized absence from regular duties on the carrier’s aircraft in order to perform services on behalf of the employee’s airline union shall be subject to the income tax laws of only the following:

(A) The State or political subdivision of the State that is the residence of the employee.

(B) The State or political subdivision of the State in which the employee’s scheduled flight time would have been more than 50 percent of the employee’s total scheduled flight time for the calendar year had the employee been en-

gaged full time in the performance of regularly assigned duties on the carrier's aircraft.

(Pub. L. 103–272, §1(e), July 5, 1994, 108 Stat. 1111; Pub. L. 103–305, title I, §112(e), title II, §208, Aug. 23, 1994, 108 Stat. 1576, 1588; Pub. L. 104–264, title I, §149(b), Oct. 9, 1996, 110 Stat. 3226; Pub. L. 104–287, §5(66), Oct. 11, 1996, 110 Stat. 3395; Pub. L. 115–254, div. B, title I, §159(a), Oct. 5, 2018, 132 Stat. 3220.)

HISTORICAL AND REVISION NOTES
PUB. L. 103–272

Revised Section	Source (U.S. Code)	Source (Statutes at Large)
40116(a)	49 App.:1513(d)(2)(E).	Aug. 23, 1958, Pub. L. 85–726, 72 Stat. 731, §1113(d); added Sept. 3, 1982, Pub. L. 97–248, §532(b), 96 Stat. 701.
	49 App.:1513(f) (words in parentheses).	Aug. 23, 1958, Pub. L. 85–726, 72 Stat. 731, §1113(f); added Nov. 5, 1990, Pub. L. 101–508, §9125, 104 Stat. 1388–370.
40116(b)	49 App.:1513(a).	Aug. 23, 1958, Pub. L. 85–726, 72 Stat. 731, §1113(a); added June 18, 1973, Pub. L. 93–44, §7(a), 87 Stat. 90; Nov. 5, 1990, Pub. L. 101–508, §9110(1), 104 Stat. 1388–357.
40116(c)	49 App.:1513(f) (less words in parentheses).	
40116(d)	49 App.:1513(d)(1), (2)(A)–(D), (3).	
40116(e)	49 App.:1513(b).	Aug. 23, 1958, Pub. L. 85–726, 72 Stat. 731, §1113(b); added June 18, 1973, Pub. L. 93–44, §7(a), 87 Stat. 90; Sept. 3, 1982, Pub. L. 97–248, §532(a), 96 Stat. 701.
40116(f) (1)(A), (B).	49 App.:1512(c).	Aug. 23, 1958, Pub. L. 85–726, 72 Stat. 731, §1112; added Dec. 23, 1970, Pub. L. 91–569, §4(a), 84 Stat. 1502; restated Feb. 18, 1980, Pub. L. 96–193, §402, 94 Stat. 57.
40116(f) (1)(C).	49 App.:1512(b).	
40116(f)(2) ...	49 App.:1512(a).	

Subsection (a) is made applicable to subsections (b) and (e) of this section to avoid having to repeat the term being defined. In subsection (a), the words “Commonwealth of Puerto Rico, the Virgin Islands, Guam” are omitted as surplus because of the definition of “territory or possession of the United States” in section 40102(a) of the revised title. The word “authority” is substituted for “agencies” for consistency in the revised title and with other titles of the United States Code.

In subsection (b), before clause (1), reference to 49 App.:1513(f), restated as subsection (c) of this section, is added for clarity. The words “directly or indirectly” are omitted as surplus. The text of 49 App.:1513(a) (words after “subsection (e) and”) is omitted as surplus.

In subsections (d)(2)(A), before clause (i), and (f)(1)(C) and (2), the word “political” is added for consistency in the revised title and with other titles of the Code.

In subsection (f)(1)(A), the word “pay” is substituted for “compensation” for consistency in the revised title and with chapter 55 of title 5, United States Code. The words “rendered by the employee in the performance of his duties and shall include wages and salary” are omitted as surplus.

In subsection (f)(1)(B), the words “means a State of the United States” are substituted for “also means” for clarity.

In subsection (f)(1)(C), the words “of a State” are added for clarity.

In subsection (f)(2), before clause (A), the words “as such an employee” are omitted as surplus.

PUB. L. 104–287

This amends 49:40116(d)(2)(A)(iv) to conform to the style of title 49 and to set out the effective date for this clause.

Editorial Notes

REFERENCES IN TEXT

The date of enactment of this clause, referred to in subsec. (d)(2)(A)(v), is the date of enactment of Pub. L. 115–254, which was approved Oct. 5, 2018.

AMENDMENTS

2018—Subsec. (d)(2)(A)(v). Pub. L. 115–254 added cl. (v).
1996—Subsec. (b). Pub. L. 104–264, in introductory provisions, substituted “a State, a” for “a State or” and inserted “, and any person that has purchased or leased an airport under section 47134 of this title” after “of a State”.

Subsec. (d)(2)(A)(iv). Pub. L. 104–287, which directed substitution of “August 23, 1994” for “the date of enactment of this clause”, was executed by making the substitution for “the date of the enactment of this clause” to reflect the probable intent of Congress.

Pub. L. 104–287 substituted “levy” for “Levy”.

1994—Subsec. (d)(2)(A)(iv). Pub. L. 103–305, §112(e), added cl. (iv).

Subsec. (f)(3). Pub. L. 103–305, §208, added par. (3).

Statutory Notes and Related Subsidiaries

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.

CONSTRUCTION OF 2018 AMENDMENT

Pub. L. 115–254, div. B, title I, §159(b), Oct. 5, 2018, 132 Stat. 3220, provided that: “Nothing in this section [amending this section] or an amendment made by this section shall affect a change to a rate or other provision of a tax, fee, or charge under section 40116 of title 49, United States Code, that was enacted prior to the date of enactment of this Act [Oct. 5, 2018]. Such provision of a tax, fee, or charge shall continue to be subject to the requirements to which such provision was subject under that section as in effect on the day before the date of enactment of this Act.”

§ 40117. Passenger facility charges

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

(1) AIRPORT, COMMERCIAL SERVICE AIRPORT, AND PUBLIC AGENCY.—The terms “airport”, “commercial service airport”, and “public agency” have the meaning those terms have under section 47102.

(2) ELIGIBLE AGENCY.—The term “eligible agency” means a public agency that controls a commercial service airport.

(3) ELIGIBLE AIRPORT-RELATED PROJECT.—The term “eligible airport-related project” means any of the following projects:

(A) A project for airport development or airport planning under subchapter I of chapter 471.

(B) A project for terminal development described in section 47119(a).

(C) A project for costs of terminal development referred to in subparagraph (B) incurred after August 1, 1986, at an airport that did not have more than .25 percent of

the total annual passenger boardings in the United States in the most recent calendar year for which data is available and at which total passenger boardings declined by at least 16 percent between calendar year 1989 and calendar year 1997.

(D) A project for airport noise capability planning under section 47505.

(E) A project to carry out noise compatibility measures eligible for assistance under section 47504, whether or not a program for those measures has been approved under section 47504.

(F) A project for constructing gates and related areas at which passengers board or exit aircraft. In the case of a project required to enable additional air service by an air carrier with less than 50 percent of the annual passenger boardings at an airport, the project for constructing gates and related areas may include structural foundations and floor systems, exterior building walls and load-bearing interior columns or walls, windows, door and roof systems, building utilities (including heating, air conditioning, ventilation, plumbing, and electrical service), and aircraft fueling facilities adjacent to the gate.

(G) A project for converting vehicles and ground support equipment used at a commercial service airport to low-emission technology (as defined in section 47102) or to use cleaner burning conventional fuels, retrofitting of any such vehicles or equipment that are powered by a diesel or gasoline engine with emission control technologies certified or verified by the Environmental Protection Agency to reduce emissions, or acquiring for use at a commercial service airport vehicles and ground support equipment that include low-emission technology or use cleaner burning fuels if the airport is located in an air quality nonattainment area (as defined in section 171(2) of the Clean Air Act (42 U.S.C. 7501(2))) or a maintenance area referred to in section 175A of such Act (42 U.S.C. 7505a) and if such project will result in an airport receiving appropriate emission credits as described in section 47139.

(4) GROUND SUPPORT EQUIPMENT.—The term “ground support equipment” means service and maintenance equipment used at an airport to support aeronautical operations and related activities.

(5) PASSENGER FACILITY CHARGE.—The term “passenger facility charge” means a charge imposed under this section.

(6) PASSENGER FACILITY REVENUE.—The term “passenger facility revenue” means revenue derived from a passenger facility charge.

(b) GENERAL AUTHORITY.—(1) The Secretary of Transportation may authorize under this section an eligible agency to impose a passenger facility charge of \$1, \$2, or \$3 on each paying passenger of an air carrier or foreign air carrier boarding an aircraft at an airport the agency controls to finance an eligible airport-related project, including making payments for debt service on indebtedness incurred to carry out the project, to be carried out in connection with

the airport or any other airport the agency controls.

(2) A State, political subdivision of a State, or authority of a State or political subdivision that is not the eligible agency may not regulate or prohibit the imposition or collection of a passenger facility charge or the use of the passenger facility revenue.

(3) A passenger facility charge may be imposed on a passenger of an air carrier or foreign air carrier originating or connecting at the commercial service airport that the agency controls.

(4) In lieu of authorizing a charge under paragraph (1), the Secretary may authorize under this section an eligible agency to impose a passenger facility charge of \$4.00 or \$4.50 on each paying passenger of an air carrier or foreign air carrier boarding an aircraft at an airport the agency controls to finance an eligible airport-related project, including making payments for debt service on indebtedness incurred to carry out the project.

(5) MAXIMUM COST FOR CERTAIN LOW-EMISSION TECHNOLOGY PROJECTS.—The maximum cost that may be financed by imposition of a passenger facility charge under this section for a project described in subsection (a)(3)(G) with respect to a vehicle or ground support equipment may not exceed the incremental amount of the project cost that is greater than the cost of acquiring a vehicle or equipment that is not low-emission and would be used for the same purpose, or the cost of low-emission retrofitting, as determined by the Secretary.

(6) DEBT SERVICE FOR CERTAIN PROJECTS.—In addition to the uses specified in paragraphs (1) and (4), the Secretary may authorize a passenger facility charge imposed under paragraph (1) or (4) to be used for making payments for debt service on indebtedness incurred to carry out at the airport a project that is not an eligible airport-related project if the Secretary determines that such use is necessary due to the financial need of the airport.

(7) NOISE MITIGATION FOR CERTAIN SCHOOLS.—

(A) IN GENERAL.—In addition to the uses specified in paragraphs (1), (4), and (6), the Secretary may authorize a passenger facility charge imposed under paragraph (1) or (4) at a large hub airport that is the subject of an amended judgment and final order in condemnation filed on January 7, 1980, by the Superior Court of the State of California for the county of Los Angeles, to be used for a project to carry out noise mitigation for a building, or for the replacement of a relocatable building with a permanent building, in the noise impacted area surrounding the airport at which such building is used primarily for educational purposes, notwithstanding the air easement granted or any terms to the contrary in such judgment and final order, if—

(i) the Secretary determines that the building is adversely affected by airport noise;

(ii) the building is owned or chartered by the school district that was the plaintiff in case number 986,442 or 986,446, which was resolved by such judgment and final order;

(iii) the project is for a school identified in 1 of the settlement agreements effective

February 16, 2005, between the airport and each of the school districts;

(iv) in the case of a project to replace a relocatable building with a permanent building, the eligible project costs are limited to the actual structural construction costs necessary to mitigate aircraft noise in instructional classrooms to an interior noise level meeting current standards of the Federal Aviation Administration; and

(v) the project otherwise meets the requirements of this section for authorization of a passenger facility charge.

(B) **ELIGIBLE PROJECT COSTS.**—In subparagraph (A)(iv), the term “eligible project costs” means the difference between the cost of standard school construction and the cost of construction necessary to mitigate classroom noise to the standards of the Federal Aviation Administration.

(c) **APPLICATIONS.**—(1) An eligible agency must submit to the Secretary an application for authority to impose a passenger facility charge. The application shall contain information and be in the form that the Secretary may require by regulation.

(2) Before submitting an application, the eligible agency must provide reasonable notice to, and an opportunity for consultation with, air carriers and foreign air carriers operating at the airport. The Secretary shall prescribe regulations that define reasonable notice and contain at least the following requirements:

(A) The agency must provide written notice of individual projects being considered for financing by a passenger facility charge and the date and location of a meeting to present the projects to air carriers and foreign air carriers operating at the airport.

(B) Not later than 30 days after written notice is provided under subparagraph (A) of this paragraph, each air carrier and foreign air carrier operating at the airport must provide to the agency written notice of receipt of the notice. Failure of a carrier to provide the notice may be deemed certification of agreement with the project by the carrier under subparagraph (D) of this paragraph.

(C) Not later than 45 days after written notice is provided under subparagraph (A) of this paragraph, the agency must conduct a meeting to provide air carriers and foreign air carriers with descriptions of projects and justifications and a detailed financial plan for projects.

(D) Not later than 30 days after the meeting, each air carrier and foreign air carrier must provide to the agency certification of agreement or disagreement with projects (or total plan for the projects). Failure to provide the certification is deemed certification of agreement with the project by the carrier. A certification of disagreement is void if it does not contain the reasons for the disagreement.

(E) The agency must include in its application or notice submitted under subparagraph (A) copies of all certifications of agreement or disagreement received under subparagraph (D).

(F) For the purpose of this section, an eligible agency providing notice and an oppor-

tunity for consultation to an air carrier or foreign air carrier is deemed to have satisfied the requirements of this paragraph if the eligible agency limits such notices and consultations to air carriers and foreign air carriers that have a significant business interest at the airport. In the subparagraph, the term “significant business interest” means an air carrier or foreign air carrier that had no less than 1.0 percent of passenger boardings at the airport in the prior calendar year, had at least 25,000 passenger boardings at the airport in the prior calendar year, or provides scheduled service at the airport.

(3) Before submitting an application, the eligible agency must provide reasonable notice and an opportunity for public comment. The Secretary shall prescribe regulations that define reasonable notice and provide for at least the following under this paragraph:

(A) A requirement that the eligible agency provide public notice of intent to collect a passenger facility charge so as to inform those interested persons and agencies that may be affected. The public notice may include—

- (i) publication in local newspapers of general circulation;
- (ii) publication in other local media; and
- (iii) posting the notice on the agency’s Internet website.

(B) A requirement for submission of public comments no sooner than 30 days, and no later than 45 days, after the date of the publication of the notice.

(C) A requirement that the agency include in its application or notice submitted under subparagraph (A) copies of all comments received under subparagraph (B).

(4) After receiving an application, the Secretary may provide notice and an opportunity to air carriers, foreign air carriers, and other interested persons to comment on the application. The Secretary shall make a final decision on the application not later than 120 days after receiving it.

(d) **LIMITATIONS ON APPROVING APPLICATIONS.**—The Secretary may approve an application that an eligible agency has submitted under subsection (c) of this section to finance a specific project only if the Secretary finds, based on the application, that—

(1) the amount and duration of the proposed passenger facility charge will result in revenue (including interest and other returns on the revenue) that is not more than the amount necessary to finance the specific project;

(2) each project is an eligible airport-related project that will—

(A) preserve or enhance capacity, safety, or security of the national air transportation system;

(B) reduce noise resulting from an airport that is part of the system; or

(C) provide an opportunity for enhanced competition between or among air carriers and foreign air carriers;

(3) the application includes adequate justification for each of the specific projects; and

(4) in the case of an application to impose a charge of more than \$3.00 for an eligible sur-

face transportation or terminal project, the agency has made adequate provision for financing the airside needs of the airport, including runways, taxiways, aprons, and aircraft gates.

(e) LIMITATIONS ON IMPOSING CHARGES.—(1) An eligible agency may impose a passenger facility charge only—

(A) if the Secretary approves an application that the agency has submitted under subsection (c) of this section; and

(B) subject to terms the Secretary may prescribe to carry out the objectives of this section.

(2) A passenger facility charge may not be collected from a passenger—

(A) for more than 2 boardings on a one-way trip or a trip in each direction of a round trip;

(B) for the boarding to an eligible place under subchapter II of chapter 417 of this title for which essential air service compensation is paid under subchapter II;

(C) enplaning at an airport if the passenger did not pay for the air transportation which resulted in such enplanement, including any case in which the passenger obtained the ticket for the air transportation with a frequent flier award coupon without monetary payment;

(D) on flights, including flight segments, between 2 or more points in Hawaii;

(E) in Alaska aboard an aircraft having a seating capacity of less than 60 passengers; and

(F) enplaning at an airport if the passenger did not pay for the air transportation which resulted in such enplanement due to charter arrangements and payment by the Department of Defense.

(f) LIMITATIONS ON CONTRACTS, LEASES, AND USE AGREEMENTS.—(1) A contract between an air carrier or foreign air carrier and an eligible agency made at any time may not impair the authority of the agency to impose a passenger facility charge or to use the passenger facility revenue as provided in this section.

(2) A project financed with a passenger facility charge may not be subject to an exclusive long-term lease or use agreement of an air carrier or foreign air carrier, as defined by regulations of the Secretary.

(3) A lease or use agreement of an air carrier or foreign air carrier related to a project whose construction or expansion was financed with a passenger facility charge may not restrict the eligible agency from financing, developing, or assigning new capacity at the airport with passenger facility revenue.

