

(6) revenues controlled by the United States Government can help resolve noise problems and carry with them a responsibility to the national airport system;

(7) revenues derived from a passenger facility charge may be applied to noise management and increased airport capacity; and

(8) a precondition to the establishment and collection of a passenger facility charge is the prescribing by the Secretary of Transportation of a regulation establishing procedures for reviewing airport noise and access restrictions on operations of stage 2 and stage 3 aircraft.

(Pub. L. 103-272, §1(e), July 5, 1994, 108 Stat. 1287; Pub. L. 112-95, title I, §111(c)(2)(A)(vi), (B), Feb. 14, 2012, 126 Stat. 18.)

HISTORICAL AND REVISION NOTES

Table with 3 columns: Revised Section, Source (U.S. Code), Source (Statutes at Large). Row 1: 47521, 49 App.:2151, Nov. 5, 1990, Pub. L. 101-508, §9302, 104 Stat. 1388-378.

Editorial Notes

AMENDMENTS

2012—Par. (5). Pub. L. 112-95, §111(c)(2)(B), substituted “charges” for “fees”.

Pars. (7), (8). Pub. L. 112-95, §111(c)(2)(A)(vi), substituted “charge” for “fee”.

Statutory Notes and Related Subsidiaries

AUTHORIZATION OF CERTAIN FLIGHTS BY STAGE 2 AIRCRAFT

Pub. L. 115-254, div. B, title I, §172, Oct. 5, 2018, 132 Stat. 3227, provided that:

“(a) IN GENERAL.—Notwithstanding chapter 475 of title 49, United States Code, not later than 180 days after the date of enactment of this Act [Oct. 5, 2018], the Administrator of the Federal Aviation Administration shall initiate a pilot program to permit an operator of a stage 2 aircraft to operate that aircraft in nonrevenue service into not more than 4 medium hub airports or nonhub airports if—

“(1) the airport—
“(A) is certified under part 139 of title 14, Code of Federal Regulations;

“(B) has a runway that—
“(i) is longer than 8,000 feet and not less than 200 feet wide; and

“(ii) is load bearing with a pavement classification number of not less than 38; and

“(C) has a maintenance facility with a maintenance certificate issued under part 145 of such title; and

“(2) the operator of the stage 2 aircraft operates not more than 10 flights per month using that aircraft.

“(b) TERMINATION.—The pilot program shall terminate on the earlier of—

“(1) the date that is 10 years after the date of the enactment of this Act [Oct. 5, 2018]; or

“(2) the date on which the Administrator determines that no stage 2 aircraft remain in service.

“(c) DEFINITIONS.—In this section:

“(1) MEDIUM HUB AIRPORT; NONHUB AIRPORT.—The terms ‘medium hub airport’ and ‘nonhub airport’ have the meanings given those terms in section 40102 of title 49, United States Code.

“(2) STAGE 2 AIRCRAFT.—The term ‘stage 2 aircraft’ has the meaning given the term ‘stage 2 airplane’ in section 91.851 of title 14, Code of Federal Regulations (as in effect on the day before the date of the enactment of this Act [Oct. 5, 2018]).”

§ 47522. Definitions

In this subchapter—

(1) “air carrier”, “air transportation”, and “United States” have the same meanings given those terms in section 40102(a) of this title.

(2) “stage 3 noise levels” means the stage 3 noise levels in part 36 of title 14, Code of Federal Regulations, in effect on November 5, 1990.

(Pub. L. 103-272, §1(e), July 5, 1994, 108 Stat. 1288.)

HISTORICAL AND REVISION NOTES

Table with 3 columns: Revised Section, Source (U.S. Code), Source (Statutes at Large). Row 1: 47522, 49 App.:2157(h), Nov. 5, 1990, Pub. L. 101-508, §9308(h), 104 Stat. 1388-384.

The definitions are made applicable to all of subchapter II, rather than only to those provisions based on 49 App.:2157 as in the source provisions, because the defined terms appear in several sections of subchapter II and it is assumed they are intended to have the same meaning in each of those sections.

