

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.

DISADVANTAGED BUSINESS ENTERPRISE PROGRAM

Pub. L. 115-254, div. B, title I, §157, Oct. 5, 2018, 132 Stat. 3218, as amended by Pub. L. 118-63, title VII, §751, May 16, 2024, 138 Stat. 1284, provided that:

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

“(1) While significant progress has occurred due to the establishment of the airport disadvantaged business enterprise program (sections 47107(e) and 47113 of title 49, United States Code), discrimination and related barriers continue to pose significant obstacles for minority- and women-owned businesses seeking to do business in airport-related markets across the Nation. These continuing barriers merit the continuation of the airport disadvantaged business enterprise program.

“(2) Congress has received and reviewed testimony and documentation of race and gender discrimination from numerous sources, including congressional hearings and roundtables, scientific reports, reports issued by public and private agencies, news stories, reports of discrimination by organizations and individuals, and discrimination lawsuits. This testimony and documentation shows that race- and gender-neutral efforts alone are insufficient to address the problem.

“(3) This testimony and documentation demonstrates that discrimination across the Nation poses a barrier to full and fair participation in airport-related businesses of women business owners and minority business owners in the racial groups detailed in parts 23 and 26 of title 49, Code of Federal Regulations, and has impacted firm development and many aspects of airport-related business in the public and private markets.

“(4) This testimony and documentation provides a strong basis that there is a compelling need for the continuation of the airport disadvantaged business enterprise [“DBE”] program and the airport concessions disadvantaged business enterprise [“ACDBE”] program to address race and gender discrimination in airport-related business.

“(b) PROMPT PAYMENTS.—

“(1) REPORTING OF COMPLAINTS.—Not later than 120 days after the date of enactment of this Act [Oct. 5, 2018], the Administrator of the Federal Aviation Administration shall ensure that each airport that participates in the Program tracks, and reports to the Administrator, the number of covered complaints made in relation to activities at that airport.

“(2) IMPROVING COMPLIANCE.—

“(A) IN GENERAL.—The Administrator shall take actions to assess and improve compliance with prompt payment requirements under part 26 of title 49, Code of Federal Regulations.

“(B) CONTENTS OF ASSESSMENT.—In carrying out subparagraph (A), the Administrator shall assess—

“(i) whether requirements relating to the inclusion of prompt payment language in contracts are being satisfied;

“(ii) whether and how airports are enforcing prompt payment requirements;

“(iii) the processes by which covered complaints are received and resolved by airports;

“(iv) whether improvements need to be made to—

“(I) better track covered complaints received by airports; and

“(II) assist the resolution of covered complaints in a timely manner;

“(v) whether changes to prime contractor specifications need to be made to ensure prompt payments to subcontractors; and,

“(vi) whether changes to prime contractor specifications need to be made to ensure prompt payment of retainage to subcontractors.

“(C) REPORTING.—The Administrator shall make available to the public on an appropriate website operated by the Administrator a report describing the results of the assessment completed under this paragraph, including a plan to respond to such results.

“(D) PUBLISHING DATA.—The Secretary of Transportation shall report on a publicly accessible website the uniform report of DBE awards/commitments and payments specified in part 26 of title 49, Code of Federal Regulations, and the uniform report of ACDBE Participation for non-car rental and car rental concessions, for each airport sponsor beginning with fiscal year 2025.

“(3) DEFINITIONS.—In this subsection, the following definitions apply:

“(A) COVERED COMPLAINT.—The term ‘covered complaint’ means a complaint relating to an alleged failure to satisfy a prompt payment requirement under part 26 of title 49, Code of Federal Regulations.

“(B) PROGRAM.—The term ‘Program’ means the airport disadvantaged business enterprise program referenced in subsection (a)(1) [probably means section 140(a)(1)] of the FAA Modernization and Reform Act of 2012 [Pub. L. 112-95] (49 U.S.C. 47113 note).”

Pub. L. 112-95, title I, §140(a), Feb. 14, 2012, 126 Stat. 27, provided that: “Congress finds the following:

“(1) While significant progress has occurred due to the establishment of the airport disadvantaged business enterprise program (49 U.S.C. 47107(e) and 47113), discrimination and related barriers continue to pose significant obstacles for minority- and women-owned businesses seeking to do business in airport-related markets across the Nation. These continuing barriers merit the continuation of the airport disadvantaged business enterprise program.

“(2) Congress has received and reviewed testimony and documentation of race and gender discrimination from numerous sources, including congressional hearings and roundtables, scientific reports, reports issued by public and private agencies, news stories, reports of discrimination by organizations and individuals, and discrimination lawsuits. This testimony and documentation shows that race- and gender-neutral efforts alone are insufficient to address the problem.

“(3) This testimony and documentation demonstrates that discrimination across the Nation poses a barrier to full and fair participation in airport-related businesses of women business owners and minority business owners in the racial groups detailed in parts 23 and 26 of title 49, Code of Federal Regulations, and has impacted firm development and many aspects of airport-related business in the public and private markets.

“(4) This testimony and documentation provides a strong basis that there is a compelling need for the continuation of the airport disadvantaged business enterprise program and the airport concessions disadvantaged business enterprise program to address race and gender discrimination in airport-related business.”

§ 47114. Apportionments

(a) DEFINITION.—In this section, “amount subject to apportionment” means the amount newly made available under section 48103 of this title for a fiscal year.

(b) APPORTIONMENT DATE.—On the first day of each fiscal year, the Secretary of Transportation shall apportion the amount subject to apportionment for that fiscal year as provided in this section.