(g) TREATMENT OF REVENUE.—(1) Passenger facility revenue is not airport revenue for purposes of establishing a price under a contract between an eligible agency and an air carrier or foreign air carrier.

(2) An eligible agency may not include in its price base the part of the capital costs of a project paid for by using passenger facility revenue to establish a price under a contract between the agency and an air carrier or foreign air carrier.

(3) For a project for terminal development, gates and related areas, or a facility occupied or

used by at least one air carrier or foreign air carrier on an exclusive or preferential basis, a price payable by an air carrier or foreign air carrier using the facilities must at least equal the price paid by an air carrier or foreign air carrier using a similar facility at the airport that was not financed with passenger facility revenue.

(4) Passenger facility revenues that are held by an air carrier or an agent of the carrier after collection of a passenger facility charge constitute a trust fund that is held by the air carrier or agent for the beneficial interest of the eligible agency imposing the charge. Such carrier or agent holds neither legal nor equitable interest in the passenger facility revenues except for any handling fee or retention of interest collected on unremitted proceeds as may be allowed by the Secretary.

(h) COMPLIANCE.—(1) As necessary to ensure compliance with this section, the Secretary shall prescribe regulations requiring record-keeping and auditing of accounts maintained by an air carrier or foreign air carrier and its agent collecting a passenger facility charge and by the eligible agency imposing the charge.

(2) The Secretary periodically shall audit and review the use by an eligible agency of passenger facility revenue. After review and a public hearing, the Secretary may end any part of the authority of the agency to impose a passenger facility charge to the extent the Secretary decides that the revenue is not being used as provided in this section.

(3) The Secretary may set off amounts necessary to ensure compliance with this section against amounts otherwise payable to an eligible agency under subchapter I of chapter 471 of this title if the Secretary decides a passenger facility charge is excessive or that passenger facility revenue is not being used as provided in this section.

(i) REGULATIONS.—The Secretary shall prescribe regulations necessary to carry out this section. The regulations—

(1) may prescribe the time and form by which a passenger facility charge takes effect;

(2) shall—

(A) require an air carrier or foreign air carrier and its agent to collect a passenger facility charge that an eligible agency imposes under this section;

(B) establish procedures for handling and remitting money collected;

(C) ensure that the money, less a uniform amount the Secretary determines reflects the average necessary and reasonable expenses (net of interest accruing to the carrier and agent after collection and before remittance) incurred in collecting and handling the charge, is paid promptly to the eligible agency for which they are collected; and

(D) require that the amount collected for any air transportation be noted on the ticket for that air transportation; and

(3) may permit an eligible agency to request that collection of a passenger facility charge be waived for—

(A) passengers enplaned by any class of air carrier or foreign air carrier if the number of passengers enplaned by the carriers in the

class constitutes not more than one percent of the total number of passengers enplaned annually at the airport at which the charge is imposed; or

(B) passengers enplaned on a flight to an airport—

(i) that has fewer than 2,500 passenger boardings each year and receives scheduled passenger service; or

(ii) in a community which has a population of less than 10,000 and is not connected by a land highway or vehicular way to the land-connected National Highway System within a State.

(j) **LIMITATION ON CERTAIN ACTIONS.**—A State, political subdivision of a State, or authority of a State or political subdivision that is not the eligible agency may not tax, regulate, or prohibit or otherwise attempt to control in any manner, the imposition or collection of a passenger facility charge or the use of the revenue from the passenger facility charge.

(k) **COMPETITION PLANS.**—

(1) **IN GENERAL.**—Beginning in fiscal year 2001, no eligible agency may impose a passenger facility charge under this section with respect to a covered airport (as such term is defined in section 47106(f)) unless the agency has submitted to the Secretary a written competition plan in accordance with such section. This subsection does not apply to passenger facility charges in effect before the date of the enactment of this subsection.

(2) **SECRETARY SHALL ENSURE IMPLEMENTATION AND COMPLIANCE.**—The Secretary shall review any plan submitted under paragraph (1) to ensure that it meets the requirements of this section, and shall review its implementation from time-to-time to ensure that each covered airport successfully implements its plan.

(l) **PILOT PROGRAM FOR PASSENGER FACILITY CHARGE AUTHORIZATIONS.**—

(1) **IN GENERAL.**—The Secretary shall establish a pilot program to test alternative procedures for authorizing eligible agencies for airports to impose passenger facility charges. An eligible agency may impose in accordance with the provisions of this subsection a passenger facility charge under this section. For purposes of the pilot program, the procedures in this subsection shall apply instead of the procedures otherwise provided in this section.

(2) **NOTICE AND OPPORTUNITY FOR CONSULTATION.**—The eligible agency must provide reasonable notice and an opportunity for consultation to air carriers and foreign air carriers in accordance with subsection (c)(2) and must provide reasonable notice and opportunity for public comment in accordance with subsection (c)(3).

(3) **NOTICE OF INTENTION.**—The eligible agency must submit to the Secretary a notice of intention to impose a passenger facility charge under this subsection. The notice shall include—

(A) information that the Secretary may require by regulation on each project for which authority to impose a passenger facility charge is sought;

(B) the amount of revenue from passenger facility charges that is proposed to be collected for each project; and

(C) the level of the passenger facility charge that is proposed.

(4) **ACKNOWLEDGEMENT OF RECEIPT AND INDICATION OF OBJECTION.**—The Secretary shall acknowledge receipt of the notice and indicate any objection to the imposition of a passenger facility charge under this subsection for any project identified in the notice within 30 days after receipt of the eligible agency's notice.

(5) **AUTHORITY TO IMPOSE CHARGE.**—Unless the Secretary objects within 30 days after receipt of the eligible agency's notice, the eligible agency is authorized to impose a passenger facility charge in accordance with the terms of its notice under this subsection.

(6) **REGULATIONS.**—The Secretary shall propose such regulations as may be necessary to carry out this subsection.

(7) **ACKNOWLEDGEMENT NOT AN ORDER.**—An acknowledgement issued under paragraph (4) shall not be considered an order issued by the Secretary for purposes of section 46110.

(m) **FINANCIAL MANAGEMENT OF CHARGES.**—

(1) **HANDLING OF CHARGES.**—A covered air carrier shall segregate in a separate account passenger facility revenue equal to the average monthly liability for charges collected under this section by such carrier or any of its agents for the benefit of the eligible agencies entitled to such revenue.

(2) **TRUST FUND STATUS.**—If a covered air carrier or its agent fails to segregate passenger facility revenue in violation of the subsection, the trust fund status of such revenue shall not be defeated by an inability of any party to identify and trace the precise funds in the accounts of the air carrier.

(3) **PROHIBITION.**—A covered air carrier and its agents may not grant to any third party any security or other interest in passenger facility revenue.

(4) **COMPENSATION TO ELIGIBLE ENTITIES.**—A covered air carrier that fails to comply with any requirement of this subsection, or otherwise unnecessarily causes an eligible entity to expend funds, through litigation or otherwise, to recover or retain payment of passenger facility revenue to which the eligible entity is otherwise entitled shall be required to compensate the eligible agency for the costs so incurred.

(5) **INTEREST ON AMOUNTS.**—A covered air carrier that collects passenger facility charges is entitled to receive the interest on passenger facility charge accounts if the accounts are established and maintained in compliance with this subsection.

(6) **EXISTING REGULATIONS.**—The provisions of section 158.49 of title 14, Code of Federal Regulations, that permit the commingling of passenger facility charges with other air carrier revenue shall not apply to a covered air carrier.

(7) **COVERED AIR CARRIER DEFINED.**—In this section, the term "covered air carrier" means an air carrier that files for chapter 7 or chapter 11 of title 11 bankruptcy protection, or has

an involuntary chapter 7 of title 11 bankruptcy proceeding commenced against it, after the date of enactment of this subsection.

(n) USE OF REVENUES AT PREVIOUSLY ASSOCIATED AIRPORT.—Notwithstanding the requirements relating to airport control under subsection (b)(1), the Secretary may authorize use of a passenger facility charge under subsection (b) to finance an eligible airport-related project if—

(1) the eligible agency seeking to impose the new charge controls an airport where a \$2.00 passenger facility charge became effective on January 1, 2013; and

(2) the location of the project to be financed by the new charge is at an airport that was under the control of the same eligible agency that had controlled the airport described in paragraph (1).

(Pub. L. 103–272, §1(e), July 5, 1994, 108 Stat. 1113; Pub. L. 103–305, title II, §§203, 204(a)(1), (b), Aug. 23, 1994, 108 Stat. 1582, 1583; Pub. L. 104–264, title I, §142(b)(2), title XII, §1202, Oct. 9, 1996, 110 Stat. 3221, 3280; Pub. L. 104–287, §5(67), Oct. 11, 1996, 110 Stat. 3395; Pub. L. 106–181, title I, §§105(a), (b), 135(a), (b), 151, 152(a), 155(c), Apr. 5, 2000, 114 Stat. 71, 83, 86–88; Pub. L. 108–176, title I, §§121(a)–(c), 122–123(d), 124, Dec. 12, 2003, 117 Stat. 2499–2502; Pub. L. 110–253, §3(c)(1), June 30, 2008, 122 Stat. 2417; Pub. L. 110–330, §5(a), Sept. 30, 2008, 122 Stat. 3718; Pub. L. 110–337, §1, Oct. 2, 2008, 122 Stat. 3729; Pub. L. 111–12, §5(a), Mar. 30, 2009, 123 Stat. 1458; Pub. L. 111–69, §5(a), Oct. 1, 2009, 123 Stat. 2055; Pub. L. 111–116, §5(a), Dec. 16, 2009, 123 Stat. 3032; Pub. L. 111–153, §5(a), Mar. 31, 2010, 124 Stat. 1085; Pub. L. 111–161, §5(a), Apr. 30, 2010, 124 Stat. 1127; Pub. L. 111–197, §5(a), July 2, 2010, 124 Stat. 1354; Pub. L. 111–216, title I, §104(a), Aug. 1, 2010, 124 Stat. 2349; Pub. L. 111–249, §5(a), Sept. 30, 2010, 124 Stat. 2628; Pub. L. 111–329, §5(a), Dec. 22, 2010, 124 Stat. 3567; Pub. L. 112–7, §5(a), Mar. 31, 2011, 125 Stat. 32; Pub. L. 112–16, §5(a), May 31, 2011, 125 Stat. 219; Pub. L. 112–21, §5(a), June 29, 2011, 125 Stat. 234; Pub. L. 112–27, §5(a), Aug. 5, 2011, 125 Stat. 271; Pub. L. 112–30, title II, §205(a), Sept. 16, 2011, 125 Stat. 358; Pub. L. 112–91, §5(a), Jan. 31, 2012, 126 Stat. 4; Pub. L. 112–95, title I, §§111(a)–(c)(1), 152(e)(1), Feb. 14, 2012, 126 Stat. 17, 18, 34; Pub. L. 114–190, title II, §2302, July 15, 2016, 130 Stat. 638; Pub. L. 115–254, div. B, title I, §121, div. B, title V, §539(b), Oct. 5, 2018, 132 Stat. 3201, 3370.)

HISTORICAL AND REVISION NOTES
PUB. L. 103–272

Revised Section	Source (U.S. Code)	Source (Statutes at Large)
40117(a)(1) ..	49 App.:1513(e)(15)(A), (B), (D).	Aug. 23, 1958, Pub. L. 85–726, 72 Stat. 731, §1113(e)(1)–(3), (5)–(15); added Nov. 5, 1990, Pub. L. 101–508, §9110(2), 104 Stat. 1388–357.
40117(a)(2) ..	(no source).	
40117(a)(3) ..	49 App.:1513(e)(15)(C).	
40117(a)(4), (5).	(no source).	
40117(b)(1) ..	49 App.:1513(e)(1).	
40117(b)(2) ..	49 App.:1513(e)(8) (1st sentence).	
40117(b)(3) ..	49 App.:1513(e)(6) (1st sentence).	
40117(c)(1), (2).	49 App.:1513(e)(11)(A)–(C).	
40117(c)(3) ..	49 App.:1513(e)(11)(D), (E) (last sentence).	

HISTORICAL AND REVISION NOTES—CONTINUED
PUB. L. 103–272

Revised Section	Source (U.S. Code)	Source (Statutes at Large)
40117(d)	49 App.:1513(e)(2), (5).	
40117(e)(1)(A).	49 App.:1513(e)(11)(E) (1st sentence).	
40117(e)(1)(B).	49 App.:1513(e)(13).	
40117(e)(2)(A).	49 App.:1513(e)(6) (last sentence).	
40117(e)(2)(B).	49 App.:1513(e)(3).	
40117(e)(2)(C).	49 App.:1513(e)(4).	Aug. 23, 1958, Pub. L. 85–726, 72 Stat. 731, §1113(e)(4); added Nov. 5, 1990, Pub. L. 101–508, §9110(2), 104 Stat. 1388–357; Oct. 31, 1992, Pub. L. 102–581, §105, 106 Stat. 4877.
40117(f)(1) ...	49 App.:1513(e)(8) (last sentence).	
40117(f)(2), (3).	49 App.:1513(e)(9).	
40117(g)	49 App.:1513(e)(7).	
40117(h)	49 App.:1513(e)(12).	
40117(i)	49 App.:1513(e)(10), (14).	

In subsection (a), before clause (1), the text of 49 App.:1513(e)(15)(A) is omitted for clarity and because the terms “air carrier” and “foreign air carrier” are used the first time they appear in each subsection. The text of 49 App.:1513(e)(15)(D) is omitted because the complete name of the Secretary of Transportation is used the first time the term appears in this section. Clauses (2), (4), and (5) are added to avoid repeating the source provisions throughout this section. In clause (3)(D), the words “without regard to” are omitted as surplus.

In subsection (b)(1), the words “bonds and other” are omitted as surplus.

In subsection (b)(2), the word “limit” is omitted as being included in “regulate”.

In subsection (d), before clause (1), the text of 49 App.:1513(e)(5) is omitted as executed. The words “approve an application that an eligible agency has submitted under subsection (c) of this section” are substituted for “grant a public agency which controls a commercial service airport authority to impose a fee under this subsection” for clarity.

In subsection (e)(1)(B), the words “and conditions” are omitted as being included in “terms”.

Subsection (e)(2)(A) is substituted for 49 App.:1513(e)(6) (last sentence) to eliminate unnecessary words.

In subsection (e)(2)(B), the words “a public agency which controls any other airport”, “If a passenger of an air carrier is being provided air service”, and “with respect to such air service” are omitted as surplus.

In subsection (f)(3), the words “financed with” are substituted for “carried out through the use of” for consistency in this section and to eliminate unnecessary words.

In subsection (g), the word “price” is substituted for “rate, fee, or charge” and “rates, fees, and charges” to eliminate unnecessary words.

In subsection (g)(2), the words “Except as provided by subparagraph (C)” and “by means of depreciation, amortization, or any other method” are omitted as surplus.

In subsection (h)(1), the word “agent” is substituted for “agency” to correct an error in the source provisions.

In subsection (i), before clause (1), the words “Not later than May 4, 1991” are omitted as obsolete.

PUB. L. 104–287

This repeals 49:40117(e)(2)(C) to eliminate an executed provision and makes conforming amendments.

Editorial Notes

REFERENCES IN TEXT

The date of the enactment of this subsection, referred to in subsec. (k)(1), is the date of enactment of Pub. L. 106-181, which was approved Apr. 5, 2000.

The date of enactment of this subsection, referred to in subsec. (m)(7), is the date of enactment of Pub. L. 108-176, which was approved Dec. 12, 2003.

AMENDMENTS

2018—Subsec. (a)(5). Pub. L. 115-254, §539(b), substituted “charge imposed” for “charge or charge imposed”.

Subsec. (b)(4). Pub. L. 115-254, §121(a), substituted “project.” for “project, if the Secretary finds—” and struck out subpars. (A) and (B) which read as follows:

“(A) in the case of an airport that has more than .25 percent of the total number of annual boardings in the United States, that the project will make a significant contribution to improving air safety and security, increasing competition among air carriers, reducing current or anticipated congestion, or reducing the impact of aviation noise on people living near the airport; and
“(B) that the project cannot be paid for from funds reasonably expected to be available for the programs referred to in section 48103.”

Subsec. (l). Pub. L. 115-254, §121(b)(1), struck out “at Nonhub Airports” after “Authorizations” in heading.

Subsec. (l)(1). Pub. L. 115-254, §121(b)(2), struck out “nonhub” before “airports”.

Subsec. (l)(6). Pub. L. 115-254, §121(b)(3), substituted “The” for “Not later than 180 days after the date of enactment of this subsection, the”.

2016—Subsec. (n). Pub. L. 114-190 added subsec. (n).

2012—Pub. L. 112-95, §111(c)(1)(H), substituted “charges” for “fees” wherever appearing in text.

Pub. L. 112-95, §111(c)(1)(G), substituted “charge” for “fee” wherever appearing in text other than the second sentence of subsec. (g)(4).

Pub. L. 112-95, §111(c)(1)(A), substituted “charges” for “fees” in section catchline.

Subsec. (a)(3)(B). Pub. L. 112-95, §152(e)(1), substituted “section 47119(a)” for “section 47110(d)”.

