

Nov. 20, 1997, 111 Stat. 2215; Pub. L. 106–181, title I, § 138, Apr. 5, 2000, 114 Stat. 85; Pub. L. 112–95, title V, § 502, Feb. 14, 2012, 126 Stat. 103; Pub. L. 115–254, div. B, title I, § 139, Oct. 5, 2018, 132 Stat. 3210.)

## HISTORICAL AND REVISION NOTES

PUB. L. 103–272

<i>Revised Section</i>	<i>Source (U.S. Code)</i>	<i>Source (Statutes at Large)</i>
47128(a) .....	49 App.:2227(a) (1st sentence), (b) (1st sentence).	Sept. 3, 1982, Pub. L. 97–248, 96 Stat. 324, § 534; added Dec. 30, 1987, Pub. L. 100–223, § 116, 101 Stat. 1507; Nov. 5, 1990, Pub. L. 101–508, § 9114, 104 Stat. 1388–364; Oct. 31, 1992, Pub. L. 102–581, § 116, 106 Stat. 4881.
47128(b)(1) ..	49 App.:2227(c) (1st, 2d sentences).	
47128(b)(2) ..	49 App.:2227(b) (last sentence).	
47128(c) .....	49 App.:2227(c) (last sentence).	
47128(d) .....	49 App.:2227(a) (last sentence), (d).	

In subsection (a), the words “Not later than 180 days after December 30, 1987” and “to become effective on October 1, 1989” are omitted as obsolete.

In subsection (b)(1)(A), the words “agency or” are omitted as surplus.

In subsection (b)(1)(D), the words “procedural and other” are omitted as surplus.

In subsection (d), the text of 49 App.:2227(d) is omitted as executed.

PUB. L. 103–429

This amends 49:47128(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. 1278).

PUB. L. 104–287

This makes a clarifying amendment to the catchline for 49:47128(d).

## Editorial Notes

## REFERENCES IN TEXT

The National Environmental Policy Act of 1969, referred to in subsec. (b)(4), is Pub. L. 91–190, Jan. 1, 1970, 83 Stat. 852, which is classified generally to chapter 55 (§ 4321 et seq.) of Title 42, The Public Health and Welfare. For complete classification of this Act to the Code, see Short Title note set out under section 4321 of Title 42 and Tables.

## AMENDMENTS

2018—Subsec. (a). Pub. L. 115–254 substituted “not more than 20 qualified States for each fiscal year” for “not more than 9 qualified States for fiscal years 2000 and 2001 and 10 qualified States for each fiscal year thereafter”.

2012—Subsec. (a). Pub. L. 112–95, § 502(a), substituted “issue guidance” for “prescribe regulations” in first sentence and “guidance” for “regulations” in second sentence.

Subsec. (b)(4). Pub. L. 112–95, § 502(b), inserted before semicolon “, including the National Environmental Policy Act of 1969 (42 U.S.C. 4321 et seq.), State and local environmental policy acts, Executive orders, agency regulations and guidance, and other Federal environmental requirements”.

Subsec. (d). Pub. L. 112–95, § 502(c), added subsec. (d). 2000—Subsec. (a). Pub. L. 106–181 substituted “9 qualified States for fiscal years 2000 and 2001 and 10 qualified States for each fiscal year thereafter” for “8 qualified States for fiscal year 1997 and 9 qualified States for each fiscal year thereafter”.

1997—Subsec. (d). Pub. L. 105–102 repealed Pub. L. 104–287, § 5(84). See 1996 Amendment note below.

1996—Pub. L. 104–264, § 147(c)(1)(A), substituted “grant program” for “grant pilot program” in section catchline.

Subsec. (a). Pub. L. 104–264, § 147(a)(1), (c)(1)(B), substituted “block grant program” for “block grant pilot program” and “8 qualified States for fiscal year 1997 and 9 qualified States for each fiscal year thereafter” for “7 qualified States”.