(c) AMOUNTS APPORTIONED TO SPONSORS.—

(1) PRIMARY AND COMMERCIAL SERVICE AIRPORTS.—

(A) PRIMARY AIRPORT APPORTIONMENT.—The Secretary shall apportion to the sponsor of each primary airport for each fiscal year an amount equal to—

- (i) \$15.60 for each of the first 50,000 passenger boardings at the airport during the prior calendar year;
- (ii) \$10.40 for each of the next 50,000 passenger boardings at the airport during the prior calendar year;
- (iii) \$5.20 for each of the next 400,000 passenger boardings at the airport during the prior calendar year;
- (iv) \$1.30 for each of the next 500,000 passenger boardings at the airport during the prior calendar year; and
- (v) \$1.00 for each additional passenger boarding at the airport during the prior calendar year.

(B) MINIMUM AND MAXIMUM APPORTIONMENTS.—Not less than \$1,300,000 nor more than \$22,000,000 may be apportioned under subparagraph (A) to an airport sponsor for a primary airport for each fiscal year.

(C) NEW AIRPORT.—Notwithstanding subparagraph (A), the Secretary shall apportion in the first fiscal year following the official opening of a new airport with scheduled passenger air transportation an amount equal to \$1,300,000 to the sponsor of such airport.

(D) NONPRIMARY COMMERCIAL SERVICE AIRPORT APPORTIONMENT.—

(i) IN GENERAL.—The Secretary shall apportion to each commercial service airport that is not a primary airport an amount equal to—

- (I) \$60 for each of the first 2,500 passenger boardings at the airport during the prior calendar year; and
- (II) \$153.33 for each of the next 7,499 passenger boardings at the airport during the prior calendar year.

(ii) APPLICABILITY.—Paragraphs (4) and (5) of subsection (d) shall apply to funds apportioned under this subparagraph.

(E) PUBLIC AIRPORTS WITH MILITARY USE.—Notwithstanding any other provision of law, a public airport shall be considered a primary airport in each of fiscal years 2025 through 2028 for purposes of this chapter if such airport was—

- (i) designated as a primary airport in fiscal year 2017; and
- (ii) in use by an air reserve station in the calendar year used to calculate apportionments to airport sponsors in a fiscal year.

(F) SPECIAL RULE FOR FISCAL YEAR 2024.—Notwithstanding any other provision of this paragraph or the absence of scheduled passenger service at an airport, the Secretary shall apportion in fiscal year 2024 to the sponsor of an airport an amount based on the number of passenger boardings at the airport during whichever of the following years that would result in the highest apportioned amount under this paragraph:

- (i) Calendar year 2018.
- (ii) Calendar year 2019.
- (iii) The prior full calendar year prior to fiscal year 2024.

(2) CARGO AIRPORTS.—

(A) APPORTIONMENT.—Subject to subparagraph (D), the Secretary shall apportion an amount equal to 4 percent of the amount subject to apportionment each fiscal year to the sponsors of airports served by aircraft providing air transportation of only cargo with a total annual landed weight of more than 25,000,000 pounds.

(B) SUBALLOCATION FORMULA.—Any funds apportioned under subparagraph (A) to sponsors of airports described in subparagraph (A) shall be allocated among those airports in the proportion that the total annual landed weight of aircraft described in subparagraph (A) landing at each of those airports bears to the total annual landed weight of those aircraft landing at all those airports.

(C) DISTRIBUTION TO OTHER AIRPORTS.—Before apportioning amounts to the sponsors of airports under subparagraph (A) for a fiscal year, the Secretary may set-aside a portion of such amounts for distribution to the sponsors of other airports, selected by the Secretary, that the Secretary finds will be served primarily by aircraft providing air transportation of only cargo.

(D) DETERMINATION OF LANDED WEIGHT.—Landed weight under this paragraph is the landed weight of aircraft landing at each airport described in subparagraph (A) during the prior calendar year.

(d) AMOUNTS APPORTIONED FOR GENERAL AVIATION AIRPORTS.—

(1) DEFINITIONS.—In this subsection, the following definitions apply:

(A) AREA.—The term “area” includes land and water.

(B) POPULATION.—The term “population” means the population stated in the latest decennial census of the United States.

(2) APPORTIONMENT.—In any fiscal year in which the total amount made available under section 48103 is \$3,200,000,000 or more, rather than making an apportionment under paragraph (2), the Secretary shall apportion 25 percent of the amount subject to apportionment for each fiscal year as follows:

(A) To each airport, excluding commercial service airports but including reliever airports, in States the lesser of—

- (i) \$150,000; or
- (ii) $\frac{1}{5}$ of the most recently published estimate of the 5-year costs for airport improvement for the airport, as listed in the national plan of integrated airport systems developed by the Federal Aviation Administration under section 47103.

(B) Any remaining amount to States as follows:

(i) 0.62 percent of the remaining amount to Guam, American Samoa, the Commonwealth of the Northern Mariana Islands, and the Virgin Islands.

(ii) Except as provided in paragraph (4), 49.69 percent of the remaining amount for airports, excluding commercial service airports but including reliever airports, in States not named in clause (i) in the proportion that the population of each of

those States bears to the total population of all of those States.

(iii) Except as provided in paragraph (4), 49.69 percent of the remaining amount for airports, excluding commercial service airports but including reliever airports, in States not named in clause (i) in the proportion that the area of each of those States bears to the total area of all of those States.