§ 47523. National aviation noise policy

(a) GENERAL REQUIREMENTS.—Not later than July 1, 1991, the Secretary of Transportation shall establish by regulation a national aviation noise policy that considers this subchapter, including the phaseout and nonaddition of stage 2 aircraft as provided in this subchapter and dates for carrying out that policy and reporting requirements consistent with this subchapter and law existing as of November 5, 1990.

(b) DETAILED ECONOMIC ANALYSIS.—The policy shall be based on a detailed economic analysis of the impact of the phaseout date for stage 2 aircraft on competition in the airline industry, including—

(1) the ability of air carriers to achieve capacity growth consistent with the projected rate of growth for the airline industry;

(2) the impact of competition in the airline and air cargo industries;

(3) the impact on nonhub and small community air service; and

(4) the impact on new entry into the airline industry.

(Pub. L. 103-272, §1(e), July 5, 1994, 108 Stat. 1288.)

HISTORICAL AND REVISION NOTES

Table with 3 columns: Revised Section, Source (U.S. Code), Source (Statutes at Large). Row 1: 47523, 49 App.:2152, Nov. 5, 1990, Pub. L. 101-508, §9303, 104 Stat. 1388-378.

In this section, the text of 49 App.:2152(c) is omitted as executed.

In subsection (a), the words “(hereinafter in this chapter referred to as the ‘Secretary’)” are omitted because of the restatement. The words “this subchapter” (the first time they appear) are substituted for “the findings, determinations, and provisions of this chapter” to eliminate unnecessary words.

Subsection (b) is tabulated for clarity.

§ 47524. Airport noise and access restriction review program

(a) GENERAL REQUIREMENTS.—The national aviation noise policy established under section

47523 of this title shall provide for establishing by regulation a national program for reviewing airport noise and access restrictions on the operation of stage 2 and stage 3 aircraft. The program shall provide for adequate public notice and opportunity for comment on the restrictions.

(b) **STAGE 2 AIRCRAFT.**—Except as provided in subsection (d) of this section, an airport noise or access restriction may include a restriction on the operation of stage 2 aircraft proposed after October 1, 1990, only if the airport operator publishes the proposed restriction and prepares and makes available for public comment at least 180 days before the effective date of the proposed restriction—

- (1) an analysis of the anticipated or actual costs and benefits of the existing or proposed restriction;
- (2) a description of alternative restrictions;
- (3) a description of the alternative measures considered that do not involve aircraft restrictions; and
- (4) a comparison of the costs and benefits of the alternative measures to the costs and benefits of the proposed restriction.

(c) **STAGE 3 AIRCRAFT.**—(1) Except as provided in subsection (d) of this section, an airport noise or access restriction on the operation of stage 3 aircraft not in effect on October 1, 1990, may become effective only if the restriction has been agreed to by the airport proprietor and all aircraft operators or has been submitted to and approved by the Secretary of Transportation after an airport or aircraft operator's request for approval as provided by the program established under this section. Restrictions to which this paragraph applies include—

- (A) a restriction on noise levels generated on either a single event or cumulative basis;
- (B) a restriction on the total number of stage 3 aircraft operations;
- (C) a noise budget or noise allocation program that would include stage 3 aircraft;
- (D) a restriction on hours of operations; and
- (E) any other restriction on stage 3 aircraft.

(2) Not later than 180 days after the Secretary receives an airport or aircraft operator's request for approval of an airport noise or access restriction on the operation of a stage 3 aircraft, the Secretary shall approve or disapprove the restriction. The Secretary may approve the restriction only if the Secretary finds on the basis of substantial evidence that—

- (A) the restriction is reasonable, non-arbitrary, and nondiscriminatory;
- (B) the restriction does not create an unreasonable burden on interstate or foreign commerce;
- (C) the restriction is not inconsistent with maintaining the safe and efficient use of the navigable airspace;
- (D) the restriction does not conflict with a law or regulation of the United States;
- (E) an adequate opportunity has been provided for public comment on the restriction; and
- (F) the restriction does not create an unreasonable burden on the national aviation system.