Subsec. (a)(5). Pub. L. 112-95, §111(a), amended par. (5) generally. Prior to amendment, text read as follows: “The term ‘passenger facility fee’ means a fee imposed under this section.”

Subsec. (e). Pub. L. 112-95, §111(c)(1)(B), substituted “Charges” for “Fees” in heading.

Subsec. (l). Pub. L. 112-95, §111(c)(1)(C), substituted “Charge” for “Fee” in heading.

Subsec. (l)(5). Pub. L. 112-95, §111(c)(1)(D), substituted “charge” for “fee” in heading.

Subsec. (l)(7). Pub. L. 112-95, §111(b), redesignated par. (8) as (7) and struck out former par. (7). Prior to amendment, text read as follows: “This subsection shall cease to be effective beginning on February 18, 2012.”

Pub. L. 112-91 substituted “February 18, 2012.” for “February 1, 2012.”

Subsec. (l)(8). Pub. L. 112-95, §111(b), redesignated par. (8) as (7).

Subsec. (m). Pub. L. 112-95, §111(c)(1)(E), substituted “Charges” for “Fees” in heading.

Subsec. (m)(1). Pub. L. 112-95, §111(c)(1)(F), substituted “charges” for “fees” in heading.

2011—Subsec. (l)(7). Pub. L. 112-30 substituted “February 1, 2012.” for “September 17, 2011.”

Pub. L. 112-27 substituted “September 17, 2011.” for “July 23, 2011.”

Pub. L. 112-21 substituted “July 23, 2011.” for “July 1, 2011.”

Pub. L. 112-16 substituted “July 1, 2011.” for “June 1, 2011.”

Pub. L. 112-7 substituted “June 1, 2011.” for “April 1, 2011.”

2010—Subsec. (l)(7). Pub. L. 111-329 substituted “April 1, 2011.” for “January 1, 2011.”

Pub. L. 111-249 substituted “January 1, 2011.” for “October 1, 2010.”

Pub. L. 111-216 substituted “October 1, 2010.” for “August 2, 2010.”

Pub. L. 111-197 substituted “August 2, 2010.” for “July 4, 2010.”

Pub. L. 111-161 substituted “July 4, 2010.” for “May 1, 2010.”

Pub. L. 111-153 substituted “May 1, 2010.” for “April 1, 2010.”

2009—Subsec. (l)(7). Pub. L. 111-116 substituted “April 1, 2010.” for “January 1, 2010.”

Pub. L. 111-69 substituted “January 1, 2010.” for “October 1, 2009.”

Pub. L. 111-12 substituted “October 1, 2009.” for “April 1, 2009.”

2008—Subsec. (b)(7). Pub. L. 110-337 added par. (7).

Subsec. (l)(7). Pub. L. 110-330 substituted “April 1, 2009” for “September 30, 2008”.

Pub. L. 110-253 substituted “September 30, 2008” for “the date that is 3 years after the date of issuance of regulations to carry out this subsection”.

2003—Subsec. (a)(3)(C). Pub. L. 108-176, §123(d), substituted “A project for costs” for “for costs” and a period for the semicolon at end.

Subsec. (a)(3)(G). Pub. L. 108-176, §121(a), added subpar. (G).

Subsec. (a)(4) to (6). Pub. L. 108-176, §121(c), added par. (4) and redesignated former pars. (4) and (5) as (5) and (6), respectively.

Subsec. (b)(5). Pub. L. 108-176, §121(b), added par. (5).

Subsec. (b)(6). Pub. L. 108-176, §122, added par. (6).

Subsec. (c)(2)(E), (F). Pub. L. 108-176, §123(a)(1), added subpars. (E) and (F).

Subsec. (c)(3), (4). Pub. L. 108-176, §123(a)(2)–(4), added par. (3), redesignated former par. (3) as (4), and substituted “may” for “shall” in first sentence of par. (4).

Subsec. (e)(2)(C). Pub. L. 108-176, §123(c)(1), substituted a semicolon for period at end.

Subsec. (e)(2)(F). Pub. L. 108-176, §123(c)(2)–(4), added subpar. (F).

Subsec. (l). Pub. L. 108-176, §123(b), added subsec. (l).

Subsec. (m). Pub. L. 108-176, §124, added subsec. (m).

2000—Subsec. (a). Pub. L. 106-181, §151, amended heading and text of subsec. (a) generally. Prior to amendment, text read as follows: “In this section—

“(1) ‘airport’, ‘commercial service airport’, and ‘public agency’ have the same meanings given those terms in section 47102 of this title.

“(2) ‘eligible agency’ means a public agency that controls a commercial service airport.

“(3) ‘eligible airport-related project’ means a project—

“(A) for airport development or airport planning under subchapter I of chapter 471 of this title;

“(B) for terminal development described in section 47110(d) of this title;

“(C) for airport noise capability planning under section 47505 of this title;

“(D) to carry out noise compatibility measures eligible for assistance under section 47504 of this title, whether or not a program for those measures has been approved under section 47504; and

“(E) for constructing gates and related areas at which passengers board or exit aircraft.

“(4) ‘passenger facility fee’ means a fee imposed under this section.

“(5) ‘passenger facility revenue’ means revenue derived from a passenger facility fee.”

Subsec. (a)(3)(C) to (F). Pub. L. 106-181, §152(a), added subpar. (C) and redesignated former subpars. (C) to (E) as (D) to (F), respectively.

Subsec. (b)(4). Pub. L. 106-181, §105(a), added par. (4).

Subsec. (d)(4). Pub. L. 106-181, §105(b), added par. (4).

Subsec. (e)(2)(D), (E). Pub. L. 106-181, §135(a), added subpars. (D) and (E).

Subsec. (i)(3). Pub. L. 106-181, §135(b)(1)–(3), added par. (3).

Subsec. (j). Pub. L. 106-181, §135(b)(4), added subsec. (j).

Subsec. (k). Pub. L. 106-181, §155(c), added subsec. (k).

1996—Subsec. (a)(3)(D) to (F). Pub. L. 104-264, §142(b)(2), inserted “and” at end of subpar. (D), sub-

stituted a period for “; and” at end of subpar. (E), and struck out subpar. (F) which read as follows: “in addition to projects eligible under subparagraph (A), the construction, reconstruction, repair, or improvement of areas of an airport used for the operation of aircraft or actions to mitigate the environmental effects of such construction, reconstruction, repair, or improvement when the construction, reconstruction, repair, improvement, or action is necessary for compliance with the responsibilities of the operator or owner of the airport under the Americans with Disabilities Act of 1990, the Clean Air Act, or the Federal Water Pollution Control Act with respect to the airport.”

Subsec. (e)(2)(B) to (D). Pub. L. 104-287 inserted “and” at end of subpar. (B), redesignated subpar. (D) as (C), and struck out former subpar. (C) which read as follows: “for a project the Secretary does not approve under this section before October 1, 1993, if, during the fiscal year ending September 30, 1993, the amount available for obligation under subchapter II of chapter 417 of this title is less than \$38,600,000, except that this clause—

“(i) does not apply if the amount available for obligation under subchapter II of chapter 417 of this title is less than \$38,600,000 because of sequestration or other general appropriations reductions applied proportionately to appropriations accounts throughout an appropriation law; and

“(ii) does not affect the authority of the Secretary to approve the imposition of a fee or the use of revenues, derived from a fee imposed under an approval made under this section, by a public agency that has received an approval to impose a fee under this section before September 30, 1993, regardless of whether the fee is being imposed on September 30, 1993; and”. Subsec. (g)(4). Pub. L. 104-264, §1202, added par. (4). 1994—Subsec. (a)(3)(F). Pub. L. 103-305, §203, added subpar. (F).

Subsec. (d)(3). Pub. L. 103-305, §204(b), added par. (3). Subsec. (e)(2)(D). Pub. L. 103-305, §204(a)(1), added subpar. (D).

Statutory Notes and Related Subsidiaries

EFFECTIVE DATE OF 2011 AMENDMENT

Pub. L. 112-27, §5(j), Aug. 5, 2011, 125 Stat. 271, 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 July 23, 2011.”

Pub. L. 112-21, §5(j), June 29, 2011, 125 Stat. 235, 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 July 1, 2011.”

Pub. L. 112-16, §5(j), May 31, 2011, 125 Stat. 220, 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 June 1, 2011.”

Pub. L. 112-7, §5(j), Mar. 31, 2011, 125 Stat. 33, 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, 2011.”

EFFECTIVE DATE OF 2010 AMENDMENT

Pub. L. 111-329, §5(j), Dec. 22, 2010, 124 Stat. 3568, 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 January 1, 2011.”

Pub. L. 111-249, §5(l), Sept. 30, 2010, 124 Stat. 2628, 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, 2010.”

Pub. L. 111-216, title I, §104(j), Aug. 1, 2010, 124 Stat. 2350, provided that: “The amendments made by this section [amending this section, 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 August 2, 2010.”

Pub. L. 111-197, §5(j), July 2, 2010, 124 Stat. 1354, provided that: “The amendments made by this section [amending this section, 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 July 4, 2010.”

Pub. L. 111-161, §5(j), Apr. 30, 2010, 124 Stat. 1127, provided that: “The amendments made by this section [amending this section, 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 May 1, 2010.”

Pub. L. 111-153, §5(j), Mar. 31, 2010, 124 Stat. 1085, provided that: “The amendments made by this section [amending this section, 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, 2010.”

EFFECTIVE DATE OF 2009 AMENDMENT

Pub. L. 111-116, §5(j), Dec. 16, 2009, 123 Stat. 3032, 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 January 1, 2010.”

Pub. L. 111-69, §5(l), Oct. 1, 2009, 123 Stat. 2055, provided that: “The amendments made by this section [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 accompanying baggage, by a foreign air carrier when the transportation is between 2 places outside the United States.

(e) **RELATIONSHIP TO OTHER LAWS.**—This section does not affect the application of the 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 products in order to implement a requirement in this section.

(2) In paragraph (1), the term “commercial product” 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.

(g) **TRAINING REQUIREMENTS.**—The Administrator of General Services shall ensure that any contract entered into for provision of air transportation with a domestic carrier under this section requires that the contracting air carrier submits to the Administrator of General Services, the Secretary of Transportation, the Administrator of the Transportation Security Administration, the Secretary of Labor and the Commissioner of U.S. Customs and Border Protection an annual report regarding—

(1) the number of personnel trained in the detection and reporting of potential human trafficking (as described in paragraphs (9) and (10)¹ of section 103 of the Trafficking Victims Protection Act of 2000 (22 U.S.C. 7102)), including the training required under section 44734(a)(4);

¹ See References in Text note below.

(2) the number of notifications of potential human trafficking victims received from staff or other passengers; and

(3) whether the air carrier notified the National Human Trafficking Hotline or law enforcement at the relevant airport of the potential human trafficking victim for each such notification of potential human trafficking, and if so, when the notification was made.

(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; Pub. L. 115–232, div. A, title VIII, §836(g)(9), Aug. 13, 2018, 132 Stat. 1874; Pub. L. 115–425, title I, §111(a), Jan. 8, 2019, 132 Stat. 5475.)

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

In subsection (b), before clause (1), the words “government of a foreign country” are substituted for “for-

eign government” for consistency in the revised title and with other titles of the Code. The words “or governments” are omitted because of 1:1.

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

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

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

PUB. L. 104–287, §5(68)(A)

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

PUB. L. 104–287, §5(68)(B)

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

Editorial Notes

REFERENCES IN TEXT

Paragraphs (9) and (10) of section 103 of the Trafficking Victims Protection Act of 2000, referred to in subsec. (g)(1), were redesignated pars. (11) and (12), respectively, of section 103 of that Act by Pub. L. 115–427, §2(1), Jan. 9, 2019, 132 Stat. 5503, and are classified to section 7102(11) and (12) of Title 22, Foreign Relations and Intercourse.

AMENDMENTS

2019—Subsec. (g). Pub. L. 115–425 added subsec. (g).

2018—Subsec. (f)(1). Pub. L. 115–232, §836(g)(9)(A), substituted “commercial products” for “commercial items”.

Subsec. (f)(2). Pub. L. 115–232, §836(g)(9)(B), substituted “commercial product” for “commercial item”.

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).

Statutory Notes and Related Subsidiaries

EFFECTIVE DATE OF 2019 AMENDMENT

Pub. L. 115-425, title I, §111(b), Jan. 8, 2019, 132 Stat. 5475, provided that: “The amendment made by subsection (a) [amending this section] shall apply to any contract entered into after the date of enactment of this Act [Jan. 8, 2019] except for contracts entered into by the Secretary of Defense.”

EFFECTIVE DATE OF 2018 AMENDMENT

Amendment by Pub. L. 115-232 effective Jan. 1, 2020, subject to a savings provision, see section 836(h) of Pub. L. 115-232, set out as an Effective Date of 2018 Amendment; Savings Provision note under section 453b of Title 6, Domestic Security.

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 8752 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. Repealed. Pub. L. 115-254, div. K, title I, § 1991(c)(3), Oct. 5, 2018, 132 Stat. 3627]

Section, 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, related to research and development activities to protect passengers and property against acts of criminal violence, aircraft piracy, and terrorism and to ensure security and regulations prohibiting disclosure of information obtained or developed in ensuring security under this title.

§ 40120. Relationship to other laws

(a) NONAPPLICATION.—Except as provided in the International Navigational Rules Act of 1977 (33 U.S.C. 1601 et seq.), the navigation and shipping laws of the United States and the rules for the prevention of collisions do not apply to aircraft or to the navigation of vessels related to those aircraft.

(b) EXTENDING APPLICATION OUTSIDE UNITED STATES.—The President may extend (in the way and for periods the President considers necessary) the application of this part to outside the United States when—

- (1) an international arrangement gives the United States Government authority to make the extension; and
- (2) the President decides the extension is in the national interest.

(c) ADDITIONAL REMEDIES.—A remedy under this part is in addition to any other remedies provided by law.

(Pub. L. 103-272, §1(e), July 5, 1994, 108 Stat. 1117.)

HISTORICAL AND REVISION NOTES

<i>Revised Section</i>	<i>Source (U.S. Code)</i>	<i>Source (Statutes at Large)</i>
40120(a)	49 App.:1509(a).	Aug. 23, 1958, Pub. L. 85-726, §§ 1106, 1109(a), 1110, 72 Stat. 798, 799, 800.
40120(b)	49 App.:1510.	
40120(c)	49 App.:1506.	

In subsection (a), the words “International Navigational Rules Act of 1977 (33 U.S.C. 1601 et seq.)” are substituted for “sections 143 to 147d of title 33” because those sections were repealed by section 3 of the Act of September 24, 1963 (Public Law 88-131, 77 Stat. 194), and replaced by 33:ch. 21. Chapter 21 was repealed by section 10 of the International Navigational Rules Act of 1977 (Public Law 95-75, 91 Stat. 311) and replaced by 33:1601-1608. The words “including any definition of ‘vessel’ or ‘vehicle’ found therein” and “be construed to” are omitted as surplus.

In subsection (b), before clause (1), the words “to the extent”, “of time”, and “any areas of land or water” are omitted as surplus. The words “and the overlying airspace thereof” are omitted as being included in “outside the United States”. In clause (1), the words “treaty, agreement or other lawful” and “necessary legal” are omitted as surplus.

Subsection (c) is substituted for 49 App.:1506 to eliminate unnecessary words and for clarity and consistency in the revised title and with other titles of the United States Code.

Editorial Notes

REFERENCES IN TEXT

The International Navigational Rules Act of 1977, referred to in subsec. (a), is Pub. L. 95-75, July 27, 1977, 91 Stat. 308, as amended, which is classified principally to chapter 30 (§1601 et seq.) of Title 33, Navigation and Navigable Waters. For complete classification of this Act to the Code, see Short Title note set out under section 1601 of Title 33 and Tables.

Executive Documents

EX. ORD. NO. 10854. EXTENSION OF APPLICATION

Ex. Ord. No. 10854, Nov. 27, 1959, 24 F.R. 9565, as amended by Ex. Ord. No. 11382, Nov. 28, 1967, 32 F.R. 16247, provided:

The application of the Federal Aviation Act of 1958 (72 Stat. 731; 49 U.S.C.A. §1301 et seq. [see 49 U.S.C. 40101

et seq.]), to the extent necessary to permit the Secretary of Transportation to accomplish the purposes and objectives of Titles III [former 49 U.S.C. 1341 et seq., see Disposition Table at beginning of this title] and XII [see 49 U.S.C. 40103(b)(3), 46307] thereof, is hereby extended to those areas of land or water outside the United States and the overlying airspace thereof over or in which the Federal Government of the United States, under international treaty, agreement or other lawful arrangement, has appropriate jurisdiction or control: *Provided*, That the Secretary of Transportation, prior to taking any action under the authority hereby conferred, shall first consult with the Secretary of State on matters affecting foreign relations, and with the Secretary of Defense on matters affecting national-defense interests, and shall not take any action which the Secretary of State determines to be in conflict with any international treaty or agreement to which the United States is a party, or to be inconsistent with the successful conduct of the foreign relations of the United States, or which the Secretary of Defense determines to be inconsistent with the requirements of national defense.