(C) An airport that has previously been listed as unclassified under the national plan of integrated airport systems that has reestablished the classified status of such airport as of the date of apportionment shall be eligible to accrue apportionment funds pursuant to subparagraph (A) so long as such airport retains such classified status.

(3) AIRPORTS IN NONCONTIGUOUS STATES AND TERRITORIES.—

(A) ALASKA, PUERTO RICO, AND HAWAII.—An amount apportioned under this subsection to Alaska, Puerto Rico, or Hawaii for airports in such State may be made available by the Secretary for any public airport in those respective jurisdictions.

(B) OTHER TERRITORIES.—An amount apportioned under paragraph (2)(B)(i) may be made available by the Secretary for any public-use airport in Guam, American Samoa, the Northern Mariana Islands, or the Virgin Islands if the Secretary determines that there are insufficient qualified grant applications for projects at airports that are otherwise eligible for funding under that paragraph. The Secretary shall prioritize the use of such amounts in the territory the amount was originally apportioned in.

(4) USE OF STATE HIGHWAY SPECIFICATIONS.—The Secretary shall use the highway specifications of a State for airfield pavement construction and improvement using funds made available under this subsection or subsection (c)(1)(D) at nonprimary airports serving aircraft that do not exceed 60,000 pounds gross weight if—

(A) such State requests the use of such specifications; and

(B) the Secretary determines that—

(i) safety will not be negatively affected; and

(ii) the life of the pavement, with necessary maintenance and upkeep, will not be shorter than it would be if constructed using Administration standards.

(5) INTEGRATED AIRPORT SYSTEM PLANNING.—Notwithstanding any other provision of this section, funds made available under this subsection or subsection (c)(1)(D) may be used for integrated airport system planning that encompasses one or more primary airports.

(6) ELIGIBILITY TO RECEIVE PRIMARY AIRPORT MINIMUM APPORTIONMENT AMOUNT.—Notwithstanding any other provision of this subsection, the Secretary may apportion to an airport sponsor in a fiscal year an amount equal to the minimum apportionment available under subsection (c)(1)(B) if the Secretary finds that the airport—

(A) received scheduled or unscheduled air service from a large certificated air carrier (as defined in part 241 of title 14, Code of Federal Regulations, or such other regulations as may be issued by the Secretary under the authority of section 41709) in the calendar year used to calculate the apportionment; and

(B) had more than 10,000 passenger boardings in the calendar year used to calculate the apportionment.

(e) SUPPLEMENTAL APPORTIONMENT FOR ALASKA.—

(1) IN GENERAL.—Notwithstanding subsections (c) and (d) of this section, the Secretary may apportion amounts for airports in Alaska in the way in which amounts were apportioned in the fiscal year ending September 30, 1980, under section 15(a) of the Act. However, in apportioning amounts for a fiscal year under this subsection, the Secretary shall apportion—

(A) for each primary airport at least as much as would be apportioned for the airport under subsection (c)(1) of this section; and

(B) a total amount at least equal to the minimum amount required to be apportioned to airports in Alaska in the fiscal year ending September 30, 1980, under section 15(a)(3)(A) of the Act.

(2) AUTHORITY FOR DISCRETIONARY GRANTS.—This subsection does not prohibit the Secretary from making project grants for airports in Alaska from the discretionary fund under section 47115 of this title.

(3) AIRPORTS ELIGIBLE FOR FUNDS.—An amount apportioned under this subsection may be used for any public airport in Alaska.

(4) SPECIAL RULE.—In any fiscal year in which the total amount made available under section 48103 is \$3,200,000,000 or more, the amount that may be apportioned for airports in Alaska under paragraph (1) shall be increased by doubling the amount that would otherwise be apportioned.

(f) REDUCING APPORTIONMENTS.—

(1) IN GENERAL.—Subject to paragraph (3), an amount that would be apportioned under this section (except subsection (c)(2)) in a fiscal year to the sponsor of a medium or large hub airport for which a charge is imposed in the fiscal year under section 40117 of this title shall be reduced by an amount equal to—

(A) in the case of a charge of \$3.00 or less—

(i) except as provided in clause (ii), 40 percent of the projected revenues from the charge in the fiscal year but not by more than 40 percent of the amount that otherwise would be apportioned under this section; or

(ii) with respect to an airport in Hawaii, 40 percent of the projected revenues from the charge in the fiscal year but not by more than 40 percent of the excess of—

(I) the amount that otherwise would be apportioned under this section; over

(II) the amount equal to the amount specified in subclause (I) multiplied by the percentage of the total passenger

boardings at the applicable airport that are comprised of interisland passengers; and

(B) in the case of a charge of more than \$3.00—

(i) except as provided in clause (ii), 60 percent of the projected revenues from the charge in the fiscal year but not by more than 60 percent of the amount that otherwise would be apportioned under this section; or

(ii) with respect to an airport in Hawaii, 60 percent of the projected revenues from the charge in the fiscal year but not by more than 60 percent of the excess of—

(I) the amount that otherwise would be apportioned under this section; over

(II) the amount equal to the amount specified in subclause (I) multiplied by the percentage of the total passenger boardings at the applicable airport that are comprised of interisland passengers.

(2) EFFECTIVE DATE OF REDUCTION.—

(A) NEW CHARGE COLLECTION.—A reduction in an apportionment under paragraph (1) shall not take effect until the first fiscal year following the year in which the collection of the charge imposed under section 40117 has begun.

(B) NEW CATEGORIZATION.—A reduction in an apportionment under paragraph (1) shall only be applied to an airport if such airport has been designated as a medium or large hub airport for 3 consecutive years.

