

**49 USC Ch. 471: AIRPORT DEVELOPMENT****From Title 49—TRANSPORTATION****SUBTITLE VII—AVIATION PROGRAMS****PART B—AIRPORT DEVELOPMENT AND NOISE****CHAPTER 471—AIRPORT DEVELOPMENT****SUBCHAPTER I—AIRPORT IMPROVEMENT**

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## EDITORIAL NOTES

## AMENDMENTS

**2018**—Pub. L. 115–254, div. B, title I, §§140(b), 160(b), 166(c), title III, §395(b), Oct. 5, 2018, 132 Stat. 3211, 3221, 3226, 3327, added items 47124a, 47136, 47140, and 47143, substituted "Airport investment partnership program" for "Pilot program on private ownership of airports" in item 47134, and struck out former item 47136 "Inherently low-emission airport vehicle pilot program", item 47136a "Zero-emission airport vehicles and infrastructure", former item 47140 "Airport ground support equipment emissions retrofit pilot program", and item 47140a "Increasing the energy efficiency of airport power sources".

**2017**—Pub. L. 115–31, div. K, title I, §119F(b), May 5, 2017, 131 Stat. 735, which directed amendment of the analysis for this chapter by adding item 47144 after item 47143, was executed by adding item 47144 after item 47142 to reflect the probable intent of Congress, because no item for section 47143 has been enacted.

**2012**—Pub. L. 112–95, title I, §148(b), title V, §§511(c), 512(b), Feb. 14, 2012, 126 Stat. 32, 108, 109, substituted "Resolution of disputes concerning airport fees" for "Resolution of airport-air carrier disputes concerning airport fees" in item 47129 and added items 47136a and 47140a.

**2003**—Pub. L. 108–176, title I, §§152(b), 158(b), 159(a)(2), 160(b), 181(b), title III, §304(b), Dec. 12, 2003, 117 Stat. 2507, 2509, 2510, 2513, 2515, 2538, added items 47138 to 47142, subchapter III heading, and items 47171 to 47175.

**2000**—Pub. L. 106–181, title I, §§123(a)(2), 132(b), 133(b), 134(b), 135(d)(4), Apr. 5, 2000, 114 Stat. 74, 81–83, 85, struck out item 47132 "Pavement maintenance", added items 47135 to 47137, and substituted "conveyances" for "gifts" in item 47152.

**1996**—Pub. L. 104–264, title I, §§142(c), 147(c)(2), 149(a)(2), title VIII, §804(c), Oct. 9, 1996, 110 Stat. 3221, 3223, 3226, 3271, substituted "grant program" for "grant pilot program" in item 47128 and added items 47132, 47133, and 47134.

**1994**—Pub. L. 103–305, title I, §§113(b), 118(b), Aug. 23, 1994, 108 Stat. 1579, 1580, added items 47129 and 47130 and redesignated former item 47129 as 47131.

## SUBCHAPTER I—AIRPORT IMPROVEMENT

## §47101. Policies

(a) GENERAL.—It is the policy of the United States—

- (1) that the safe operation of the airport and airway system is the highest aviation priority;
- (2) that aviation facilities be constructed and operated to minimize current and projected noise impact on nearby communities;
- (3) to give special emphasis to developing reliever airports;
- (4) that appropriate provisions should be made to make the development and enhancement of cargo hub airports easier;
- (5) to encourage the development of intermodal connections on airport property between aeronautical and other transportation modes and systems to serve air transportation passengers and cargo efficiently and effectively and promote economic development;
- (6) that airport development projects under this subchapter provide for the protection and enhancement of natural resources and the quality of the environment of the United States;
- (7) that airport construction and improvement projects that increase the capacity of facilities to accommodate passenger and cargo traffic be undertaken to the maximum feasible extent so that safety and efficiency increase and delays decrease;
- (8) to ensure that nonaviation usage of the navigable airspace be accommodated but not allowed to decrease the safety and capacity of the airspace and airport system;
- (9) that artificial restrictions on airport capacity—

- (A) are not in the public interest;
- (B) should be imposed to alleviate air traffic delays only after other reasonably available and less burdensome alternatives have been tried; and
- (C) should not discriminate unjustly between categories and classes of aircraft;

(10) that special emphasis should be placed on converting appropriate former military air bases to civil use and identifying and improving additional joint-use facilities;