Subsec. (b). Pub. L. 104–264, § 147(a)(2), (3), struck out “(1)” before “A State wishing”, redesignated subpars. (A) to (E) as pars. (1) to (5), respectively, and struck out former par. (2) which read as follows: “For the fiscal years ending September 30, 1993–1996, the States selected shall include Illinois, Missouri, and North Carolina.”

Subsec. (c). Pub. L. 104–264, § 147(b), substituted “(b)(2) or (b)(3)” for “(b)(1)(B) or (C)” and inserted at end “In carrying out this subsection, the Secretary shall permit a State to use the priority system of the State if such system is not inconsistent with the national priority system.”

Subsec. (d). Pub. L. 104–287, § 5(84), which directed amendment of heading by striking “and report”, was repealed by Pub. L. 105–102.

Pub. L. 104–264, § 147(c)(1)(C), struck out subsec. (d) which read as follows:

“(d) ENDING EFFECTIVE DATE AND REPORT.—This section is effective only through September 30, 1996.”

1994—Subsec. (c). Pub. L. 103–429 substituted “subsection (b)(1)(B) or (C)” for “subsection (b)(2) or (3)”.

## 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.

## 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)(E) 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.

## 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.

## § 47129. Resolution of disputes concerning airport fees

(a) AUTHORITY TO REQUEST SECRETARY’S DETERMINATION.—

(1) IN GENERAL.—The Secretary of Transportation shall issue a determination as to whether a fee imposed upon one or more air carriers or foreign air carriers (as those terms are defined in section 40102) by the owner or operator of an airport is reasonable if—

(A) a written request for such determination is filed with the Secretary by such owner or operator; or

(B) a written complaint requesting such determination is filed with the Secretary by

an affected air carrier or foreign air carrier within 60 days after such carrier receives written notice of the establishment or increase of such fee.

(2) **CALCULATION OF FEE.**—A fee subject to a determination of reasonableness under this section may be calculated pursuant to either a compensatory or residual fee methodology or any combination thereof.

(3) **SECRETARY NOT TO SET FEE.**—In determining whether a fee is reasonable under this section, the Secretary may only determine whether the fee is reasonable or unreasonable and shall not set the level of the fee.

(4) **FEES IMPOSED BY PRIVATELY-OWNED AIRPORTS.**—In evaluating the reasonableness of a fee imposed by an airport receiving an exemption under section 47134 of this title, the Secretary shall consider whether the airport has complied with section 47134(c)(4).

(b) **PROCEDURAL REGULATIONS.**—Not later than 90 days after August 23, 1994, the Secretary shall publish in the Federal Register final regulations, policy statements, or guidelines establishing—

(1) the procedures for acting upon any written request or complaint filed under subsection (a)(1); and

(2) the standards or guidelines that shall be used by the Secretary in determining under this section whether an airport fee is reasonable.

(c) **DECISIONS BY SECRETARY.**—The final regulations, policy statements, or guidelines required in subsection (b) shall provide the following:

(1) Not more than 120 days after an air carrier or foreign air carrier files with the Secretary a written complaint relating to an airport fee, the Secretary shall issue a final order determining whether such fee is reasonable.

(2) Within 30 days after such complaint is filed with the Secretary, the Secretary shall dismiss the complaint if no significant dispute exists or shall assign the matter to an administrative law judge; and thereafter the matter shall be handled in accordance with part 302 of title 14, Code of Federal Regulations, or as modified by the Secretary to ensure an orderly disposition of the matter within the 120-day period and any specifically applicable provisions of this section.

(3) The administrative law judge shall issue a recommended decision within 60 days after the complaint is assigned or within such shorter period as the Secretary may specify.

(4) If the Secretary, upon the expiration of 120 days after the filing of the complaint, has not issued a final order, the decision of the administrative law judge shall be deemed to be the final order of the Secretary.

(5) Any party to the dispute may seek review of a final order of the Secretary under this subsection in the Circuit Court of Appeals for the District of Columbia Circuit or the court of appeals in the circuit where the airport which gives rise to the written complaint is located.