(3) Paragraphs (1) and (2) of this subsection do not apply if the Administrator of the Federal Aviation Administration, before November 5, 1990, has formed a working group (outside the process established by part 150 of title 14, Code of Federal Regulations) with a local airport operator to examine the noise impact of air traffic control procedure changes at the airport. However, if an agreement on noise reductions at that airport is made between the airport proprietor and one or more air carriers or foreign air carriers that constitute a majority of the carrier use of the airport, this paragraph applies only to a local action to enforce the agreement.

(4) The Secretary may reevaluate an airport noise or access restriction previously agreed to or approved under this subsection on request of an aircraft operator able to demonstrate to the satisfaction of the Secretary that there has been a change in the noise environment of the affected airport that justifies a reevaluation. The Secretary shall establish by regulation procedures for conducting a reevaluation. A reevaluation—

(A) shall be based on the criteria in paragraph (2) of this subsection; and

(B) may be conducted only after 2 years after a decision under paragraph (2) of this subsection has been made.

(d) **NONAPPLICATION.**—Subsections (b) and (c) of this section do not apply to—

(1) a local action to enforce a negotiated or executed airport noise or access agreement between the airport operator and the aircraft operators in effect on November 5, 1990;

(2) a local action to enforce a negotiated or executed airport noise or access restriction agreed to by the airport operator and the aircraft operators before November 5, 1990;

(3) an intergovernmental agreement including an airport noise or access restriction in effect on November 5, 1990;

(4) a subsequent amendment to an airport noise or access agreement or restriction in effect on November 5, 1990, that does not reduce or limit aircraft operations or affect aircraft safety;

(5)(A) an airport noise or access restriction adopted by an airport operator not later than October 1, 1990, and stayed as of October 1, 1990, by a court order or as a result of litigation, if any part of the restriction is subsequently allowed by a court to take effect; or

(B) a new restriction imposed by an airport operator to replace any part of a restriction described in subclause (A) of this clause that is disallowed by a court, if the new restriction would not prohibit aircraft operations in effect on November 5, 1990; or

(6) a local action that represents the adoption of the final part of a program of a staged airport noise or access restriction if the initial part of the program was adopted during 1988 and was in effect on November 5, 1990.

(e) **GRANT LIMITATIONS.**—Beginning on the 91st day after the Secretary prescribes a regulation under subsection (a) of this section, a sponsor of a facility operating under an airport noise or access restriction on the operation of stage 3 aircraft that first became effective after October 1,

1990, is eligible for a grant under section 47104 of this title and is eligible to impose a passenger facility charge under section 40117 of this title only if the restriction has been—

- (1) agreed to by the airport proprietor and aircraft operators;
- (2) approved by the Secretary as required by subsection (c)(1) of this section; or
- (3) rescinded.

(Pub. L. 103–272, §1(e), July 5, 1994, 108 Stat. 1288; Pub. L. 112–95, title I, §111(c)(2)(A)(vii), Feb. 14, 2012, 126 Stat. 18.)

HISTORICAL AND REVISION NOTES

| Revised Section | Source (U.S. Code) | Source (Statutes at Large) |
|-----------------|-----------------------------|---|
| 47524(a) | 49 App.:2153(a)(1). | Nov. 5, 1990, Pub. L. 101–508, § 9304(a)(1)– (2)(C), (3)–(g), 104 Stat. 1388–379. |
| 47524(b) | 49 App.:2153(a)(2)(A), (c). | |
| 47524(c)(1) .. | 49 App.:2153(a)(2)(B), (b). | |
| 47524(c)(2) .. | 49 App.:2153(d). | |
| 47524(c)(3) .. | 49 App.:2153(a)(2)(D). | Nov. 5, 1990, Pub. L. 101–508, § 9304(a)(2)(D), 104 Stat. 1388–380; Oct. 31, 1992, Pub. L. 102–581, § 136(a), 106 Stat. 4889. |
| 47524(c)(4) .. | 49 App.:2153(f), (g). | |
| 47524(d) | 49 App.:2153(a)(2)(C). | |
| 47524(e) | 49 App.:2153(e). | |

In subsection (a), the words “shall provide for establishing” are substituted for “shall require the establishment . . . of” as being more appropriate. The words “in accordance with the provisions of this section” are omitted as surplus.

