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TITLE 49--TRANSPORTATION

SUBTITLE VII--AVIATION PROGRAMS

PART A--AIR COMMERCE AND SAFETY

subpart i--general

CHAPTER 401--GENERAL PROVISIONS

Sec. 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 navigable 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