(6) Any findings of fact in a final order of the Secretary under this subsection, if supported

by substantial evidence, shall be conclusive if challenged in a court pursuant to this subsection. No objection to such a final order shall be considered by the court unless objection was urged before an administrative law judge or the Secretary at a proceeding under this subsection or, if not so urged, unless there were reasonable grounds for failure to do so.

(d) **PAYMENT UNDER PROTEST; GUARANTEE OF AIR CARRIER AND FOREIGN AIR CARRIER ACCESS.**—

(1) **PAYMENT UNDER PROTEST.**—

(A) **IN GENERAL.**—Any fee increase or newly established fee which is the subject of a complaint that is not dismissed by the Secretary shall be paid by the complainant air carrier or foreign air carrier to the airport under protest.

(B) **REFERRAL OR CREDIT.**—Any amounts paid under this subsection by a complainant air carrier or foreign air carrier to the airport under protest shall be subject to refund or credit to the air carrier or foreign air carrier in accordance with directions in the final order of the Secretary within 30 days of such order.

(C) **ASSURANCE OF TIMELY REPAYMENT.**—In order to assure the timely repayment, with interest, of amounts in dispute determined not to be reasonable by the Secretary, the airport shall obtain a letter of credit, or surety bond, or other suitable credit facility, equal to the amount in dispute that is due during the 120-day period established by this section, plus interest, unless the airport and the complainant air carrier or foreign air carrier agree otherwise.

(D) **DEADLINE.**—The letter of credit, or surety bond, or other suitable credit facility shall be provided to the Secretary within 20 days of the filing of the complaint and shall remain in effect for 30 days after the earlier of 120 days or the issuance of a timely final order by the Secretary determining whether such fee is reasonable.

(2) **GUARANTEE OF AIR CARRIER AND FOREIGN AIR CARRIER ACCESS.**—Contingent upon an air carrier's or foreign air carrier's compliance with the requirements of paragraph (1) and pending the issuance of a final order by the Secretary determining the reasonableness of a fee that is the subject of a complaint filed under subsection (a)(1)(B), an owner or operator of an airport may not deny an air carrier or foreign air carrier currently providing air service at the airport reasonable access to airport facilities or service, or otherwise interfere with an air carrier's or foreign air carrier's prices, routes, or services, as a means of enforcing the fee.

(e) **APPLICABILITY.**—This section does not apply to—

(1) a fee imposed pursuant to a written agreement with air carriers or foreign air carriers using the facilities of an airport;

(2) a fee imposed pursuant to a financing agreement or covenant entered into prior to August 23, 1994; or

(3) any other existing fee not in dispute as of August 23, 1994.

(f) EFFECT ON EXISTING AGREEMENTS.—Nothing in this section shall adversely affect—

(1) the rights of any party under any existing written agreement between an air carrier or foreign air carrier and the owner or operator of an airport; or

(2) the ability of an airport to meet its obligations under a financing agreement, or covenant, that is in force as of August 23, 1994.

(g) DEFINITION.—In this section, the term “fee” means any rate, rental charge, landing fee, or other service charge for the use of airport facilities.

(Added Pub. L. 103–305, title I, § 113(a)(2), Aug. 23, 1994, 108 Stat. 1577; amended Pub. L. 104–264, title I, § 149(d), Oct. 9, 1996, 110 Stat. 3227; Pub. L. 104–287, § 5(85), Oct. 11, 1996, 110 Stat. 3397; Pub. L. 112–95, title I, § 148(a), Feb. 14, 2012, 126 Stat. 31.)

#### HISTORICAL AND REVISION NOTES

##### PUB. L. 104–287, § 5(85)(A)

This amends 49:47129(a)(1) to conform to the style of title 49.

##### PUB. L. 104–287, § 5(85)(B) AND (C)

These set out the date of enactment of 49:47129.

#### Editorial Notes

##### PRIOR PROVISIONS

A prior section 47129 was renumbered section 47131 of this title.

##### AMENDMENTS

2012—Pub. L. 112–95, § 148(a)(1), substituted “Resolution of disputes concerning airport fees” for “Resolution of airport-air carrier disputes concerning airport fees” in section catchline.