§ 40121. Air traffic control modernization reviews

(a) **REQUIRED TERMINATIONS OF ACQUISITIONS.**—The Administrator of the Federal Aviation Administration shall terminate any acquisition program initiated after the date of the enactment of the Air Traffic Management System Performance Improvement Act of 1996 and funded under the Facilities and Equipment account that—

- (1) is more than 50 percent over the cost goal established for the program;
- (2) fails to achieve at least 50 percent of the performance goals established for the program; or
- (3) is more than 50 percent behind schedule as determined in accordance with the schedule goal established for the program.

(b) **AUTHORIZED TERMINATION OF ACQUISITION PROGRAMS.**—The Administrator shall consider terminating, under the authority of subsection (a), any substantial acquisition program that—

- (1) is more than 10 percent over the cost goal established for the program;
- (2) fails to achieve at least 90 percent of the performance goals established for the program; or
- (3) is more than 10 percent behind schedule as determined in accordance with the schedule goal established for the program.

(c) **EXCEPTIONS AND REPORT.**—

(1) **CONTINUANCE OF PROGRAM, ETC.**—Notwithstanding subsection (a), the Administrator may continue an acquisitions program required to be terminated under subsection (a) if the Administrator determines that termination would be inconsistent with the development or operation of the national air transportation system in a safe and efficient manner.

(2) **DEPARTMENT OF DEFENSE.**—The Department of Defense shall have the same exemptions from acquisition laws as are waived by the Administrator under section 40110(d)(2) of this title when engaged in joint actions to improve or replenish the national air traffic control system. The Administration may acquire real property, goods, and services through the Department of Defense, or other appropriate

agencies, but is bound by the acquisition laws and regulations governing those cases.

(3) **REPORT.**—If the Administrator makes a determination under paragraph (1), the Administrator shall transmit a copy of the determination, together with a statement of the basis for the determination, to the Committees on Appropriations of the Senate and the House of Representatives, the Committee on Commerce, Science, and Transportation of the Senate, and the Committee on Transportation and Infrastructure of the House of Representatives.

(Added Pub. L. 104-264, title II, § 252, Oct. 9, 1996, 110 Stat. 3236; amended Pub. L. 106-181, title III, § 307(c)(2), Apr. 5, 2000, 114 Stat. 126.)

Editorial Notes

REFERENCES IN TEXT

The date of the enactment of the Air Traffic Management System Performance Improvement Act of 1996, referred to in subsec. (a), is the date of enactment of Pub. L. 104-264, which was approved Oct. 9, 1996.

CODIFICATION

Another section 40121 was renumbered section 40124 of this title.

AMENDMENTS

2000—Subsec. (c)(2). Pub. L. 106-181 substituted “section 40110(d)(2) of this title” for “section 348(b) of Public Law 104-50”.

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.

Statutory Notes and Related Subsidiaries

EFFECTIVE DATE

Section effective on date that is 30 days after Oct. 9, 1996, see section 203 of Pub. L. 104-264, set out as an Effective Date of 1996 Amendment note under section 106 of this title.

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

§ 40122. Federal Aviation Administration personnel management system

(a) **IN GENERAL.**—

(1) **CONSULTATION AND NEGOTIATION.**—In developing and making changes to the personnel management system initially implemented by the Administrator of the Federal Aviation Administration on April 1, 1996, the Administrator shall negotiate with the exclusive bargaining representatives of employees of the Administration certified under section 7111 of title 5 and consult with other employees of the Administration.

(2) **DISPUTE RESOLUTION.**—

(A) **MEDIATION.**—If the Administrator does not reach an agreement under paragraph (1) or the provisions referred to in subsection (g)(2)(C) with the exclusive bargaining representative of the employees, the Administrator and the bargaining representative—

(i) shall use the services of the Federal Mediation and Conciliation Service to attempt to reach such agreement in accordance with part 1425 of title 29, Code of Federal Regulations (as in effect on the date of enactment of the FAA Modernization and Reform Act of 2012); or

(ii) may by mutual agreement adopt alternative procedures for the resolution of disputes or impasses arising in the negotiation of the collective-bargaining agreement.

(B) MID-TERM BARGAINING.—If the services of the Federal Mediation and Conciliation Service under subparagraph (A)(i) do not lead to the resolution of issues in controversy arising from the negotiation of a mid-term collective-bargaining agreement, the Federal Service Impasses Panel shall assist the parties in resolving the impasse in accordance with section 7119 of title 5.

(C) BINDING ARBITRATION FOR TERM BARGAINING.—

(1) ASSISTANCE FROM FEDERAL SERVICE IMPASSES PANEL.—If the services of the Federal Mediation and Conciliation Service under subparagraph (A)(i) do not lead to the resolution of issues in controversy arising from the negotiation of a term collective-bargaining agreement, the Administrator and the exclusive bargaining representative of the employees (in this subparagraph referred to as the “parties”) shall submit their issues in controversy to the Federal Service Impasses Panel. The Panel shall assist the parties in resolving the impasse by asserting jurisdiction and ordering binding arbitration by a private arbitration board consisting of 3 members.

(ii) APPOINTMENT OF ARBITRATION BOARD.—The Executive Director of the Panel shall provide for the appointment of the 3 members of a private arbitration board under clause (i) by requesting the Director of the Federal Mediation and Conciliation Service to prepare a list of not less than 15 names of arbitrators with Federal sector experience and by providing the list to the parties. Not later than 10 days after receiving the list, the parties shall each select one person from the list. The 2 arbitrators selected by the parties shall then select a third person from the list not later than 7 days after being selected. If either of the parties fails to select a person or if the 2 arbitrators are unable to agree on the third person in 7 days, the parties shall make the selection by alternately striking names on the list until one arbitrator remains.

(iii) FRAMING ISSUES IN CONTROVERSY.—If the parties do not agree on the framing of the issues to be submitted for arbitration, the arbitration board shall frame the issues.

(iv) HEARINGS.—The arbitration board shall give the parties a full and fair hearing, including an opportunity to present evidence in support of their claims and an opportunity to present their case in person, by counsel, or by other representative as they may elect.

(v) DECISIONS.—The arbitration board shall render its decision within 90 days after the date of its appointment. Decisions of the arbitration board shall be conclusive and binding upon the parties.

(vi) MATTERS FOR CONSIDERATION.—The arbitration board shall take into consideration such factors as—

(I) the effect of its arbitration decisions on the Federal Aviation Administration’s ability to attract and retain a qualified workforce;

(II) the effect of its arbitration decisions on the Federal Aviation Administration’s budget; and

(III) any other factors whose consideration would assist the board in fashioning a fair and equitable award.

(vii) COSTS.—The parties shall share costs of the arbitration equally.

(3) RATIFICATION OF AGREEMENTS.—Upon reaching a voluntary agreement or at the conclusion of the binding arbitration under paragraph (2)(C), the final agreement, except for those matters decided by an arbitration board, shall be subject to ratification by the exclusive bargaining representative of the employees, if so requested by the bargaining representative, and the final agreement shall be subject to approval by the head of the agency in accordance with the provisions referred to in subsection (g)(2)(C).

(4) COST SAVINGS AND PRODUCTIVITY GOALS.—The Administration and the exclusive bargaining representatives of the employees shall use every reasonable effort to find cost savings and to increase productivity within each of the affected bargaining units.

(5) ANNUAL BUDGET DISCUSSIONS.—The Administration and the exclusive bargaining representatives of the employees shall meet annually for the purpose of finding additional cost savings within the Administration’s annual budget as it applies to each of the affected bargaining units and throughout the agency.

(b) EXPERT EVALUATION.—On the date that is 3 years after the personnel management system is implemented, the Administration shall employ outside experts to provide an independent evaluation of the effectiveness of the system within 3 months after such date. For this purpose, the Administrator may utilize the services of experts and consultants under section 3109 of title 5 without regard to the limitation imposed by the last sentence of section 3109(b) of such title, and may contract on a sole source basis, notwithstanding any other provision of law to the contrary.

(c) PAY RESTRICTION.—No officer or employee of the Administration may receive an annual rate of basic pay in excess of the annual rate of basic pay payable to the Administrator.

(d) ETHICS.—The Administration shall be subject to Executive Order No. 12674 and regulations and opinions promulgated by the Office of Government Ethics, including those set forth in section 2635 of title 5 of the Code of Federal Regulations.

(e) EMPLOYEE PROTECTIONS.—Until July 1, 1999, basic wages (including locality pay) and oper-

ational differential pay provided employees of the Administration shall not be involuntarily adversely affected by reason of the enactment of this section, except for unacceptable performance or by reason of a reduction in force or reorganization or by agreement between the Administration and the affected employees' exclusive bargaining representative.

(f) LABOR-MANAGEMENT AGREEMENTS.—Except as otherwise provided by this title, all labor-management agreements covering employees of the Administration that are in effect on the effective date of the Air Traffic Management System Performance Improvement Act of 1996 shall remain in effect until their normal expiration date, unless the Administrator and the exclusive bargaining representative agree to the contrary.

(g) PERSONNEL MANAGEMENT SYSTEM.—

(1) IN GENERAL.—In consultation with the employees of the Administration and such non-governmental experts in personnel management systems as he may employ, and notwithstanding the provisions of title 5 and other Federal personnel laws, the Administrator shall develop and implement, not later than January 1, 1996, a personnel management system for the Administration that addresses the unique demands on the agency's workforce. Such a new system shall, at a minimum, provide for greater flexibility in the hiring, training, compensation, and location of personnel.

(2) APPLICABILITY OF TITLE 5.—The provisions of title 5 shall not apply to the new personnel management system developed and implemented pursuant to paragraph (1), with the exception of—

(A) section 2302(b), relating to whistleblower protection, including the provisions for investigation and enforcement as provided in chapter 12 of title 5;

(B) sections 3304(f), to the extent consistent with the Federal Aviation Administration's status as an excepted service agency, 3308–3320, 3330a, 3330b, 3330c, and 3330d, relating to veterans' preference;

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

(D) section 7204, relating to antidiscrimination;

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

(F) chapter 81, relating to compensation for work injury;

(G) chapters 83–85, 87, and 89, relating to retirement, unemployment compensation, and insurance coverage;

(H) sections 1204, 1211–1218, 1221, and 7701–7703, relating to the Merit Systems Protection Board;

(I) subsections (b), (c), and (d) of section 4507 (relating to Meritorious Executive or Distinguished Executive rank awards) and subsections (b) and (c) of section 4507a (relating to Meritorious Senior Professional or Distinguished Senior Professional rank awards), except that—

(i) for purposes of applying such provisions to the personnel management system—

(I) the term “agency” means the Department of Transportation;

(II) the term “senior executive” means a Federal Aviation Administration executive;

(III) the term “career appointee” means a Federal Aviation Administration career executive; and

(IV) the term “senior career employee” means a Federal Aviation Administration career senior professional;

(ii) receipt by a career appointee or a senior career employee of the rank of Meritorious Executive or Meritorious Senior Professional entitles the individual to a lump-sum payment of an amount equal to 20 percent of annual basic pay, which shall be in addition to the basic pay paid under the Federal Aviation Administration Executive Compensation Plan; and

(iii) receipt by a career appointee or a senior career employee of the rank of Distinguished Executive or Distinguished Senior Professional entitles the individual to a lump-sum payment of an amount equal to 35 percent of annual basic pay, which shall be in addition to the basic pay paid under the Federal Aviation Administration Executive Compensation Plan; and

(J) subject to paragraph (4) of this subsection, section 6329, relating to disabled veteran leave.

(3) APPEALS TO MERIT SYSTEMS PROTECTION BOARD.—Under the new personnel management system developed and implemented under paragraph (1), an employee of the Administration may submit an appeal to the Merit Systems Protection Board and may seek judicial review of any resulting final orders or decisions of the Board from any action that was appealable to the Board under any law, rule, or regulation as of March 31, 1996. Notwithstanding any other provision of law, retroactive to April 1, 1996, the Board shall have the same remedial authority over such employee appeals that it had as of March 31, 1996.

(4) CERTIFICATION OF DISABLED VETERAN LEAVE.—In order to verify that leave credited to an employee pursuant to paragraph (2)(J) is used for treating a service-connected disability, that employee shall, notwithstanding section 6329(c) of title 5, submit to the Assistant Administrator for Human Resource Management of the Federal Aviation Administration certification, in such form and manner as the Administrator of the Federal Aviation Administration may prescribe, that the employee used that leave for purposes of being furnished treatment for that disability by a health care provider.

(5) PAID PARENTAL LEAVE.—The Administrator shall implement a paid parental leave benefit for employees of the Administration that is, at a minimum, consistent with the paid parental leave benefits provided under section 6382 of title 5.

(6) EFFECTIVE DATE.—This subsection shall take effect on April 1, 1996.

(h) RIGHT TO CONTEST ADVERSE PERSONNEL ACTIONS.—An employee of the Federal Aviation Administration who is the subject of a major ad-

verse personnel action may contest the action either through any contractual grievance procedure that is applicable to the employee as a member of the collective bargaining unit or through the Administration's internal process relating to review of major adverse personnel actions of the Administration, known as Guaranteed Fair Treatment, or under section 40122(g)(3).

(i) ELECTION OF FORUM.—Where a major adverse personnel action may be contested through more than one of the indicated forums (such as the contractual grievance procedure, the Federal Aviation Administration's internal process, or that of the Merit Systems Protection Board), an employee must elect the forum through which the matter will be contested. Nothing in this section is intended to allow an employee to contest an action through more than one forum unless otherwise allowed by law.

(j) DEFINITION.—In this section, the term “major adverse personnel action” means a suspension of more than 14 days, a reduction in pay or grade, a removal for conduct or performance, a nondisciplinary removal, a furlough of 30 days or less (but not including placement in a nonpay status as the result of a lapse of appropriations or an enactment by Congress), or a reduction in force action.

(Added Pub. L. 104-264, title II, §253, Oct. 9, 1996, 110 Stat. 3237; amended Pub. L. 106-181, title III, §§307(a), 308, Apr. 5, 2000, 114 Stat. 124, 126; Pub. L. 112-95, title VI, §§601, 602, 611, Feb. 14, 2012, 126 Stat. 109, 111, 117; Pub. L. 114-242, §2(a), (b), Oct. 7, 2016, 130 Stat. 978; Pub. L. 115-254, div. B, title V, §531, Oct. 5, 2018, 132 Stat. 3366; Pub. L. 116-283, div. A, title XI, §1103(c)(1), Jan. 1, 2021, 134 Stat. 3887.)

Editorial Notes

REFERENCES IN TEXT

The date of enactment of the FAA Modernization and Reform Act of 2012, referred to in subsec. (a)(2)(A)(i), is the date of enactment of Pub. L. 112-95, which was approved Feb. 14, 2012.

Executive Order No. 12674, referred to in subsec. (d), is set out as a note under section 7301 of Title 5, Government Organization and Employees.

The effective date of the Air Traffic Management System Performance Improvement Act of 1996, referred to in subsec. (f), is the date that is 30 days after Oct. 9, 1996. See section 203 of Pub. L. 104-264, set out as an Effective Date of 1996 Amendment note under section 106 of this title.

AMENDMENTS

2021—Subsec. (g)(5), (6). Pub. L. 116-283 added par. (5) and redesignated former par. (5) as (6).

2018—Subsec. (g)(2)(B). Pub. L. 115-254 inserted “3304(f), to the extent consistent with the Federal Aviation Administration's status as an excepted service agency,” before “3308-3320” and “3330a, 3330b, 3330c, and 3330d,” before “relating”.

2016—Subsec. (g)(2)(J). Pub. L. 114-242, §2(a), added subpar. (J).

Subsec. (g)(4), (5). Pub. L. 114-242, §2(b), added par. (4) and redesignated former par. (4) as (5).

2012—Subsec. (a)(2) to (5). Pub. L. 112-95, §601, added pars. (2) and (3), redesignated former pars. (3) and (4) as (4) and (5), respectively, and struck out former par. (2). Prior to amendment, text of par. (2) read as follows: “If the Administrator does not reach an agreement under paragraph (1) with the exclusive bargaining representa-

tives, the services of the Federal Mediation and Conciliation Service shall be used to attempt to reach such agreement. If the services of the Federal Mediation and Conciliation Service do not lead to an agreement, the Administrator's proposed change to the personnel management system shall not take effect until 60 days have elapsed after the Administrator has transmitted the proposed change, along with the objections of the exclusive bargaining representatives to the change, and the reasons for such objections, to Congress. The 60-day period shall not include any period during which Congress has adjourned sine die.”

Subsec. (g)(2)(I). Pub. L. 112-95, §602, added subpar. (I).

Subsec. (g)(3). Pub. L. 112-95, §611, inserted at end “Notwithstanding any other provision of law, retroactive to April 1, 1996, the Board shall have the same remedial authority over such employee appeals that it had as of March 31, 1996.”

2000—Subsec. (a)(2). Pub. L. 106-181, §308(a), inserted at end “The 60-day period shall not include any period during which Congress has adjourned sine die.”

Subsec. (g). Pub. L. 106-181, §307(a), added subsec. (g).

Subsecs. (h) to (j). Pub. L. 106-181, §308(b), added subsecs. (h) to (j).

Statutory Notes and Related Subsidiaries

EFFECTIVE DATE OF 2021 AMENDMENT

Pub. L. 116-283, div. A, title XI, §1103(c)(2), Jan. 1, 2021, 134 Stat. 3887, provided that: “The amendments made by paragraph (1) [amending this section] shall apply with respect to any birth or placement occurring on or after October 1, 2020.”