In subsection (b), the words “proposed after October 1, 1990” are substituted for 49 App.:2153(a)(2)(A) to eliminate unnecessary words.

In subsection (c)(1), before clause (A), the words “not in effect on October 1, 1990” are substituted for 49 App.:2153(a)(2)(B) to eliminate unnecessary words. In clause (B), the words “direct or indirect” are omitted as surplus.

In subsection (c)(2)(A)–(D) and (F), the word “proposed” is omitted as surplus. In clause (D), the word “existing” is omitted as surplus.

In subsection (c)(4), the words “that justifies a reevaluation” are substituted for “and that a review and reevaluation . . . of the previously approved or agreed to noise restriction is therefore justified” to eliminate unnecessary words.

In subsection (d)(6), the words “calendar year” are omitted as surplus.

Editorial Notes

AMENDMENTS

2012—Subsec. (e). Pub. L. 112–95 substituted “charge” for “fee” in introductory provisions.

§ 47525. Decision about airport noise and access restrictions on certain stage 2 aircraft

The Secretary of Transportation shall conduct a study and decide on the application of section 47524(a)–(d) of this title to airport noise and access restrictions on the operation of stage 2 aircraft with a maximum weight of not more than 75,000 pounds. In making the decision, the Secretary shall consider—

- (1) noise levels produced by those aircraft relative to other aircraft;
- (2) the benefits to general aviation and the need for efficiency in the national air transportation system;
- (3) the differences in the nature of operations at airports and the areas immediately surrounding the airports;

(4) international standards and agreements on aircraft noise; and

(5) other factors the Secretary considers necessary.

(Pub. L. 103–272, §1(e), July 5, 1994, 108 Stat. 1291.)

HISTORICAL AND REVISION NOTES

| Revised Section | Source (U.S. Code) | Source (Statutes at Large) |
|-----------------|--------------------|--|
| 47525 | 49 App.:2154. | Nov. 5, 1990, Pub. L. 101–508, § 9305, 104 Stat. 1388–382. |

In this section, before clause (1), the words “conduct a study and decide on” are substituted for “determine by a study” for clarity. The words “with a maximum weight of not more than” are substituted for “weighing less than” for consistency with sections 47528 and 47529 of the revised title.

§ 47526. Limitations for noncomplying airport noise and access restrictions

Unless the Secretary of Transportation is satisfied that an airport is not imposing an airport noise or access restriction not in compliance with this subchapter, the airport may not—

- (1) receive money under subchapter I of chapter 471 of this title; or
- (2) impose a passenger facility charge under section 40117 of this title.

(Pub. L. 103–272, §1(e), July 5, 1994, 108 Stat. 1291; Pub. L. 112–95, title I, §111(c)(2)(A)(viii), Feb. 14, 2012, 126 Stat. 18.)

HISTORICAL AND REVISION NOTES

| Revised Section | Source (U.S. Code) | Source (Statutes at Large) |
|-----------------|--------------------|--|
| 47526 | 49 App.:2156. | Nov. 5, 1990, Pub. L. 101–508, § 9307, 104 Stat. 1388–382. |

In this section, before clause (1), the words “Under no conditions” are omitted as surplus. In clause (2), the words “or collect” are omitted as surplus.

Editorial Notes

AMENDMENTS

2012—Par. (2). Pub. L. 112–95 substituted “charge” for “fee”.

§ 47527. Liability of the United States Government for noise damages

When a proposed airport noise or access restriction is disapproved under this subchapter, the United States Government shall assume liability for noise damages only to the extent that a taking has occurred as a direct result of the disapproval. The United States Court of Federal Claims has exclusive jurisdiction of a civil action under this section.

(Pub. L. 103–272, §1(e), July 5, 1994, 108 Stat. 1291.)

HISTORICAL AND REVISION NOTES

| Revised Section | Source (U.S. Code) | Source (Statutes at Large) |
|-----------------|--------------------|--|
| 47527 | 49 App.:2155. | Nov. 5, 1990, Pub. L. 101–508, § 9306, 104 Stat. 1388–382. |

The words “under this subchapter” are added for clarity. The words “has exclusive jurisdiction of a civil