Subsec. (a)(1). Pub. L. 112–95, § 148(a)(6), (7), substituted “air carriers or foreign air carriers” for “air carriers” and “(as those terms are defined in section 40102)” for “(as defined in section 40102 of this title)” in introductory provisions.

Subsec. (a)(1)(B). Pub. L. 112–95, § 148(a)(4), substituted “air carrier or foreign air carrier” for “air carrier”.

Subsec. (c)(1). Pub. L. 112–95, § 148(a)(4), substituted “air carrier or foreign air carrier” for “air carrier”.

Subsec. (d). Pub. L. 112–95, § 148(a)(2), inserted “and Foreign Air Carrier” after “Carrier” in heading.

Subsec. (d)(1)(A) to (C). Pub. L. 112–95, § 148(a)(4), substituted “air carrier or foreign air carrier” for “air carrier” wherever appearing.

Subsec. (d)(2). Pub. L. 112–95, § 148(a)(3)–(5), inserted “and foreign air carrier” after “carrier” in heading and, in text, substituted “air carrier’s or foreign air carrier’s” for “air carrier’s” in two places and “air carrier or foreign air carrier” for “air carrier”.

Subsec. (e)(1). Pub. L. 112–95, § 148(a)(6), substituted “air carriers or foreign air carriers” for “air carriers”.

Subsec. (f)(1). Pub. L. 112–95, § 148(a)(4), substituted “air carrier or foreign air carrier” for “air carrier”.

1996—Subsec. (a)(1). Pub. L. 104–287, § 5(85)(A), substituted “of this title” for “of this subtitle” in introductory provisions.

Subsec. (a)(4). Pub. L. 104–264 added par. (4).

Subsecs. (b), (e)(2). Pub. L. 104–287, § 5(85)(B), substituted “August 23, 1994” for “the date of the enactment of this section”.

Subsec. (e)(3). Pub. L. 104–287, § 5(85)(C), substituted “August 23, 1994” for “such date of enactment”.

Subsec. (f)(2). Pub. L. 104–287, § 5(85)(B), substituted “August 23, 1994” for “the date of the enactment of this section”.

#### 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.

#### § 47130. Airport safety data collection

Notwithstanding any other provision of law, the Administrator of the Federal Aviation Administration may award a contract, using sole source or limited source authority, or enter into a cooperative agreement with, or provide a grant from amounts made available under section 48103 to, a private company or entity for the collection of airport safety data. In the event that a grant is provided under this section, the United States Government’s share of the cost of the data collection shall be 100 percent.

(Added Pub. L. 103–305, title I, § 118(a), Aug. 23, 1994, 108 Stat. 1580; amended Pub. L. 108–176, title I, § 154, Dec. 12, 2003, 117 Stat. 2507.)

#### Editorial Notes

##### AMENDMENTS

2003—Pub. L. 108–176 reenacted section catchline without change and amended text generally. Prior to amendment, text read as follows: “Notwithstanding any other provision of law, the Administrator of the Federal Aviation Administration may contract, using sole source or limited source authority, for the collection of airport safety data.”

#### 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.

#### § 47131. Annual report

(a) GENERAL RULE.—Not later than June 1 of each year, the Secretary of Transportation shall submit to Congress a report on activities carried out under this subchapter during the prior fiscal year. The report shall include—

(1) a summary of airport development and planning completed;

(2) a summary of individual grants issued;

(3) an accounting of discretionary and apportioned funds allocated;

(4) the allocation of appropriations; and

(5) a detailed statement listing airports that the Secretary believes are not in compliance with grant assurances or other requirements with respect to airport lands and including the circumstances of such noncompliance, the timelines for corrective action, and the corrective action the Secretary intends to take to bring the airport sponsor into compliance.

(b) SPECIAL RULE FOR LISTING NONCOMPLIANT AIRPORTS.—The Secretary does not have to conduct an audit or make a final determination before including an airport on the list referred to in subsection (a)(5).