(g) SUPPLEMENTAL APPORTIONMENT FOR PUERTO RICO AND UNITED STATES TERRITORIES.—The Secretary shall apportion amounts for airports in Puerto Rico and all other United States territories in accordance with this section. This subsection does not prohibit the Secretary from making project grants for airports in Puerto Rico or other United States territories from the discretionary fund under section 47115.

(Pub. L. 103-272, §1(e), July 5, 1994, 108 Stat. 1268; Pub. L. 103-429, §6(66), Oct. 31, 1994, 108 Stat. 4386; Pub. L. 104-264, title I, §121, Oct. 9, 1996, 110 Stat. 3217; Pub. L. 106-181, title I, §§104(a)-(d), 105(c), Apr. 5, 2000, 114 Stat. 67-71; Pub. L. 108-176, title I, §§146, 147, Dec. 12, 2003, 117 Stat. 2504; Pub. L. 109-115, div. A, title I, §109, Nov. 30, 2005, 119 Stat. 2402; Pub. L. 112-95, title I, §§111(c)(2)(A)(iii), 141-143, Feb. 14, 2012, 126 Stat. 18, 28, 29; Pub. L. 114-190, title II, §2301, July 15, 2016, 130 Stat. 638; Pub. L. 115-63, title I, §102(b), Sept. 29, 2017, 131 Stat. 1169; Pub. L. 115-254, div. B, title I, §§136, 148(b), 151, 164, Oct. 5, 2018, 132 Stat. 3210, 3214, 3215, 3225; Pub. L. 116-260, div. L, title IV, §422, Dec. 27, 2020, 134 Stat. 1909; Pub. L. 118-15, div. B, title II, §2201(e), Sept. 30, 2023, 137 Stat. 82; Pub. L. 118-34, title I, §101(e), Dec. 26, 2023, 137 Stat. 1113; Pub. L. 118-41, title I, §101(e), Mar. 8, 2024, 138 Stat. 21; Pub. L. 118-63, title VII, §§712(a), (b), 713(a), May 16, 2024, 138 Stat. 1254, 1255, 1257.)

HISTORICAL AND REVISION NOTES
PUB. L. 103-272

Revised Section	Source (U.S. Code)	Source (Statutes at Large)
47114(a), (b)	49 App.:2206(a) (words before cl. (1)).	Sept. 3, 1982, Pub. L. 97-248, §507(a)(1), (3), (b)(2), (4)-(5)(C), (E), (6), 96 Stat. 679; Jan. 6, 1983, Pub. L. 97-424, §426(a), (d), 96 Stat. 2167, 2168; restated Dec. 30, 1987, Pub. L. 100-223, §106(a), 101 Stat. 1494, 1496.
47114(c) (1)(A).	49 App.:2206(a)(1). 49 App.:2206(e)(1).	Sept. 3, 1982, Pub. L. 97-248, §507(e), (f), 96 Stat. 679; Jan. 6, 1983, Pub. L. 97-424, §426(a), (d), 96 Stat. 2167, 2168; restated Dec. 30, 1987, Pub. L. 100-223, §106(a), 101 Stat. 1497; Nov. 5, 1990, Pub. L. 101-508, §9112(b), 104 Stat. 1388-362.
47114(c) (1)(B).	49 App.:2206(b)(1).	Sept. 3, 1982, Pub. L. 97-248, §507(a)(2), (b)(1), (3), (5)(F), 96 Stat. 679; Jan. 6, 1983, Pub. L. 97-424, §426(a), (d), 96 Stat. 2167, 2168; restated Dec. 30, 1987, Pub. L. 100-223, §106(a), 101 Stat. 1494, 1496; Oct. 31, 1992, Pub. L. 102-581, §106, 106 Stat. 4878.
47114(c)(2) ..	49 App.:2206(a)(2), (b)(4), (e)(2).	
47114(c)(3) ..	49 App.:2206(b)(2), (3).	
47114(d)(1) ..	49 App.:2206(f).	
47114(d)(2) ..	49 App.:2206(a)(3).	
47114(d)(3) ..	49 App.:2206(b)(6).	
47114(e)	49 App.:2206(b) (5)(A)-(C), (E), (F).	
47114(f)	49 App.:2206(b)(7).	Sept. 3, 1982, Pub. L. 97-248, 96 Stat. 324, §507(b)(7); added Nov. 5, 1990, Pub. L. 101-508, §9111, 104 Stat. 1388-362.

In subsection (a), the word “newly” is substituted for “and not previously apportioned” for clarity. The words “made available” are substituted for “authorized to be obligated” for clarity and consistency.

In subsection (c)(1)(A), the words “during the prior calendar year” are substituted for 49 App.:2206(b) for clarity.

In subsection (c)(2)(A), the word “cargo” is substituted for “property (including mail)” for consistency in the revised title.

In subsection (c)(3), the words “The total of all amounts apportioned under paragraphs (1) and (2) of this subsection may not be more than 44 percent of the amount subject to apportionment for a fiscal year” are substituted for 49 App.:2206(b)(2)(A) and (3)(A) for clarity and to eliminate unnecessary words. The words “If this paragraph requires reduction of an amount that otherwise would be apportioned under this subsection” are substituted for “In any case in which apportionments in a fiscal year would be reduced by subparagraph (A)” for clarity.

In subsection (d)(2)(A), the words “the Commonwealth of” are omitted as surplus.

In subsection (d)(2)(B) and (C), the words “except as provided in paragraph (3) of this subsection” are added, and the words “49.5 percent of the apportioned amount” are substituted for “1/2 of the remaining 99 percent”, for clarity.