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

Section effective on date that is 30 days after Oct. 9, 1996, see section 203 of Pub. L. 104-264, set out as an Effective Date of 1996 Amendment note under section 106 of this title.

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

RULE OF CONSTRUCTION

Pub. L. 116-283, div. A, title XI, §1103(c)(3), Jan. 1, 2021, 134 Stat. 3887, provided that: “Nothing in this subsection, or any amendment made by this subsection [amending this section], may be construed to affect leave provided to an employee of the Transportation Security Administration before October 1, 2020.”

DEEMED REFERENCES TO CHAPTERS 509 AND 511 OF TITLE 51

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

OFFICE OF INVESTIGATIONS AND PROFESSIONAL RESPONSIBILITY; MISCONDUCT INVESTIGATIONS

Pub. L. 116-260, div. V, title I, §133(c), (d), Dec. 27, 2020, 134 Stat. 2355, provided that:

“(c) OFFICE OF INVESTIGATIONS AND PROFESSIONAL RESPONSIBILITY.—The Administrator shall take such action as may be necessary to redesignate the Office of Investigations of the Administration as the Office of Investigations and Professional Responsibility.

“(d) MISCONDUCT INVESTIGATIONS.—

“(1) IN GENERAL.—The Administrator shall review and revise the Administration’s existing investigative policies that govern the investigation of misconduct by a manager of the Administration conducted by the FAA (in this subsection referred to as the ‘Agency’).

“(2) PRESERVATION OF COLLECTIVE BARGAINING AGREEMENTS.—The investigative policy established under paragraph (1) shall not apply to, or in the future, be extended by the Administrator to apply to, any employee who is not a manager or is covered by or eligible to be covered by a collective bargaining agreement entered into by the Agency.

“(3) REQUIREMENTS.—In revising the investigative policies, the Administrator shall ensure such policies require—

“(A) the utilization of investigative best practices to ensure independent and objective investigation and accurate recording and reporting of such investigation;

“(B) the management of case files to ensure the integrity of the information contained in such case files;

“(C) interviews be conducted in a manner that ensures, to the greatest extent possible, truthful answers and accurate records of such interviews;

“(D) coordination with the Office of the Inspector General of the Department of Transportation, the Office of the Special Counsel, and the Attorney General, as appropriate; and

“(E) the completion of investigations in a timely manner.

“(4) DEFINITION.—For purposes of this subsection, the term ‘manager’ means an employee of the Agency who is a supervisor or management official, as defined in section 7103(a) of title 5, United States Code.” [For definitions of terms used in section 133(c), (d) of div. V of Pub. L. 116-260, set out above, see section 137 of div. V of Pub. L. 116-260, set out as a note under section 40101 of this title.]

APPLICATION OF 2016 AMENDMENT

Pub. L. 114-242, §2(c), Oct. 7, 2016, 130 Stat. 978, provided that: “The amendments made by this section [amending this section] shall apply with respect to any employee of the Federal Aviation Administration hired on or after the date that is one year after the date of the enactment of this Act [Oct. 7, 2016].”

POLICIES AND PROCEDURES

Pub. L. 114-242, §2(d), Oct. 7, 2016, 130 Stat. 978, provided that: “Not later than 270 days after the date of the enactment of this Act [Oct. 7, 2016], the Administrator of the Federal Aviation Administration shall prescribe policies and procedures to carry out the amendments made by this section [amending this section] that are comparable, to the maximum extent practicable, to the regulations prescribed by the Office of Personnel Management under section 6329 of title 5, United States Code.”

§ 40123. Protection of voluntarily submitted information

(a) IN GENERAL.—Notwithstanding any other provision of law, neither the Administrator of the Federal Aviation Administration, nor any agency receiving information from the Administrator, shall disclose voluntarily-provided safety or security related information if the Administrator finds that—

(1) the disclosure of the information would inhibit the voluntary provision of that type of information and that the receipt of that type of information aids in fulfilling the Administrator’s safety and security responsibilities; and

(2) withholding such information from disclosure would be consistent with the Administrator’s safety and security responsibilities.

(b) REGULATIONS.—The Administrator shall issue regulations to carry out this section.

(Added Pub. L. 104-264, title IV, §402(a), Oct. 9, 1996, 110 Stat. 3255.)

Statutory Notes and Related Subsidiaries

EFFECTIVE DATE

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

IMPROVED VOLUNTARY DISCLOSURE REPORTING SYSTEM

Pub. L. 112-95, title III, §344, Feb. 14, 2012, 126 Stat. 81, provided that:

“(a) VOLUNTARY DISCLOSURE REPORTING PROGRAM DEFINED.—In this section, the term ‘Voluntary Disclosure Reporting Program’ means the program established by the Federal Aviation Administration through Advisory Circular 00-58A, dated September 8, 2006, including any subsequent revisions thereto.

“(b) VERIFICATION.—The Administrator of the Federal Aviation Administration shall modify the Voluntary Disclosure Reporting Program to require inspectors to—

“(1) verify that air carriers are implementing comprehensive solutions to correct the underlying causes of the violations voluntarily disclosed by such air carriers; and

“(2) confirm, before approving a final report of a violation, that a violation with the same root causes, has not been previously discovered by an inspector or self-disclosed by the air carrier.

“(c) SUPERVISORY REVIEW OF VOLUNTARY SELF-DISCLOSURES.—The Administrator shall establish a process by which voluntary self-disclosures received from air carriers are reviewed and approved by a supervisor after the initial review by an inspector.

“(d) INSPECTOR GENERAL STUDY.—

“(1) IN GENERAL.—The Inspector General of the Department of Transportation shall conduct a study of the Voluntary Disclosure Reporting Program.

“(2) REVIEW.—In conducting the study, the Inspector General shall examine, at a minimum, if the Administration—

“(A) conducts comprehensive reviews of voluntary disclosure reports before closing a voluntary disclosure report under the provisions of the program;

“(B) evaluates the effectiveness of corrective actions taken by air carriers; and

“(C) effectively prevents abuse of the voluntary disclosure reporting program through its secondary review of self-disclosures before they are accepted and closed by the Administration.

“(3) REPORT TO CONGRESS.—Not later than 1 year after the date of enactment of this Act [Feb. 14, 2012], the Inspector General shall submit to the Committee on Transportation and Infrastructure of the House of Representatives and Committee on Commerce, Science, and Transportation of the Senate a report on the results of the study conducted under this section.”

§ 40124. Interstate agreements for airport facilities

Congress consents to a State making an agreement, not in conflict with a law of the United States, with another State to develop or operate an airport facility.

(Added Pub. L. 104-287, § 5(69)(A), Oct. 11, 1996, 110 Stat. 3395, § 40121; renumbered § 40124, Pub. L. 105-102, § 3(d)(1)(B), Nov. 20, 1997, 111 Stat. 2215.)

HISTORICAL AND REVISION NOTES

This restates 49:44502(e) as 49:40121 [now 40124] to provide a more appropriate place in title 49.

Editorial Notes

AMENDMENTS

1997—Pub. L. 105-102 amended Pub. L. 104-287, renumbering section 40121 of this title as this section.

Statutory Notes and Related Subsidiaries

EFFECTIVE DATE OF 1997 AMENDMENT

Pub. L. 105-102, § 3(d), Nov. 20, 1997, 111 Stat. 2215, provided that the amendment made by section 3(d)(1)(B) is effective Oct. 11, 1996.

Amendment by Pub. L. 105-102 effective as if included in the provisions of the Act to which the amendment relates, see section 3(f) of Pub. L. 105-102, set out as a note under section 106 of this title.

§ 40125. Qualifications for public aircraft status

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

(1) COMMERCIAL PURPOSES.—The term “commercial purposes” means the transportation of persons or property for compensation or hire, but does not include the operation of an aircraft by the armed forces for reimbursement when that reimbursement is required by any Federal statute, regulation, or directive, in effect on November 1, 1999, or by one government on behalf of another government under a cost reimbursement agreement if the government on whose behalf the operation is conducted certifies to the Administrator of the Federal Aviation Administration that the operation is necessary to respond to a significant and imminent threat to life or property (including natural resources) and that no service by a private operator is reasonably available to meet the threat.

(2) GOVERNMENTAL FUNCTION.—The term “governmental function” means an activity undertaken by a government, such as national defense, intelligence missions, firefighting, search and rescue, law enforcement (including transport of prisoners, detainees, and illegal aliens), aeronautical research, or biological or geological resource management.

(3) QUALIFIED NON-CREWMEMBER.—The term “qualified non-crewmember” means an individual, other than a member of the crew, aboard an aircraft—

(A) operated by the armed forces or an intelligence agency of the United States Government; or

(B) whose presence is required to perform, or is associated with the performance of, a governmental function.

(4) ARMED FORCES.—The term “armed forces” has the meaning given such term by section 101 of title 10.

(b) AIRCRAFT OWNED BY GOVERNMENTS.—An aircraft described in subparagraph (A), (B), (C), (D), or (F) of section 40102(a)(41) does not qualify as a public aircraft under such section when the

aircraft is used for commercial purposes or to carry an individual other than a crewmember or a qualified non-crewmember.

(c) AIRCRAFT OWNED OR OPERATED BY THE ARMED FORCES.—

(1) IN GENERAL.—Subject to paragraph (2), an aircraft described in section 40102(a)(41)(E) qualifies as a public aircraft if—

(A) the aircraft is operated in accordance with title 10;

(B) the aircraft is operated in the performance of a governmental function under title 14, 31, 32, or 50 and the aircraft is not used for commercial purposes; or

(C) the aircraft is chartered to provide transportation or other commercial air service to the armed forces and the Secretary of Defense (or the Secretary of the department in which the Coast Guard is operating) designates the operation of the aircraft as being required in the national interest.

(2) LIMITATION.—An aircraft that meets the criteria set forth in paragraph (1) and that is owned or operated by the National Guard of a State, the District of Columbia, or any territory or possession of the United States, qualifies as a public aircraft only to the extent that it is operated under the direct control of the Department of Defense.

(d) SEARCH AND RESCUE PURPOSES.—An aircraft described in section 40102(a)(41)(D) that is not exclusively leased for at least 90 continuous days by the government of a State, the District of Columbia, or a territory or possession of the United States or a political subdivision of 1 of those governments, qualifies as a public aircraft if the Administrator determines that—

(1) there are extraordinary circumstances;

(2) the aircraft will be used for the performance of search and rescue missions;

(3) a community would not otherwise have access to search and rescue services; and

(4) a government entity demonstrates that granting the waiver is necessary to prevent an undue economic burden on that government.

(Added Pub. L. 106-181, title VII, § 702(b)(1), Apr. 5, 2000, 114 Stat. 155; amended Pub. L. 110-181, div. A, title X, § 1078(b), (c), Jan. 28, 2008, 122 Stat. 334; Pub. L. 112-141, div. C, title V, § 35003, July 6, 2012, 126 Stat. 843; Pub. L. 115-254, div. B, title III, § 355(b), Oct. 5, 2018, 132 Stat. 3305.)

Editorial Notes

AMENDMENTS

2018—Subsec. (b). Pub. L. 115-254 substituted “(D), or (F)” for “or (D)”.

2012—Subsec. (d). Pub. L. 112-141 added subsec. (d).

2008—Subsec. (b). Pub. L. 110-181, § 1078(c)(1), substituted “section 40102(a)(41)” for “section 40102(a)(37)”.

Subsec. (c)(1). Pub. L. 110-181, § 1078(c)(2), substituted “section 40102(a)(41)(E)” for “section 40102(a)(37)(E)” in introductory provisions.

Subsec. (c)(1)(C). Pub. L. 110-181, § 1078(b), inserted “or other commercial air service” after “transportation”.

Statutory Notes and Related Subsidiaries

EFFECTIVE DATE OF 2012 AMENDMENT

Amendment by Pub. L. 112-141 effective Oct. 1, 2012, see section 3(a) of Pub. L. 112-141, set out as an Effect-

tive and Termination Dates of 2012 Amendment note under section 101 of Title 23, Highways.

EFFECTIVE DATE

Section applicable only to fiscal years beginning after Sept. 30, 1999, see section 3 of Pub. L. 106-181, set out as an Effective Date of 2000 Amendments note under section 106 of this title.

TRANSFER OF FUNCTIONS

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

§ 40126. Severable services contracts for periods crossing fiscal years

(a) IN GENERAL.—The Administrator of the Federal Aviation Administration may enter into a contract for procurement of severable services for a period that begins in 1 fiscal year and ends in the next fiscal year if (without regard to any option to extend the period of the contract) the contract period does not exceed 1 year.

(b) OBLIGATION OF FUNDS.—Funds made available for a fiscal year may be obligated for the total amount of a contract entered into under the authority of subsection (a).

(Added Pub. L. 106-181, title VII, §705(a), Apr. 5, 2000, 114 Stat. 157.)

Statutory Notes and Related Subsidiaries

EFFECTIVE DATE

Section applicable only to fiscal years beginning after Sept. 30, 1999, see section 3 of Pub. L. 106-181, set out as an Effective Date of 2000 Amendments note under section 106 of this title.

§ 40127. Prohibitions on discrimination

(a) PERSONS IN AIR TRANSPORTATION.—An air carrier or foreign air carrier may not subject a person in air transportation to discrimination on the basis of race, color, national origin, religion, sex, or ancestry.

(b) USE OF PRIVATE AIRPORTS.—Notwithstanding any other provision of law, no State or local government may prohibit the use or full enjoyment of a private airport within its jurisdiction by any person on the basis of that person's race, color, national origin, religion, sex, or ancestry.

(Added Pub. L. 106-181, title VII, §706(a), Apr. 5, 2000, 114 Stat. 157.)

Statutory Notes and Related Subsidiaries

EFFECTIVE DATE

Section applicable only to fiscal years beginning after Sept. 30, 1999, see section 3 of Pub. L. 106-181, set out as an Effective Date of 2000 Amendments note under section 106 of this title.

TRAINING POLICIES REGARDING RACIAL, ETHNIC, AND RELIGIOUS NONDISCRIMINATION

Pub. L. 115-254, div. B, title IV, §407, Oct. 5, 2018, 132 Stat. 3330, provided that:

“(a) IN GENERAL.—Not later than 180 days after the date of the enactment of this Act [Oct. 5, 2018], the Comptroller General of the United States shall submit to the appropriate committees of Congress [Committee on Commerce, Science, and Transportation of the Senate and Committee on Transportation and Infrastructure of the House of Representatives] and the Secretary of Transportation a report describing—

“(1) each air carrier's training policy for its employees and contractors regarding racial, ethnic, and religious nondiscrimination; and

“(2) how frequently an air carrier is required to train new employees and contractors because of turnover in positions that require such training.

“(b) BEST PRACTICES.—After the date the report is submitted under subsection (a), the Secretary shall develop and disseminate to air carriers best practices necessary to improve the training policies described in subsection (a), based on the findings of the report and in consultation with—

“(1) passengers of diverse racial, ethnic, and religious backgrounds;

“(2) national organizations that represent impacted communities;

“(3) air carriers;

“(4) airport operators; and

“(5) contract service providers.”

§ 40128. Overflights of national parks

(a) IN GENERAL.—

(1) GENERAL REQUIREMENTS.—A commercial air tour operator may not conduct commercial air tour operations over a national park or tribal lands, as defined by this section, except—

(A) in accordance with this section;

(B) in accordance with conditions and limitations prescribed for that operator by the Administrator; and

(C) in accordance with any applicable air tour management plan or voluntary agreement under subsection (b)(7) for the park or tribal lands.

(2) APPLICATION FOR OPERATING AUTHORITY.—

(A) APPLICATION REQUIRED.—Before commencing commercial air tour operations over a national park or tribal lands, a commercial air tour operator shall apply to the Administrator for authority to conduct the operations over the park or tribal lands.

(B) COMPETITIVE BIDDING FOR LIMITED CAPACITY PARKS.—Whenever an air tour management plan limits the number of commercial air tour operations over a national park during a specified time frame, the Administrator, in cooperation with the Director, shall issue operation specifications to commercial air tour operators that conduct such operations. The operation specifications shall include such terms and conditions as the Administrator and the Director find necessary for management of commercial air tour operations over the park. The Administrator, in cooperation with the Director, shall develop an open competitive process for evaluating proposals from persons interested in providing commercial air tour operations over the park. In making a selection from among various proposals submitted, the Administrator, in cooperation with the Director, shall consider relevant factors, including—

(i) the safety record of the person submitting the proposal or pilots employed by the person;

(ii) any quiet aircraft technology proposed to be used by the person submitting the proposal;

(iii) the experience of the person submitting the proposal with commercial air tour operations over other national parks or scenic areas;

(iv) the financial capability of the person submitting the proposal;

(v) any training programs for pilots provided by the person submitting the proposal; and

(vi) responsiveness of the person submitting the proposal to any relevant criteria developed by the National Park Service for the affected park.

(C) NUMBER OF OPERATIONS AUTHORIZED.—In determining the number of authorizations to issue to provide commercial air tour operations over a national park, the Administrator, in cooperation with the Director, shall take into consideration the provisions of the air tour management plan, the number of existing commercial air tour operators and current level of service and equipment provided by any such operators, and the financial viability of each commercial air tour operation.

(D) COOPERATION WITH NPS.—Before granting an application under this paragraph, the Administrator, in cooperation with the Director, shall develop an air tour management plan in accordance with subsection (b) and implement such plan.

(E) TIME LIMIT ON RESPONSE TO ATMP APPLICATIONS.—The Administrator shall make every effort to act on any application under this paragraph and issue a decision on the application not later than 24 months after it is received or amended.

(F) PRIORITY.—In acting on applications under this paragraph to provide commercial air tour operations over a national park, the Administrator shall give priority to an application under this paragraph in any case in which a new entrant commercial air tour operator is seeking operating authority with respect to that national park.

(3) EXCEPTION.—Notwithstanding paragraph (1), commercial air tour operators may conduct commercial air tour operations over a national park under part 91 of title 14, Code of Federal Regulations if—

(A) such activity is permitted under part 119 of such title;

(B) the operator secures a letter of agreement from the Administrator and the national park superintendent for that national park describing the conditions under which the operations will be conducted; and

(C) the total number of operations under this exception is limited to not more than five flights in any 30-day period over a particular park.

(4) SPECIAL RULE FOR SAFETY REQUIREMENTS.—Notwithstanding subsection (c), an existing commercial air tour operator shall apply, not later than 90 days after the date of the enactment of this section, for operating authority under part 119, 121, or 135 of title 14,

Code of Federal Regulations. A new entrant commercial air tour operator shall apply for such authority before conducting commercial air tour operations over a national park or tribal lands. The Administrator shall make every effort to act on any such application for a new entrant and issue a decision on the application not later than 24 months after it is received or amended.

(5) EXEMPTION FOR NATIONAL PARKS WITH 50 OR FEWER FLIGHTS EACH YEAR.—

(A) IN GENERAL.—Notwithstanding paragraph (1), a national park that has 50 or fewer commercial air tour operations over the park each year shall be exempt from the requirements of this section, except as provided in subparagraph (B).

(B) WITHDRAWAL OF EXEMPTION.—If the Director determines that an air tour management plan or voluntary agreement is necessary to protect park resources and values or park visitor use and enjoyment, the Director shall withdraw the exemption of a park under subparagraph (A).

(C) LIST OF PARKS.—

(i) IN GENERAL.—The Director and Administrator shall jointly publish a list each year of national parks that are covered by the exemption provided under this paragraph.

(ii) NOTIFICATION OF WITHDRAWAL OF EXEMPTION.—The Director shall inform the Administrator, in writing, of each determination to withdraw an exemption under subparagraph (B).

(D) ANNUAL REPORT.—A commercial air tour operator conducting commercial air tour operations over a national park that is exempt from the requirements of this section shall submit to the Administrator and the Director a report each year that includes the number of commercial air tour operations the operator conducted during the preceding 1-year period over such park.

(b) AIR TOUR MANAGEMENT PLANS.—

(1) ESTABLISHMENT.—

(A) IN GENERAL.—The Administrator, in cooperation with the Director, shall establish an air tour management plan for any national park or tribal land for which such a plan is not in effect whenever a person applies for authority to conduct a commercial air tour operation over the park. The air tour management plan shall be developed by means of a public process in accordance with paragraph (4).

(B) OBJECTIVE.—The objective of any air tour management plan shall be to develop acceptable and effective measures to mitigate or prevent the significant adverse impacts, if any, of commercial air tour operations upon the natural and cultural resources, visitor experiences, and tribal lands.

(C) EXCEPTION.—An application to begin or expand commercial air tour operations at Crater Lake National Park or Great Smoky Mountains National Park may be denied without the establishment of an air tour management plan by the Director of the Na-

tional Park Service if the Director determines that such operations would adversely affect park resources or visitor experiences.

(2) ENVIRONMENTAL DETERMINATION.—In establishing an air tour management plan under this subsection, the Administrator and the Director shall each sign the environmental decision document required by section 102 of the National Environmental Policy Act of 1969 (42 U.S.C. 4332) which may include a finding of no significant impact, an environmental assessment, or an environmental impact statement and the record of decision for the air tour management plan.

(3) CONTENTS.—An air tour management plan for a national park—

(A) may prohibit commercial air tour operations over a national park in whole or in part;

(B) may establish conditions for the conduct of commercial air tour operations over a national park, including commercial air tour routes, maximum or minimum altitudes, time-of-day restrictions, restrictions for particular events, maximum number of flights per unit of time, intrusions on privacy on tribal lands, and mitigation of noise, visual, or other impacts;

(C) shall apply to all commercial air tour operations over a national park that are also within ½ mile outside the boundary of a national park;

(D) shall include incentives (such as preferred commercial air tour routes and altitudes, relief from caps and curfews) for the adoption of quiet aircraft technology by commercial air tour operators conducting commercial air tour operations over a national park;

(E) shall provide for the initial allocation of opportunities to conduct commercial air tour operations over a national park if the plan includes a limitation on the number of commercial air tour operations for any time period; and

(F) shall justify and document the need for measures taken pursuant to subparagraphs (A) through (E) and include such justifications in the record of decision.

(4) PROCEDURE.—In establishing an air tour management plan for a national park or tribal lands, the Administrator and the Director shall—

(A) hold at least one public meeting with interested parties to develop the air tour management plan;

(B) publish the proposed plan in the Federal Register for notice and comment and make copies of the proposed plan available to the public;

(C) comply with the regulations set forth in sections 1501.3 and 1501.5 through 1501.8 of title 40, Code of Federal Regulations (for purposes of complying with the regulations, the Federal Aviation Administration shall be the lead agency and the National Park Service is a cooperating agency); and

(D) solicit the participation of any Indian tribe whose tribal lands are, or may be, overflowed by aircraft involved in a commer-

cial air tour operation over the park or tribal lands to which the plan applies, as a cooperating agency under the regulations referred to in subparagraph (C).

(5) JUDICIAL REVIEW.—An air tour management plan developed under this subsection shall be subject to judicial review.

(6) AMENDMENTS.—The Administrator, in cooperation with the Director, may make amendments to an air tour management plan. Any such amendments shall be published in the Federal Register for notice and comment. A request for amendment of an air tour management plan shall be made in such form and manner as the Administrator may prescribe.

(7) VOLUNTARY AGREEMENTS.—

(A) IN GENERAL.—As an alternative to an air tour management plan, the Director and the Administrator may enter into a voluntary agreement with a commercial air tour operator (including a new entrant commercial air tour operator and an operator that has interim operating authority) that has applied to conduct commercial air tour operations over a national park to manage commercial air tour operations over such national park.

(B) PARK PROTECTION.—A voluntary agreement under this paragraph with respect to commercial air tour operations over a national park shall address the management issues necessary to protect the resources of such park and visitor use of such park without compromising aviation safety or the air traffic control system and may—

(i) include provisions such as those described in subparagraphs (B) through (E) of paragraph (3);

(ii) include provisions to ensure the stability of, and compliance with, the voluntary agreement; and

(iii) provide for fees for such operations.

(C) PUBLIC REVIEW.—The Director and the Administrator shall provide an opportunity for public review of a proposed voluntary agreement under this paragraph and shall consult with any Indian tribe whose tribal lands are, or may be, flown over by a commercial air tour operator under a voluntary agreement under this paragraph. After such opportunity for public review and consultation, the voluntary agreement may be implemented without further administrative or environmental process beyond that described in this subsection.

(D) TERMINATION.—

(i) IN GENERAL.—A voluntary agreement under this paragraph may be terminated at any time at the discretion of—

(I) the Director, if the Director determines that the agreement is not adequately protecting park resources or visitor experiences; or

(II) the Administrator, if the Administrator determines that the agreement is adversely affecting aviation safety or the national aviation system.

(ii) EFFECT OF TERMINATION.—If a voluntary agreement with respect to a national park is terminated under this sub-

paragraph, the operators shall conform to the requirements for interim operating authority under subsection (c) until an air tour management plan for the park is in effect.

(c) INTERIM OPERATING AUTHORITY.—

(1) IN GENERAL.—Upon application for operating authority, the Administrator shall grant interim operating authority under this subsection to a commercial air tour operator for commercial air tour operations over a national park or tribal lands for which the operator is an existing commercial air tour operator.

(2) REQUIREMENTS AND LIMITATIONS.—Interim operating authority granted under this subsection—

(A) shall provide annual authorization only for the greater of—

(i) the number of flights used by the operator to provide the commercial air tour operations over a national park within the 12-month period prior to the date of the enactment of this section; or

(ii) the average number of flights per 12-month period used by the operator to provide such operations within the 36-month period prior to such date of enactment, and, for seasonal operations, the number of flights so used during the season or seasons covered by that 12-month period;

(B) may not provide for an increase in the number of commercial air tour operations over a national park conducted during any time period by the commercial air tour operator above the number that the air tour operator was originally granted unless such an increase is agreed to by the Administrator and the Director;

(C) shall be published in the Federal Register to provide notice and opportunity for comment;

(D) may be revoked by the Administrator for cause;

(E) shall terminate 180 days after the date on which an air tour management plan is established for the park or tribal lands;

(F) shall promote protection of national park resources, visitor experiences, and tribal lands;

(G) shall promote safe commercial air tour operations;

(H) shall promote the adoption of quiet technology, as appropriate; and

(I) may allow for modifications of the interim operating authority without further environmental review beyond that described in this subsection, if—

(i) adequate information regarding the existing and proposed operations of the operator under the interim operating authority is provided to the Administrator and the Director;

(ii) the Administrator determines that there would be no adverse impact on aviation safety or the air traffic control system; and

(iii) the Director agrees with the modification, based on the professional expertise of the Director regarding the protec-

tion of the resources, values, and visitor use and enjoyment of the park.

(3) NEW ENTRANT AIR TOUR OPERATORS.—

(A) IN GENERAL.—The Administrator, in cooperation with the Director, may grant interim operating authority under this paragraph to an air tour operator for a national park or tribal lands for which that operator is a new entrant air tour operator without further environmental process beyond that described in this paragraph, if—

(i) adequate information on the proposed operations of the operator is provided to the Administrator and the Director by the operator making the request;

(ii) the Administrator agrees that there would be no adverse impact on aviation safety or the air traffic control system; and

(iii) the Director agrees, based on the Director's professional expertise regarding the protection of park resources and values and visitor use and enjoyment.

(B) SAFETY LIMITATION.—The Administrator may not grant interim operating authority under subparagraph (A) if the Administrator determines that it would create a safety problem at the park or on the tribal lands, or the Director determines that it would create a noise problem at the park or on the tribal lands.

(C) ATMP LIMITATION.—The Administrator may grant interim operating authority under subparagraph (A) of this paragraph only if the air tour management plan for the park or tribal lands to which the application relates has not been developed within 24 months after the date of the enactment of this section.

(d) COMMERCIAL AIR TOUR OPERATOR REPORTS.—

(1) REPORT.—Each commercial air tour operator conducting a commercial air tour operation over a national park under interim operating authority granted under subsection (c) or in accordance with an air tour management plan or voluntary agreement under subsection (b) shall submit to the Administrator and the Director a report regarding the number of commercial air tour operations over each national park that are conducted by the operator and such other information as the Administrator and Director may request in order to facilitate administering the provisions of this section.

(2) REPORT SUBMISSION.—Not later than 90 days after the date of enactment of the FAA Modernization and Reform Act of 2012, the Administrator and the Director shall jointly issue an initial request for reports under this subsection. The reports shall be submitted to the Administrator and the Director with a frequency and in a format prescribed by the Administrator and the Director.

(e) EXEMPTIONS.—This section shall not apply to—

- (1) the Grand Canyon National Park; or
- (2) tribal lands within or abutting the Grand Canyon National Park.

(f) LAKE MEAD.—This section shall not apply to any air tour operator while flying over or near the Lake Mead National Recreation Area, solely as a transportation route, to conduct an air tour over the Grand Canyon National Park. For purposes of this subsection, an air tour operator flying over the Hoover Dam in the Lake Mead National Recreation Area en route to the Grand Canyon National Park shall be deemed to be flying solely as a transportation route.

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

(1) COMMERCIAL AIR TOUR OPERATOR.—The term “commercial air tour operator” means any person who conducts a commercial air tour operation over a national park.

(2) EXISTING COMMERCIAL AIR TOUR OPERATOR.—The term “existing commercial air tour operator” means a commercial air tour operator that was actively engaged in the business of providing commercial air tour operations over a national park at any time during the 12-month period ending on the date of the enactment of this section.

(3) NEW ENTRANT COMMERCIAL AIR TOUR OPERATOR.—The term “new entrant commercial air tour operator” means a commercial air tour operator that—

(A) applies for operating authority as a commercial air tour operator for a national park or tribal lands; and

(B) has not engaged in the business of providing commercial air tour operations over the national park or tribal lands in the 12-month period preceding the application.

(4) COMMERCIAL AIR TOUR OPERATION OVER A NATIONAL PARK.—

(A) IN GENERAL.—The term “commercial air tour operation over a national park” means any flight, conducted for compensation or hire in a powered aircraft where a purpose of the flight is sightseeing over a national park, within ½ mile outside the boundary of any national park (except the Grand Canyon National Park), or over tribal lands (except those within or abutting the Grand Canyon National Park), during which the aircraft flies—

(i) below a minimum altitude, determined by the Administrator in cooperation with the Director, above ground level (except solely for purposes of takeoff or landing, or necessary for safe operation of an aircraft as determined under the rules and regulations of the Federal Aviation Administration requiring the pilot-in-command to take action to ensure the safe operation of the aircraft); or

(ii) less than 1 mile laterally from any geographic feature within the park (unless more than ½ mile outside the boundary).

(B) FACTORS TO CONSIDER.—In making a determination of whether a flight is a commercial air tour operation over a national park for purposes of this section, the Administrator may consider—

(i) whether there was a holding out to the public of willingness to conduct a sightseeing flight for compensation or hire;

(ii) whether a narrative that referred to areas or points of interest on the surface below the route of the flight was provided by the person offering the flight;

(iii) the area of operation;

(iv) the frequency of flights conducted by the person offering the flight;

(v) the route of flight;

(vi) the inclusion of sightseeing flights as part of any travel arrangement package offered by the person offering the flight;

(vii) whether the flight would have been canceled based on poor visibility of the surface below the route of the flight; and

(viii) any other factors that the Administrator and the Director consider appropriate.

(5) NATIONAL PARK.—The term “national park” means any unit of the National Park System.

(6) TRIBAL LANDS.—The term “tribal lands” means Indian country (as that term is defined in section 1151 of title 18) that is within or abutting a national park.

(7) ADMINISTRATOR.—The term “Administrator” means the Administrator of the Federal Aviation Administration.

(8) DIRECTOR.—The term “Director” means the Director of the National Park Service.

(Added Pub. L. 106–181, title VIII, §803(a), Apr. 5, 2000, 114 Stat. 186; amended Pub. L. 108–176, title III, §323(a), Dec. 12, 2003, 117 Stat. 2541; Pub. L. 109–115, div. A, title I, §177, Nov. 30, 2005, 119 Stat. 2427; Pub. L. 112–95, title V, §501, Feb. 14, 2012, 126 Stat. 100; Pub. L. 112–141, div. C, title V, §35002, July 6, 2012, 126 Stat. 843; Pub. L. 115–254, div. B, title V, §539(c), Oct. 5, 2018, 132 Stat. 3370.)

Editorial Notes

REFERENCES IN TEXT

The date of the enactment of this section, referred to in subsecs. (a)(4), (c)(2)(A), (3)(C), and (g)(2), is the date of enactment of Pub. L. 106–181, which was approved Apr. 5, 2000.

The date of enactment of the FAA Modernization and Reform Act of 2012, referred to in subsec. (d)(2), is the date of enactment of Pub. L. 112–95, which was approved Feb. 14, 2012.

AMENDMENTS

2018—Subsec. (a)(3). Pub. L. 115–254 substituted “under part 91 of title 14,” for “under part 91 of the title 14.”

2012—Subsec. (a)(1)(C). Pub. L. 112–95, §501(a), inserted “or voluntary agreement under subsection (b)(7)” before “for the park”.

Subsec. (a)(5). Pub. L. 112–95, §501(b), added par. (5).

Subsec. (b)(1)(C). Pub. L. 112–141 amended subpar. (C) generally. Prior to amendment, text read as follows: “An application to begin commercial air tour operations at Crater Lake National Park may be denied without the establishment of an air tour management plan by the Director of the National Park Service if the Director determines that such operations would adversely affect park resources or visitor experiences.”

Pub. L. 112–95, §501(c)(1), added subpar. (C).

Subsec. (b)(7). Pub. L. 112–95, §501(c)(2), added par. (7).

Subsec. (c)(2)(I). Pub. L. 112–95, §501(d)(1), added subpar. (I) and struck out former subpar. (I) which read as follows: “shall allow for modifications of the interim operating authority based on experience if the modi-

fication improves protection of national park resources and values and of tribal lands.”

Subsec. (c)(3)(A). Pub. L. 112–95, § 501(d)(2), substituted “without further environmental process beyond that described in this paragraph, if—” for “if the Administrator determines the authority is necessary to ensure competition in the provision of commercial air tour operations over the park or tribal lands.” and added cls. (i) to (iii).

Subsecs. (d) to (g). Pub. L. 112–95, § 501(e), added subsec. (d) and redesignated former subsecs. (d) to (f) as (e) to (g), respectively.