In subsection (d)(3), before clause (A), the words “Notwithstanding subsection (a)(3)(B) of this section” are omitted as surplus.

In subsection (e)(1), before clause (A), the words “Instead of apportioning amounts for airports in Alaska under subsections (c) and (d) of this section” are substituted for “Notwithstanding any other provision of subsection (a) of this section” for clarity.

In subsection (e)(2), the words “be construed as” are omitted as surplus.

In subsection (f), the words “which, but for this paragraph, would be” the first time they appear are omitted as surplus. The words “but not by more than” are sub-

stituted for “The maximum reduction in an apportionment to a sponsor of an airport as a result of this paragraph in a fiscal year shall be” to eliminate unnecessary words.

PUB. L. 103-429

Revision notes for 49:47114(c)(3)(A) are included to reflect changes made for clarity and to correct an error in the codification enacted by section 1 of the Act of July 5, 1994 (Public Law 103-272, 108 Stat. 1269).

Revised Section	Source (U.S. Code)	Source (Statutes at Large)
47114(c)(1)(B).	49 App.:2206(b)(1).	Sept. 3, 1982, Pub. L. 97-248, § 507(b)(1), as amended May 26, 1994, Pub. L. 103-260, § 103, 108 Stat. 698.
47114(c)(3)(B).	49 App.:2206(b)(3).	Sept. 3, 1982, Pub. L. 97-248, § 507(b)(3), as amended May 26, 1994, Pub. L. 103-260, § 102, 108 Stat. 698.

In subsection (c)(3)(A) and (B), the words “If this subparagraph requires reduction of an amount that otherwise would be apportioned under this subsection” are substituted for “In any case in which apportionments in a fiscal year would be reduced by subparagraph (A)” for clarity.

In subsection (c)(3)(A), the words “Except as provided in subparagraph (B) of this paragraph” are added for clarity. The words “the total of all amounts apportioned under paragraphs (1) and (2) of this subsection may not be more than 49.5 percent of the amount subject to apportionment for a fiscal year” are substituted for 49 App.:2206(b)(2)(A), as in effect on July 4, 1994, for clarity and to eliminate unnecessary words.

In subsection (c)(3)(B), the words “the total of all amounts apportioned under paragraphs (1) and (2) of this subsection may not be more than 44 percent of the amount subject to apportionment for that fiscal year” are substituted for 49 App.:2206(b)(3)(A), as in effect on July 4, 1994, for clarity and to eliminate unnecessary words.

Editorial Notes

REFERENCES IN TEXT

Section 15(a) of the Airport and Airway Development Act of 1970, referred to in subsec. (e)(1), is section 15(a) of Pub. L. 91-258, which was classified to section 1715(a) of former Title 49, Transportation, prior to repeal by Pub. L. 97-248, title V, § 523(a), Sept. 3, 1982, 96 Stat. 695.

AMENDMENTS

2024—Subsec. (c)(1). Pub. L. 118-63, § 712(a)(1), amended par. (1) generally. Prior to amendment, par. (1) related to amounts apportioned to sponsors of primary airports, new airports, and seasonal airports, minimum and maximum apportionments for primary airport, special rule for total amount of \$3,200,000,000 or more, use of previous fiscal year’s apportionment, special rules for fiscal years 2018 through 2020 and 2022 and 2023, limitations and waivers, and minimum apportionment for commercial service airports with more than 8,000 passenger boardings in a calendar year.

Subsec. (c)(1)(J). Pub. L. 118-41 substituted “May 10, 2024,” for “March 8, 2024,”.

Subsec. (c)(2)(A). Pub. L. 118-63, § 712(a)(2)(A), substituted “4 percent” for “3.5 percent” and “25,000,000 pounds” for “100,000,000 pounds”.

Subsec. (c)(2)(C) to (E). Pub. L. 118-63, § 712(a)(2)(B), (C), redesignated subpars. (D) and (E) as (C) and (D), respectively, and struck out former subpar. (C). Prior to amendment, text of subpar. (C) read as follows: “In any fiscal year in which the total amount made available under section 48103 is less than \$3,200,000,000, not more than 8 percent of the amount apportioned under subparagraph (A) may be apportioned for any one airport.”

Subsec. (d)(2). Pub. L. 118-63, § 712(b)(6), redesignated par. (3) as (2). Former par. (2) struck out.

Pub. L. 118-63, § 712(b)(5), struck out par. (2). Text read as follows: “Except as provided in paragraph (3),

the Secretary shall apportion to the States 18.5 percent of the amount subject to apportionment for each fiscal year as follows:

“(A) 0.66 percent of the apportioned amount to Guam, American Samoa, the Northern Mariana Islands, and the Virgin Islands.

“(B) Except as provided in paragraph (4), 49.67 percent of the apportioned amount for airports, excluding primary airports but including reliever and nonprimary commercial service airports, in States not named in subparagraph (A) in the proportion that the population of each of those States bears to the total population of all of those States.

“(C) Except as provided in paragraph (4), 49.67 percent of the apportioned amount for airports, excluding primary airports but including reliever and nonprimary commercial service airports, in States not named in subparagraph (A) in the proportion that the area of each of those States bears to the total area of all of those States.”

Subsec. (d)(3). Pub. L. 118-63, § 712(b)(6), redesignated par. (3) as (2).