2005—Subsec. (e). Pub. L. 109–115 inserted at end “For purposes of this subsection, an air tour operator flying over the Hoover Dam in the Lake Mead National Recreation Area en route to the Grand Canyon National Park shall be deemed to be flying solely as a transportation route.”

2003—Subsec. (a)(1). Pub. L. 108–176, § 323(a)(1), inserted “, as defined by this section,” after “tribal lands” in introductory provisions.

Subsec. (b)(3)(A), (B). Pub. L. 108–176, § 323(a)(2), inserted “over a national park” after “operations”.

Subsec. (b)(3)(C). Pub. L. 108–176, § 323(a)(3), inserted “over a national park that are also” after “operations”.

Subsec. (b)(3)(D). Pub. L. 108–176, § 323(a)(4), substituted “over a national park” for “at the park”.

Subsec. (b)(3)(E). Pub. L. 108–176, § 323(a)(5), inserted “over a national park” before “if the plan includes”.

Subsec. (c)(2)(A)(i), (B). Pub. L. 108–176, § 323(a)(6), inserted “over a national park” after “operations”.

Subsec. (f)(1). Pub. L. 108–176, § 323(a)(7), inserted “over a national park” after “operation”.

Subsec. (f)(4). Pub. L. 108–176, § 323(a)(10), inserted “OVER A NATIONAL PARK” after “OPERATION” in heading.

Subsec. (f)(4)(A). Pub. L. 108–176, § 323(a)(8), in introductory provisions, substituted “commercial air tour operation over a national park” for “commercial air tour operation” and “park (except the Grand Canyon National Park), or over tribal lands (except those within or abutting the Grand Canyon National Park),” for “park, or over tribal lands.”

Subsec. (f)(4)(B). Pub. L. 108–176, § 323(a)(9), inserted “over a national park” after “operation” in introductory provisions.

Statutory Notes and Related Subsidiaries

EFFECTIVE DATE OF 2012 AMENDMENT

Amendment by Pub. L. 112–141 effective Oct. 1, 2012, see section 3(a) of Pub. L. 112–141, set out as an Effective and Termination Dates of 2012 Amendment note under section 101 of Title 23, Highways.

EFFECTIVE DATE OF 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

Section applicable only to fiscal years beginning after Sept. 30, 1999, see section 3 of Pub. L. 106–181, set out as an Effective Date of 2000 Amendments note under section 106 of this title.

OVERFLIGHTS IN GRAND CANYON NATIONAL PARK

Pub. L. 112–141, div. C, title V, § 35001, July 6, 2012, 126 Stat. 842, provided that:

“(a) DETERMINATIONS WITH RESPECT TO SUBSTANTIAL RESTORATION OF NATURAL QUIET AND EXPERIENCE.—

“(1) IN GENERAL.—Notwithstanding any other provision of law, for purposes of section 3(b)(1) of Public Law 100–91 [(former) 16 U.S.C. 1a–1 note [now set out below]], the substantial restoration of the natural quiet and experience of the Grand Canyon National Park (in this section referred to as the ‘Park’) shall be considered to be achieved in the Park if, for at

least 75 percent of each day, 50 percent of the Park is free of sound produced by commercial air tour operations that have an allocation to conduct commercial air tours in the Park as of the date of enactment of this Act [see section 3(a), (b) of Pub. L. 112–141, set out as Effective and Termination Dates of 2012 Amendment notes under section 101 of Title 23, Highways].

“(2) CONSIDERATIONS.—

“(A) IN GENERAL.—For purposes of determining whether substantial restoration of the natural quiet and experience of the Park has been achieved in accordance with paragraph (1), the Secretary of the Interior (in this section referred to as the ‘Secretary’) shall use—

“(i) the 2-zone system for the Park in effect on the date of enactment of this Act to assess impacts relating to substantial restoration of natural quiet at the Park, including—

“(I) the thresholds for noticeability and audibility; and

“(II) the distribution of land between the 2 zones; and

“(ii) noise modeling science that is—

“(I) developed for use at the Park, specifically Integrated Noise Model Version 6.2;

“(II) validated by reasonable standards for conducting field observations of model results; and

“(III) accepted and validated by the Federal Interagency Committee on Aviation Noise.

“(B) SOUND FROM OTHER SOURCES.—The Secretary shall not consider sound produced by sources other than commercial air tour operations, including sound emitted by other types of aircraft operations or other noise sources, for purposes of—

“(i) making recommendations, developing a final plan, or issuing regulations relating to commercial air tour operations in the Park; or

“(ii) determining under paragraph (1) whether substantial restoration of the natural quiet and experience of the Park has been achieved.

“(3) CONTINUED MONITORING.—The Secretary shall continue monitoring noise from aircraft operating over the Park below 17,999 feet MSL to ensure continued compliance with the substantial restoration of natural quiet and experience of the Park.

“(4) DAY DEFINED.—For purposes of this section, the term ‘day’ means the hours between 7:00 a.m. and 7:00 p.m.

“(b) CONVERSION TO QUIET TECHNOLOGY AIRCRAFT.—

“(1) IN GENERAL.—Not later than 15 years after the date of enactment of this Act, all commercial air tour aircraft operating in the Grand Canyon National Park Special Flight Rules Area shall be required to fully convert to quiet aircraft technology (as determined in accordance with regulations in effect on the day before the date of enactment of this Act).

“(2) CONVERSION INCENTIVES.—Not later than 60 days after the date of enactment of this Act, the Secretary and the Administrator of the Federal Aviation Administration shall provide incentives for commercial air tour operators that convert to quiet aircraft technology (as determined in accordance with the regulations in effect on the day before the date of enactment of this Act) before the date specified in paragraph (1), such as increasing the flight allocations for such operators on a net basis consistent with section 804(c) of the National Park[s] Air Tours [Tour] Management Act of 2000 (title VIII of Public Law 106–181) [set out below], provided that the cumulative impact of such operations does not increase noise at Grand Canyon National Park.”

GRAND CANYON OVERFLIGHT RULES

Pub. L. 109–115, div. A, title I, § 177, Nov. 30, 2005, 119 Stat. 2427, provided in part that: “Nothing in this provision [amending this section] shall allow exemption from overflight rules for the Grand Canyon.”

QUIET TECHNOLOGY RULEMAKING FOR AIR TOURS OVER
GRAND CANYON NATIONAL PARK

Pub. L. 108-176, title III, §323(b), Dec. 12, 2003, 117 Stat. 2541, provided that:

“(1) DEADLINE FOR RULE.—No later than January 2005, the Secretary of Transportation shall issue a final rule to establish standards for quiet technology that are reasonably achievable at Grand Canyon National Park, based on the Supplemental Notice of Proposed Rulemaking on Noise Limitations for Aircraft Operations in the Vicinity of Grand Canyon National Park, published in the Federal Register on March 24, 2003.

“(2) RESOLUTION OF DISPUTES.—Subject to applicable administrative law and procedures, if the Secretary determines that a dispute among interested parties (including outside groups) or government agencies cannot be resolved within a reasonable time frame and could delay finalizing the rulemaking described in subsection (a), or implementation of final standards under such rule, due to controversy over adoption of quiet technology routes, establishment of incentives to encourage adoption of such routes, establishment of incentives to encourage adoption of quiet technology, or other measures to achieve substantial restoration of natural quiet, the Secretary shall refer such dispute to a recognized center for environmental conflict resolution.”

NATIONAL PARKS AIR TOUR MANAGEMENT

Pub. L. 106-181, title VIII, Apr. 5, 2000, 114 Stat. 185, as amended by Pub. L. 106-528, §8(b), Nov. 22, 2000, 114 Stat. 2522, provided that:

“SEC. 801. SHORT TITLE.

“This title may be cited as the ‘National Parks Air Tour Management Act of 2000’.

“SEC. 802. FINDINGS.

“Congress finds that—

“(1) the Federal Aviation Administration has sole authority to control airspace over the United States;

“(2) the Federal Aviation Administration has the authority to preserve, protect, and enhance the environment by minimizing, mitigating, or preventing the adverse effects of aircraft overflights on public and tribal lands;

“(3) the National Park Service has the responsibility of conserving the scenery and natural and historic objects and wildlife in national parks and of providing for the enjoyment of the national parks in ways that leave the national parks unimpaired for future generations;

“(4) the protection of tribal lands from aircraft overflights is consistent with protecting the public health and welfare and is essential to the maintenance of the natural and cultural resources of Indian tribes;

“(5) the National Parks Overflights Working Group, composed of general aviation, commercial air tour, environmental, and Native American representatives, recommended that the Congress enact legislation based on the Group’s consensus work product; and

“(6) this title reflects the recommendations made by that Group.

“SEC. 803. AIR TOUR MANAGEMENT PLANS FOR NATIONAL PARKS.

“(a) IN GENERAL.—[Enacted this section.]

“(b) CONFORMING AMENDMENT.—[Amended analysis for chapter 401 of this title.]

“(c) COMPLIANCE WITH OTHER REGULATIONS.—For purposes of section 40128 of title 49, United States Code—

“(1) regulations issued by the Secretary of Transportation and the Administrator [of the Federal Aviation Administration] under section 3 of Public Law 100-91 [(former) 16 U.S.C. 1a-1 note [now set out below)]; and

“(2) commercial air tour operations carried out in compliance with the requirements of those regulations,

shall be deemed to meet the requirements of such section 40128.

“SEC. 804. QUIET AIRCRAFT TECHNOLOGY FOR GRAND CANYON.

“(a) QUIET TECHNOLOGY REQUIREMENTS.—Within 12 months after the date of the enactment of this Act [Apr. 5, 2000], the Administrator shall designate reasonably achievable requirements for fixed-wing and helicopter aircraft necessary for such aircraft to be considered as employing quiet aircraft technology for purposes of this section. If the Administrator determines that the Administrator will not be able to make such designation before the last day of such 12-month period, the Administrator shall transmit to Congress a report on the reasons for not meeting such time period and the expected date of such designation.

“(b) ROUTES OR CORRIDORS.—In consultation with the Director and the advisory group established under section 805, the Administrator shall establish, by rule, routes or corridors for commercial air tour operations (as defined in section 40128(f) of title 49, United States Code) by fixed-wing and helicopter aircraft that employ quiet aircraft technology for—

“(1) tours of the Grand Canyon originating in Clark County, Nevada; and

“(2) ‘local loop’ tours originating at the Grand Canyon National Park Airport, in Tusayan, Arizona, provided that such routes or corridors can be located in areas that will not negatively impact the substantial restoration of natural quiet, tribal lands, or safety.

“(c) OPERATIONAL CAPS.—Commercial air tour operations by any fixed-wing or helicopter aircraft that employs quiet aircraft technology and that replaces an existing aircraft shall not be subject to the operational flight allocations that apply to other commercial air tour operations of the Grand Canyon, provided that the cumulative impact of such operations does not increase noise at the Grand Canyon.

“(d) MODIFICATION OF EXISTING AIRCRAFT TO MEET STANDARDS.—A commercial air tour operation by a fixed-wing or helicopter aircraft in a commercial air tour operator’s fleet on the date of the enactment of this Act [Apr. 5, 2000] that meets the requirements designated under subsection (a), or is subsequently modified to meet the requirements designated under subsection (a), may be used for commercial air tour operations under the same terms and conditions as a replacement aircraft under subsection (c) without regard to whether it replaces an existing aircraft.

“(e) MANDATE TO RESTORE NATURAL QUIET.—Nothing in this Act [should be “this title”] shall be construed to relieve or diminish—

“(1) the statutory mandate imposed upon the Secretary of the Interior and the Administrator of the Federal Aviation Administration under Public Law 100-91 [(former) 16 U.S.C. 1a-1 note [now set out below)] to achieve the substantial restoration of the natural quiet and experience at the Grand Canyon National Park; and

“(2) the obligations of the Secretary and the Administrator to promulgate forthwith regulations to achieve the substantial restoration of the natural quiet and experience at the Grand Canyon National Park.

“SEC. 805. ADVISORY GROUP.

“(a) ESTABLISHMENT.—Not later than 1 year after the date of the enactment of this Act [Apr. 5, 2000], the Administrator [of the Federal Aviation Administration] and the Director of the National Park Service shall jointly establish an advisory group to provide continuing advice and counsel with respect to commercial air tour operations over and near national parks.

“(b) MEMBERSHIP.—

“(1) IN GENERAL.—The advisory group shall be composed of—

“(A) a balanced group of—

“(i) representatives of general aviation;

“(ii) representatives of commercial air tour operators;

“(iii) representatives of environmental concerns; and

“(iv) representatives of Indian tribes;

“(B) a representative of the Federal Aviation Administration; and

“(C) a representative of the National Park Service.

“(2) EX OFFICIO MEMBERS.—The Administrator (or the designee of the Administrator) and the Director (or the designee of the Director) shall serve as ex officio members.

“(3) CHAIRPERSON.—The representative of the Federal Aviation Administration and the representative of the National Park Service shall serve alternating 1-year terms as chairman of the advisory group, with the representative of the Federal Aviation Administration serving initially until the end of the calendar year following the year in which the advisory group is first appointed.

“(c) DUTIES.—The advisory group shall provide advice, information, and recommendations to the Administrator and the Director—

“(1) on the implementation of this title and the amendments made by this title;

“(2) on commonly accepted quiet aircraft technology for use in commercial air tour operations over a national park or tribal lands, which will receive preferential treatment in a given air tour management plan;

“(3) on other measures that might be taken to accommodate the interests of visitors to national parks; and

“(4) at the request of the Administrator and the Director, safety, environmental, and other issues related to commercial air tour operations over a national park or tribal lands.

“(d) COMPENSATION; SUPPORT; FACAs.—

“(1) COMPENSATION AND TRAVEL.—Members of the advisory group who are not officers or employees of the United States, while attending conferences or meetings of the group or otherwise engaged in its business, or while serving away from their homes or regular places of business, may be allowed travel expenses, including per diem in lieu of subsistence, as authorized by section 5703 of title 5, United States Code, for persons in the Government service employed intermittently.

“(2) ADMINISTRATIVE SUPPORT.—The Federal Aviation Administration and the National Park Service shall jointly furnish to the advisory group clerical and other assistance.

“(3) NONAPPLICATION OF FACAs.—Section 14 of the Federal Advisory Committee Act (5 U.S.C. App.) does not apply to the advisory group.

“SEC. 806. PROHIBITION OF COMMERCIAL AIR TOUR OPERATIONS OVER THE ROCKY MOUNTAIN NATIONAL PARK.

“Effective beginning on the date of the enactment of this Act [Apr. 5, 2000], no commercial air tour operation may be conducted in the airspace over the Rocky Mountain National Park notwithstanding any other provision of this Act or section 40128 of title 49, United States Code.

“SEC. 807. REPORTS.

“(a) OVERFLIGHT FEE REPORT.—Not later than 180 days after the date of the enactment of this Act [Apr. 5, 2000], the Administrator [of the Federal Aviation Administration] shall transmit to Congress a report on the effects overflight fees are likely to have on the commercial air tour operation industry. The report shall include, but shall not be limited to—

“(1) the viability of a tax credit for the commercial air tour operators equal to the amount of any overflight fees charged by the National Park Service; and

“(2) the financial effects proposed offsets are likely to have on Federal Aviation Administration budgets and appropriations.

“(b) QUIET AIRCRAFT TECHNOLOGY REPORT.—Not later than 2 years after the date of the enactment of this

Act, the Administrator and the Director of the National Park Service shall jointly transmit a report to Congress on the effectiveness of this title in providing incentives for the development and use of quiet aircraft technology.

“SEC. 808. METHODOLOGIES USED TO ASSESS AIR TOUR NOISE.

“Any methodology adopted by a Federal agency to assess air tour noise in any unit of the national park system (including the Grand Canyon and Alaska) shall be based on reasonable scientific methods.

“SEC. 809. ALASKA EXEMPTION.

“The provisions of this title and section 40128 of title 49, United States Code, as added by section 803(a), do not apply to any land or waters located in Alaska.”

STUDY TO DETERMINE APPROPRIATE MINIMUM ALTITUDE FOR AIRCRAFT FLYING OVER NATIONAL PARK SYSTEM UNITS

Pub. L. 100-91, Aug. 18, 1987, 101 Stat. 674, as amended by Pub. L. 106-510, §3(a)(2), (b)(2), Nov. 13, 2000, 114 Stat. 2363, provided that:

“SECTION 1. STUDY OF PARK OVERFLIGHTS.

“(a) STUDY BY PARK SERVICE.—The Secretary of the Interior (hereinafter referred to as the ‘Secretary’), acting through the Director of the National Park Service, shall conduct a study to determine the proper minimum altitude which should be maintained by aircraft when flying over units of the National Park System. The Secretary of Transportation, acting through the Administrator of the Federal Aviation Administration (hereinafter referred to as the ‘Administrator’), shall provide technical assistance to the Secretary in carrying out the study.

“(b) GENERAL REQUIREMENTS OF STUDY.—The study shall identify any problems associated with overflight by aircraft of units of the National Park System and shall provide information regarding the types of overflight which may be impacting on park unit resources. The study shall distinguish between the impacts caused by sightseeing aircraft, military aircraft, commercial aviation, general aviation, and other forms of aircraft which affect such units. The study shall identify those park system units, and portions thereof, in which the most serious adverse impacts from aircraft overflights exist.

“(c) SPECIFIC REQUIREMENTS.—The study under this section shall include research at the following units of the National Park System: Cumberland Island National Seashore, Yosemite National Park, Hawai’i Volcanoes National Park, Haleakalā National Park, Glacier National Park, and Mount Rushmore National Memorial, and at no less than four additional units of the National Park System, excluding all National Park System units in the State of Alaska. The research at each such unit shall provide information and an evaluation regarding each of the following:

“(1) the impacts of aircraft noise on the safety of the park system users, including hikers, rock-climbers, and boaters;

“(2) the impairment of visitor enjoyment associated with flights over such units of the National Park System;

“(3) other injurious effects of overflights on the natural, historical, and cultural resources for which such units were established; and

“(4) the values associated with aircraft flights over such units of the National Park System in terms of visitor enjoyment, the protection of persons or property, search and rescue operations and firefighting.

Such research shall evaluate the impact of overflights by both fixed-wing aircraft and helicopters. The research shall include an evaluation of the differences in noise levels within such units of the National Park System which are associated with flight by commonly used aircraft at different altitudes. The research shall apply only to overflights and shall not apply to landing fields within, or adjacent to, such units.

“(d) REPORT TO CONGRESS.—The Secretary shall submit a report to the Congress within 3 years after the enactment of this Act [Aug. 18, 1987] containing the results of the study carried out under this section. Such report shall also contain recommendations for legislative and regulatory action which could be taken regarding the information gathered pursuant to paragraphs (1) through (4) of subsection (c). Before submission to the Congress, the Secretary shall provide a draft of the report and recommendations to the Administrator for review. The Administrator shall review such report and recommendations and notify the Secretary of any adverse effects which the implementation of such recommendations would have on the safety of aircraft operations. The Administrator shall consult with the Secretary to resolve issues relating to such adverse effects. The final report shall include a finding by the Administrator that implementation of the recommendations of the Secretary will not have adverse effects on the safety of aircraft operations, or if the Administrator is unable to make such finding, a statement by the Administrator of the reasons he believes the Secretary’s recommendations will have an adverse effect on the safety of aircraft operations.

“(e) FAA REVIEW OF RULES.—The Administrator shall review current rules and regulations pertaining to flights of aircraft over units of the National Park System at which research is conducted under subsection (c) and over any other such units at which such a review is determined necessary by the Administrator or is requested by the Secretary. In the review under this subsection, the Administrator shall determine whether changes are needed in such rules and regulations on the basis of aviation safety. Not later than 180 days after the identification of the units of the National Park System for which research is to be conducted under subsection (c), the Administrator shall submit a report to Congress containing the results of the review along with recommendations for legislative and regulatory action which are needed to implement any such changes.

“(f) AUTHORIZATION.—There are authorized to be appropriated such sums as may be necessary to carry out the studies and review under this section.

“SEC. 2. FLIGHTS OVER YOSEMITE AND HALEAKALĀ DURING STUDY AND REVIEW.

“(a) YOSEMITE NATIONAL PARK.—During the study and review periods provided in subsection (c), it shall be unlawful for any fixed wing aircraft or helicopter flying under visual flight rules to fly at an altitude of less than 2,000 feet over the surface of Yosemite National Park. For purposes of this subsection, the term ‘surface’ refers to the highest terrain within the park which is within 2,000 feet laterally of the route of flight and with respect to Yosemite Valley such term refers to the upper-most rim of the valley.

“(b) HALEAKALĀ NATIONAL PARK.—During the study and review periods provided in subsection (c), it shall be unlawful for any fixed wing aircraft or helicopter flying under visual flight rules to fly at an altitude below 9,500 feet above mean sea level over the surface of any of the following areas in Haleakalā National Park: Haleakala Crater, Crater Cabins, the Scientific Research Reserve, Halemau Trail, Kaupo Gap Trail, or any designated tourist viewpoint.

“(c) STUDY AND REVIEW PERIODS.—For purposes of subsections (a) and (b), the study period shall be the period of the time after the date of enactment of this Act [Aug. 18, 1987] and prior to the submission of the report under section 1. The review period shall comprise a 2-year period for Congressional review after the submission of the report to Congress.

“(d) EXCEPTIONS.—The prohibitions contained in subsections (a) and (b) shall not apply to any of the following:

- “(1) emergency situations involving the protection of persons or property, including aircraft;
- “(2) search and rescue operations;
- “(3) flights for purposes of firefighting or for required administrative purposes; and

“(4) compliance with instructions of an air traffic controller.

“(e) ENFORCEMENT.—For purposes of enforcement, the prohibitions contained in subsections (a) and (b) shall be treated as requirements established pursuant to section 307 of the Federal Aviation Act of 1958 [see 49 U.S.C. 40103(b)]. To provide information to pilots regarding the restrictions established under this Act, the Administrator shall provide public notice of such restrictions in appropriate Federal Aviation Administration publications as soon as practicable after the enactment of this Act [Aug. 18, 1987].

“SEC. 3. GRAND CANYON NATIONAL PARK.

“(a) Noise associated with aircraft overflights at the Grand Canyon National Park is causing a significant adverse effect on the natural quiet and experience of the park and current aircraft operations at the Grand Canyon National Park have raised serious concerns regarding public safety, including concerns regarding the safety of park users.

“(b) RECOMMENDATIONS.—

“(1) SUBMISSION.—Within 30 days after the enactment of this Act [Aug. 18, 1987], the Secretary shall submit to the Administrator recommendations regarding actions necessary for the protection of resources in the Grand Canyon from adverse impacts associated with aircraft overflights. The recommendations shall provide for substantial restoration of the natural quiet and experience of the park and protection of public health and safety from adverse effects associated with aircraft overflight. Except as provided in subsection (c), the recommendations shall contain provisions prohibiting the flight of aircraft below the rim of the Canyon, and shall designate flight free zones. Such zones shall be flight free except for purposes of administration and for emergency operations, including those required for the transportation of persons and supplies to and from Supai Village and the lands of the Havasupai Indian Tribe of Arizona. The Administrator, after consultation with the Secretary, shall define the rim of the Canyon in a manner consistent with the purposes of this paragraph.

“(2) IMPLEMENTATION.—Not later than 90 days after receipt of the recommendations under paragraph (1) and after notice and opportunity for hearing, the Administrator shall prepare and issue a final plan for the management of air traffic in the air space above the Grand Canyon. The plan shall, by appropriate regulation, implement the recommendations of the Secretary without change unless the Administrator determines that implementing the recommendations would adversely affect aviation safety. If the Administrator determines that implementing the recommendations would adversely affect aviation safety, he shall, not later than 60 days after making such determination, in consultation with the Secretary and after notice and opportunity for hearing, review the recommendations consistent with the requirements of paragraph (1) to eliminate the adverse effects on aviation safety and issue regulations implementing the revised recommendations in the plan. In addition to the Administrator’s authority to implement such regulations under the Federal Aviation Act of 1958 [see 49 U.S.C. 40101 et seq.], the Secretary may enforce the appropriate requirements of the plan under such rules and regulations applicable to the units of the National Park System as he deems appropriate.

“(3) REPORT.—Within 2 years after the effective date of the plan required by subsection (b)(2), the Secretary shall submit to the Congress a report discussing—

- “(A) whether the plan has succeeded in substantially restoring the natural quiet in the park; and
- “(B) such other matters, including possible revisions in the plan, as may be of interest.

The report shall include comments by the Administrator regarding the effect of the plan’s implementation on aircraft safety.

“(c) HELICOPTER FLIGHTS OF RIVER RUNNERS.—Subsection (b) shall not prohibit the flight of helicopters—

“(1) which fly a direct route between a point on the north rim outside of the Grand Canyon National Park and locations on the Hualapai Indian Reservation (as designated by the Tribe); and

“(2) whose sole purpose is transporting individuals to or from boat trips on the Colorado River and any guide of such a trip.

“SEC. 4. BOUNDARY WATERS CANOE AREA WILDERNESS.

“The Administrator shall conduct surveillance of aircraft flights over the Boundary Waters Canoe Area Wilderness as authorized by the Act of October 21, 1978 (92 Stat. 1649-1659) for a period of not less than 180 days beginning within 60 days of enactment of this Act [Aug. 18, 1987]. In addition to any actions the Administrator may take as a result of such surveillance, he shall provide a report to the Committee on Interior and Insular Affairs and the Committee on Public Works and Transportation of the United States House of Representatives and to the Committee on Energy and Natural Resources and the Committee on Commerce, Science, and Transportation of the United States Senate. Such report is to be submitted within 30 days of completion of the surveillance activities. Such report shall include but not necessarily be limited to information on the type and frequency of aircraft using the airspace over the Boundary Waters Canoe Area Wilderness.

“SEC. 5. ASSESSMENT OF NATIONAL FOREST SYSTEM WILDERNESS OVERFLIGHTS.

“(a) ASSESSMENT BY FOREST SERVICE.—The Chief of the Forest Service (hereinafter referred to as the ‘Chief’) shall conduct an assessment to determine what, if any, adverse impacts to wilderness resources are associated with overflights of National Forest System wilderness areas. The Administrator of the Federal Aviation Administration shall provide technical assistance to the Chief in carrying out the assessment. Such assessment shall apply only to overflight of wilderness areas and shall not apply to aircraft flights or landings adjacent to National Forest System wilderness units. The assessment shall not apply to any National Forest System wilderness units in the State of Alaska.

“(b) REPORT TO CONGRESS.—The Chief shall submit a report to Congress within 2 years after enactment of this Act [Aug. 18, 1987] containing the results of the assessments carried out under this section.

“(c) AUTHORIZATION.—Effective October 1, 1987, there are authorized to be appropriated such sums as may be necessary to carry out the assessment under this section.

“SEC. 6. CONSULTATION WITH FEDERAL AGENCIES.

“In conducting the study and the assessment required by this Act, the Secretary of the Interior and the Chief of the Forest Service shall consult with other Federal agencies that are engaged in an analysis of the impacts of aircraft overflights over federally-owned land.”

§ 40129. Collaborative decisionmaking pilot program

(a) ESTABLISHMENT.—Not later than 90 days after the date of enactment of this section, the Administrator of the Federal Aviation Administration shall establish a collaborative decisionmaking pilot program in accordance with this section.

(b) DURATION.—Except as provided in subsection (k), the pilot program shall be in effect for a period of 2 years.

(c) GUIDELINES.—

(1) ISSUANCE.—The Administrator, with the concurrence of the Attorney General, shall issue guidelines concerning the pilot program. Such guidelines, at a minimum, shall—

(A) define a capacity reduction event;

(B) establish the criteria and process for determining when a capacity reduction event exists that warrants the use of collaborative decisionmaking among carriers at airports participating in the pilot program; and

(C) prescribe the methods of communication to be implemented among carriers during such an event.

(2) VIEWS.—The Administrator may obtain the views of interested parties in issuing the guidelines.

(d) EFFECT OF DETERMINATION OF EXISTENCE OF CAPACITY REDUCTION EVENT.—Upon a determination by the Administrator that a capacity reduction event exists, the Administrator may authorize air carriers and foreign air carriers operating at an airport participating in the pilot program to communicate for a period of time not to exceed 24 hours with each other concerning changes in their respective flight schedules in order to use air traffic capacity most effectively. The Administration shall facilitate and monitor such communication. The Attorney General, or the Attorney General’s designee, may monitor such communication.

(e) SELECTION OF PARTICIPATING AIRPORTS.—Not later than 30 days after the date on which the Administrator establishes the pilot program, the Administrator shall select 2 airports to participate in the pilot program from among the most capacity-constrained airports in the Nation based on the Administration’s Airport Capacity Benchmark Report 2001 or more recent data on airport capacity that is available to the Administrator. The Administrator shall select an airport for participation in the pilot program if the Administrator determines that collaborative decisionmaking among air carriers and foreign air carriers would reduce delays at the airport and have beneficial effects on reducing delays in the national airspace system as a whole.

(f) ELIGIBILITY OF AIR CARRIERS.—An air carrier or foreign air carrier operating at an airport selected to participate in the pilot program is eligible to participate in the pilot program if the Administrator determines that the carrier has the operational and communications capability to participate in the pilot program.

(g) MODIFICATION OR TERMINATION OF PILOT PROGRAM AT AN AIRPORT.—The Administrator, with the concurrence of the Attorney General, may modify or end the pilot program at an airport before the term of the pilot program has expired, or may ban an air carrier or foreign air carrier from participating in the program, if the Administrator determines that the purpose of the pilot program is not being furthered by participation of the airport or air carrier or if the Secretary of Transportation, with the concurrence of the Attorney General, finds that the pilot program or the participation of an air carrier or foreign air carrier in the pilot program has had, or is having, an adverse effect on competition among carriers.

(h) ANTITRUST IMMUNITY.—

(1) IN GENERAL.—Unless, within 5 days after receiving notice from the Secretary of the

Secretary's intention to exercise authority under this subsection, the Attorney General submits to the Secretary a written objection to such action, including reasons for such objection, the Secretary may exempt an air carrier's or foreign air carrier's activities that are necessary to participate in the pilot program under this section from the antitrust laws for the sole purpose of participating in the pilot program. Such exemption shall not extend to any discussions, agreements, or activities outside the scope of the pilot program.

(2) **ANTITRUST LAWS DEFINED.**—In this section, the term "antitrust laws" has the meaning given that term in the first section of the Clayton Act (15 U.S.C. 12).

(i) **CONSULTATION WITH ATTORNEY GENERAL.**—The Secretary shall consult with the Attorney General regarding the design and implementation of the pilot program, including determining whether a limit should be set on the number of occasions collaborative decisionmaking could be employed during the initial 2-year period of the pilot program.

(j) **EVALUATION.**—

(1) **IN GENERAL.**—Before the expiration of the 2-year period for which the pilot program is authorized under subsection (b), the Administrator shall determine whether the pilot program has facilitated more effective use of air traffic capacity and the Secretary, with the concurrence of the Attorney General, shall determine whether the pilot program has had an adverse effect on airline competition or the availability of air services to communities. The Administrator shall also examine whether capacity benefits resulting from the participation in the pilot program of an airport resulted in capacity benefits to other parts of the national airspace system.

(2) **OBTAINING NECESSARY DATA.**—The Administrator may require participating air carriers and airports to provide data necessary to evaluate the pilot program's impact.

(k) **EXTENSION OF PILOT PROGRAM.**—At the end of the 2-year period for which the pilot program is authorized, the Administrator, with the concurrence of the Attorney General, may continue the pilot program for an additional 2 years and expand participation in the program to up to 7 additional airports if the Administrator determines pursuant to subsection (j) that the pilot program has facilitated more effective use of air traffic capacity and if the Secretary, with the concurrence of the Attorney General, determines that the pilot program has had no adverse effect on airline competition or the availability of air services to communities. The Administrator shall select the additional airports to participate in the extended pilot program in the same manner in which airports were initially selected to participate.

(Added Pub. L. 108–176, title IV, § 423(a), Dec. 12, 2003, 117 Stat. 2552.)

Editorial Notes

REFERENCES IN TEXT

The date of enactment of this section, referred to in subsec. (a), is the date of enactment of Pub. L. 108–176, which was approved Dec. 12, 2003.

Statutory Notes and Related Subsidiaries

EFFECTIVE DATE

Section 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 an Effective Date of 2003 Amendment note under section 106 of this title.

§ 40130. FAA authority to conduct criminal history record checks

(a) **CRIMINAL HISTORY BACKGROUND CHECKS.**—

(1) **ACCESS TO INFORMATION.**—The Administrator of the Federal Aviation Administration, for certification purposes of the Administration only, is authorized—

(A) to conduct, in accordance with the established request process, a criminal history background check of an airman in the criminal repositories of the Federal Bureau of Investigation and States by submitting positive identification of the airman to a fingerprint-based repository in compliance with section 217 of the National Crime Prevention and Privacy Compact Act of 1998 (42 U.S.C. 14616);¹ and

(B) to receive relevant criminal history record information regarding the airman checked.

(2) **RELEASE OF INFORMATION.**—In accessing a repository referred to in paragraph (1), the Administrator shall be subject to the conditions and procedures established by the Department of Justice or the State, as appropriate, for other governmental agencies conducting background checks for noncriminal justice purposes.

(3) **LIMITATION.**—The Administrator may not use the authority under paragraph (1) to conduct criminal investigations.

(4) **REIMBURSEMENT.**—The Administrator may collect reimbursement to process the fingerprint-based checks under this subsection, to be used for expenses incurred, including Federal Bureau of Investigation fees, in providing these services.

(b) **DESIGNATED EMPLOYEES.**—The Administrator shall designate, by order, employees of the Administration who may carry out the authority described in subsection (a).

(Added Pub. L. 112–95, title VIII, § 802(a), Feb. 14, 2012, 126 Stat. 118.)

Editorial Notes

REFERENCES IN TEXT

Section 217 of the National Crime Prevention and Privacy Compact Act of 1998, referred to in subsec. (a)(1)(A), is section 217 of subtitle A of title II of Pub. L. 105–251, which was classified to section 14616 of Title 42, The Public Health and Welfare, prior to editorial reclassification as section 40316 of Title 34, Crime Control and Law Enforcement.

SUBPART II—ECONOMIC REGULATION

CHAPTER 411—AIR CARRIER CERTIFICATES

Sec.

41101. Requirement for a certificate.

¹ See References in Text note below.