Pub. L. 118-63, § 712(b)(1)(A)–(C), substituted “Apportionment” for “Special rule” in heading, “25 percent” for “20 percent” in introductory provisions, and “excluding commercial service airports but including reliever airports” for “excluding primary airports but including reliever and nonprimary commercial service airports” wherever appearing.

Subsec. (d)(3)(C), (D). Pub. L. 118-63, § 712(b)(1)(D), added subpar. (C) and struck out former subpars. (C) and (D) which read as follows:

“(C) During fiscal years 2019 and 2020—

“(i) an airport that accrued apportionment funds under subparagraph (A) in fiscal year 2013 that is listed as having an unclassified status under the most recent national plan of integrated airport systems shall continue to accrue apportionment funds under subparagraph (A) at the same amount the airport accrued apportionment funds in fiscal year 2013, subject to the conditions of this paragraph;

“(ii) notwithstanding the period of availability as described in section 47117(b), an amount apportioned to an airport under clause (i) shall be available to the airport only during the fiscal year in which the amount is apportioned; and

“(iii) notwithstanding the waiver permitted under section 47117(c)(2), an airport receiving apportionment funds under clause (i) may not waive its claim to any part of the apportioned funds in order to make the funds available for a grant for another public-use airport.

“(D) An airport that re-establishes its classified status shall be eligible to accrue apportionment funds pursuant to subparagraph (A) so long as such airport retains its classified status.”

Subsec. (d)(4). Pub. L. 118-63, § 712(b)(6), redesignated par. (4) as (3).

Pub. L. 118-63, § 712(b)(2), substituted “Airports in noncontiguous states and territories” for “Airports in alaska, puerto rico, and hawaii” in heading; designated existing provisions as subpar. (A), inserted heading, and substituted “An amount apportioned under this subsection” for “An amount apportioned under paragraph (2) or (3)”; and added subpar. (B). Text quoted in directory language of amendment of the heading was editorially conformed to the style of the heading.

Subsec. (d)(5). Pub. L. 118-63, § 712(b)(6), redesignated par. (5) as (4).

Pub. L. 118-63, § 712(b)(3), inserted “or subsection (c)(1)(D)” after “under this subsection” in introductory provisions.

Subsec. (d)(6). Pub. L. 118-63, § 712(b)(6), redesignated par. (6) as (5).

Pub. L. 118-63, § 712(b)(4), substituted “provision of this section” for “provision of this subsection” and inserted “or subsection (c)(1)(D)” after “under this subsection”.

Subsec. (d)(7). Pub. L. 118-63, § 712(b)(6), redesignated par. (7) as (6).

Subsec. (f)(1). Pub. L. 118-63, § 713(a)(1)(A), substituted “sponsor of a medium or large hub airport” for “sponsor of an airport having at least .25 percent of the total number of boardings each year in the United States and” in introductory provisions.

Subsec. (f)(1)(A). Pub. L. 118-63, § 713(a)(1)(B), substituted “40 percent” for “50 percent” wherever appearing.

Subsec. (f)(1)(B). Pub. L. 118-63, § 713(a)(1)(C), substituted “60 percent” for “75 percent” wherever appearing.

Subsec. (f)(2), (3). Pub. L. 118-63, § 713(a)(2), added par. (2) and struck out former pars. (2) and (3) which read as follows:

“(2) EFFECTIVE DATE OF REDUCTION.—A reduction in an apportionment required by paragraph (1) shall not take effect until the first fiscal year following the year in which the collection of the charge imposed under section 40117 is begun.

“(3) SPECIAL RULE FOR TRANSITIONING AIRPORTS.—

“(A) IN GENERAL.—Beginning with the fiscal year following the first calendar year in which the sponsor of an airport has more than .25 percent of the total number of boardings in the United States, the sum of the amount that would be apportioned under this section after application of paragraph (1) in a fiscal year to such sponsor and the projected revenues to be derived from the charge in such fiscal year shall not be less than the sum of the apportionment to such airport for the preceding fiscal year and the revenues derived from such charge in the preceding fiscal year.

“(B) EFFECTIVE PERIOD.—Subparagraph (A) shall be in effect for fiscal year 2004.”

2023—Subsec. (c)(1)(J). Pub. L. 118-34 substituted “March 8, 2024,” for “December 31, 2023.”

Pub. L. 118-15 substituted “2023, and for the period beginning on October 1, 2023, and ending on December 31, 2023, to” for “2023 to”.

2020—Subsec. (c)(1)(J). Pub. L. 116-260 added subpar. (J).

2018—Subsec. (c)(1)(F) to (H). Pub. L. 115-254, § 151, added subpars. (F) to (H) and struck out former subpar. (F) which related to apportionment of funds for fiscal years 2017 and 2018 to sponsors of primary airports.

Subsec. (c)(1)(I). Pub. L. 115-254, § 164, added subpar. (I).

Subsec. (d)(3)(C), (D). Pub. L. 115-254, § 148(b), added subpars. (C) and (D).

Subsec. (d)(5). Pub. L. 115-254, § 136, amended par. (5) generally. Prior to amendment, text read as follows:

“(A) IN GENERAL.—The Secretary may permit the use of State highway specifications for airfield pavement construction using funds made available under this subsection at nonprimary airports with runways of 5,000 feet or shorter serving aircraft that do not exceed 60,000 pounds gross weight if the Secretary determines that—

“(i) safety will not be negatively affected; and

“(ii) the life of the pavement will not be shorter than it would be if constructed using Administration standards.

“(B) LIMITATION.—An airport may not seek funds under this subchapter for runway rehabilitation or reconstruction of any such airfield pavement constructed using State highway specifications for a period of 10 years after construction is completed unless the Secretary determines that the rehabilitation or reconstruction is required for safety reasons.”

2017—Subsec. (c)(1)(F). Pub. L. 115-63 struck out “for fiscal year 2017” after “rule” in heading and substituted “for each of fiscal years 2017 and 2018 an amount” for “for fiscal year 2017 an amount” in introductory provisions.

2016—Subsec. (c)(1)(F). Pub. L. 114-190 amended subpar. (F) generally. Prior to amendment, text read as follows: “Notwithstanding subparagraph (A), for an airport that had more than 10,000 passenger boardings and scheduled passenger aircraft service in calendar year 2007, but in either calendar year 2009 or 2010, or in both years, the number of passenger boardings decreased to

a level below 10,000 boardings per year at such airport, the Secretary may apportion in each of fiscal years 2012 and 2013 to the sponsor of such airport an amount equal to the amount apportioned to that sponsor in fiscal year 2009.”

2012—Subsec. (c)(1)(F), (G). Pub. L. 112-95, § 141(b), added subpar. (F) and struck out former subpars. (F) and (G) which related, respectively, to special rules for fiscal years 2004 and 2005 and to special rule for fiscal year 2006.

Subsec. (d)(7). Pub. L. 112-95, § 141(a), added par. (7).

Subsec. (f). Pub. L. 112-95, § 111(c)(2)(A)(iii), substituted “charge” for “fee” wherever appearing.

Subsec. (f)(1)(A), (B). Pub. L. 112-95, § 143, added subpars. (A) and (B) and struck out former subpars. (A) and (B) which read as follows:

“(A) in the case of a charge of \$3.00 or less, 50 percent of the projected revenues from the charge in the fiscal year but not by more than 50 percent of the amount that otherwise would be apportioned under this section; and

“(B) in the case of a charge of more than \$3.00, 75 percent of the projected revenues from the charge in the fiscal year but not by more than 75 percent of the amount that otherwise would be apportioned under this section.”

Subsec. (g). Pub. L. 112-95, § 142, added subsec. (g).

2005—Subsec. (c)(1)(G). Pub. L. 109-115 added subpar. (G).

2003—Subsec. (c)(1)(F). Pub. L. 108-176, § 146(a), added subpar. (F).

Subsec. (c)(2). Pub. L. 108-176, § 147(1), struck out “ONLY” after “CARGO” in heading.

Subsec. (c)(2)(A). Pub. L. 108-176, § 147(2), substituted “3.5 percent” for “3 percent”.

Subsec. (f)(3). Pub. L. 108-176, § 146(b)(1), substituted “AIRPORTS” for “AIRORTS” in heading.

Subsec. (f)(3)(B). Pub. L. 108-176, § 146(b)(2), substituted “fiscal year 2004” for “fiscal years 2000 through 2003”.

2000—Subsec. (c)(1). Pub. L. 106-181, § 104(a)(2)(A), (C), inserted headings for par. (1) and subpar. (A) and realigned margins.

Subsec. (c)(1)(B). Pub. L. 106-181, § 104(a)(1)(A), (2)(B), (C), inserted heading, substituted “\$500,000” for “\$500,000”, and realigned margins.

Subsec. (c)(1)(C) to (E). Pub. L. 106-181, § 104(a)(1)(B), added subpars. (C) to (E).

Subsec. (c)(2)(A). Pub. L. 106-181, § 104(b)(1), substituted “3 percent” for “2.5 percent”.

Subsec. (c)(2)(C). Pub. L. 106-181, § 104(b)(2), substituted “In any fiscal year in which the total amount made available under section 48103 is less than \$3,200,000,000, not more than” for “Not more than”.

Subsec. (d). Pub. L. 106-181, § 104(c), amended heading and text of subsec. (d) generally, revising and restating as pars. (1) to (6) provisions formerly contained in pars. (1) to (3).

Subsec. (e). Pub. L. 106-181, § 104(d)(1), substituted “Supplemental” for “Alternative” in heading.

Subsec. (e)(1). Pub. L. 106-181, § 104(d)(2), (5), inserted heading, realigned margins, and in introductory provisions substituted “Notwithstanding” for “Instead of apportioning amounts for airports in Alaska under” and “airports in Alaska” for “those airports”.

Subsec. (e)(2). Pub. L. 106-181, § 104(d)(3), (5), inserted heading and realigned margins.

Subsec. (e)(3), (4). Pub. L. 106-181, § 104(d)(4), added pars. (3) and (4) and struck out former par. (3) which read as follows: “Airports referred to in this subsection include those public airports that received scheduled service as of September 3, 1982, but were not apportioned amounts in the fiscal year ending September 30, 1980, under section 15(a) of the Act because the airports were not under the control of a State or local public agency.”

Subsec. (f). Pub. L. 106-181, § 105(c), designated existing provisions as par. (1), inserted heading, realigned margins, substituted “Subject to paragraph (3), an amount” for “An amount” and “an amount equal to—

” and subpars. (A) and (B) for “an amount equal to 50 percent of the projected revenues from the fee in the fiscal year but not by more than 50 percent of the amount that otherwise would be apportioned under this section.”, and added pars. (2) and (3).

1996—Subsec. (c)(1)(A)(iv). Pub. L. 104-264, §121(a)(1)(B), substituted “of the next 500,000 passenger boardings” for “additional passenger boarding”.

Subsec. (c)(1)(A)(v). Pub. L. 104-264, §121(a)(1)(A), (C), (D), added cl. (v).

Subsec. (c)(2). Pub. L. 104-264, §121(a)(2)(A), amended par. (2) generally. Prior to amendment, par. (2) read as follows:

“(2)(A) The Secretary shall apportion to the sponsors of airports served by aircraft providing air transportation of only cargo with a total annual landed weight of more than 100,000,000 pounds for each fiscal year an amount equal to 3.5 percent of the amount subject to apportionment each year, allocated among those airports in the proportion that the total annual landed weight of those aircraft landing at each of those airports bears to the total annual landed weight of those aircraft landing at all those airports. However, not more than 8 percent of the amount apportioned under this paragraph may be apportioned for any one airport.

“(B) Landed weight under subparagraph (A) of this paragraph is the landed weight of aircraft landing at each of those airports and all those airports during the prior calendar year.”

Subsec. (c)(3). Pub. L. 104-264, §121(a)(3), struck out par. (3) which read as follows:

“(3)(A) Except as provided in subparagraph (B) of this paragraph, the total of all amounts apportioned under paragraphs (1) and (2) of this subsection may not be more than 49.5 percent of the amount subject to apportionment for a fiscal year. If this subparagraph requires reduction of an amount that otherwise would be apportioned under this subsection, the Secretary shall reduce proportionately the amount apportioned to each sponsor of an airport under paragraphs (1) and (2) until the 49.5 percent limit is achieved.

“(B) If a law limits the amount subject to apportionment to less than \$1,900,000,000 for a fiscal year, the total of all amounts apportioned under paragraphs (1) and (2) of this subsection may not be more than 44 percent of the amount subject to apportionment for that fiscal year. If this subparagraph requires reduction of an amount that otherwise would be apportioned under this subsection, the Secretary shall reduce proportionately the amount apportioned to each sponsor of an airport under paragraphs (1) and (2) until the 44 percent limit is achieved.”

Subsec. (d)(2). Pub. L. 104-264, §121(b)(1), substituted “18.5” for “12” in introductory provisions.

Subsec. (d)(2)(A). Pub. L. 104-264, §121(b)(2), substituted “0.66” for “one”.

Subsec. (d)(2)(B), (C). Pub. L. 104-264, §121(b)(3), (4), substituted “49.67” for “49.5” and “excluding primary airports but including reliever and nonprimary commercial service airports,” for “except primary airports and airports described in section 47117(e)(1)(C) of this title.”

1994—Subsec. (c)(1)(B). Pub. L. 103-429, §6(66)(A), substituted “\$500,000” for “\$400,000”.

Subsec. (c)(3). Pub. L. 103-429, §6(66)(B), designated existing provisions as subpar. (A), substituted “Except as provided in subparagraph (B) of this paragraph, the” for “The”, “49.5” for “44” in two places, and “If this subparagraph” for “If this paragraph”, and added subpar. (B).

Statutory Notes and Related Subsidiaries

EFFECTIVE DATE OF 2024 AMENDMENT

Pub. L. 118-63, title VII, §713(b), May 16, 2024, 138 Stat. 1257, provided that: “For an airport that increased in categorization from a small hub to a medium hub in any fiscal year beginning after the date of enactment of the FAA Reauthorization Act of 2018 (Public Law

115-254) [Oct. 5, 2018] and prior to the date of enactment of this Act [May 16, 2024], the amendment to section 47114(f)(2) of title 49, United States Code, under subsection (a)[(2)] shall be applied as though the airport increased in categorization from a small hub to a medium hub in the calendar year prior to the first fiscal year in which such amendment is applicable.”

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.

Pub. L. 104-264, title I, §125, Oct. 9, 1996, 110 Stat. 3220, which provided that the amendments made by subtitle B (§§121-125) of title I of Pub. L. 104-264, amending this section and sections 47115, 47117, and 47118 of this title, were to cease to be effective on Sept. 30, 1998, and that on and after such date, sections 47114, 47115, 47117, and 47118 of this title were to read as if such amendments had not been enacted, was repealed by Pub. L. 105-277, div. C, title I, §110(a), Oct. 21, 1998, 112 Stat. 2681-587, effective Sept. 29, 1998.

EFFECTIVE DATE OF 1994 AMENDMENT

Amendment by section 6(66)(B) of Pub. L. 103-429 effective July 5, 1994, see section 9 of Pub. L. 103-429, set out as a note under section 321 of this title.

APPORTIONED FUNDS

Pub. L. 107-71, title I, §119(b), Nov. 19, 2001, 115 Stat. 629, provided that, for the purpose of carrying out this section, for fiscal year 2003, the Secretary would use, in lieu of passenger boardings at an airport during the prior calendar year, the greater of the number of passenger boardings at that airport during 2000 or 2001.

Executive Documents

TERMINATION OF TRUST TERRITORY OF THE PACIFIC ISLANDS

For termination of Trust Territory of the Pacific Islands, see note set out preceding section 1681 of Title 48, Territories and Insular Possessions.

§ 47115. Discretionary fund

(a) EXISTENCE AND AMOUNTS IN FUND.—The Secretary of Transportation has a discretionary fund. The fund consists of—

(1) amounts subject to apportionment for a fiscal year that are not apportioned under section 47114(c)–(e) of this title; and

(2) 12.5 percent of amounts not apportioned under section 47114 of this title because of section 47114(f).

(b) AVAILABILITY OF AMOUNTS.—Subject to subsection (c) of this section and section 47117(e) of this title, the fund is available for making grants for any purpose for which amounts are made available under section 48103 of this title that the Secretary considers most appropriate to carry out this subchapter.