(11) that the airport improvement program should be administered to encourage projects that employ innovative technology (including integrated in-pavement lighting systems for runways and taxiways and other runway and taxiway incursion prevention devices), concepts, and approaches that will promote safety, capacity, and efficiency improvements in the construction of airports and in the air transportation system (including the development and use of innovative concrete and other materials in the construction of airport facilities to minimize initial laydown costs, minimize time out of service, and maximize lifecycle durability) and to encourage and solicit innovative technology proposals and activities in the expenditure of funding pursuant to this subchapter;

(12) that airport fees, rates, and charges must be reasonable and may only be used for purposes not prohibited by this subchapter; and

(13) that airports should be as self-sustaining as possible under the circumstances existing at each particular airport and in establishing new fees, rates, and charges, and generating revenues from all sources, airport owners and operators should not seek to create revenue surpluses that exceed the amounts to be used for airport system purposes and for other purposes for which airport revenues may be spent under section 47107(b)(1) of this title, including reasonable reserves and other funds to facilitate financing and cover contingencies.

(b) NATIONAL TRANSPORTATION POLICY.—(1) It is a goal of the United States to develop a national intermodal transportation system that transports passengers and property in an efficient manner. The future economic direction of the United States depends on its ability to confront directly the enormous challenges of the global economy, declining productivity growth, energy vulnerability, air pollution, and the need to rebuild the infrastructure of the United States.

(2) United States leadership in the world economy, the expanding wealth of the United States, the competitiveness of the industry of the United States, the standard of living, and the quality of life are at stake.

(3) A national intermodal transportation system is a coordinated, flexible network of diverse but complementary forms of transportation that transports passengers and property in the most efficient manner. By reducing transportation costs, these intermodal systems will enhance the ability of the industry of the United States to compete in the global marketplace.

(4) All forms of transportation, including aviation and other transportation systems of the future, will be full partners in the effort to reduce energy consumption and air pollution while promoting economic development.

(5) An intermodal transportation system consists of transportation hubs that connect different forms of appropriate transportation and provides users with the most efficient means of transportation and with access to commercial centers, business locations, population centers, and the vast rural areas of the United States, as well as providing links to other forms of transportation and to intercity connections.

(6) Intermodality and flexibility are paramount issues in the process of developing an integrated system that will obtain the optimum yield of United States resources.

(7) The United States transportation infrastructure must be reshaped to provide the economic underpinnings for the United States to compete in the 21st century global economy. The United States can no longer rely on the sheer size of its economy to dominate international economic rivals and must recognize fully that its economy is no longer a separate entity but is part of the global marketplace. The future economic prosperity of the United States depends on its ability to compete in an international marketplace that is teeming with competitors but in which a full one-quarter of the economic activity of the United States takes place.

(8) The United States must make a national commitment to rebuild its infrastructure through development of a national intermodal transportation system. The United States must provide the foundation for its industries to improve productivity and their ability to compete in the global economy with a system that will transport passengers and property in an efficient manner.

(c) CAPACITY EXPANSION AND NOISE ABATEMENT.—It is in the public interest to recognize the effects of airport capacity expansion projects on aircraft noise. Efforts to increase capacity through any means can have an impact on surrounding communities. Noncompatible land uses around airports must be reduced and efforts to mitigate noise must be given a high priority.

(d) CONSISTENCY WITH AIR COMMERCE AND SAFETY POLICIES.—Each airport and airway program should be carried out consistently with section 40101(a), (b), (d), and (f) of this title to foster competition, prevent unfair methods of competition in air transportation, maintain essential air transportation, and prevent unjust and discriminatory practices, including as the practices may be applied between categories and classes of aircraft.

(e) ADEQUACY OF NAVIGATION AIDS AND AIRPORT FACILITIES.—This subchapter should be carried out to provide adequate navigation aids and airport facilities for places at which scheduled commercial air service is provided. The facilities provided may include—

- (1) reliever airports; and
- (2) heliports designated by the Secretary of Transportation to relieve congestion at commercial service airports by diverting aircraft passengers from fixed-wing aircraft to helicopter carriers.

(f) **MAXIMUM USE OF SAFETY FACILITIES.**—This subchapter should be carried out consistently with a comprehensive airspace system plan, giving highest priority to commercial service airports, to maximize the use of safety facilities, including installing, operating, and maintaining, to the extent possible with available money and considering other safety needs—

- (1) electronic or visual vertical guidance on each runway;
- (2) grooving or friction treatment of each primary and secondary runway;
- (3) distance-to-go signs for each primary and secondary runway;
- (4) a precision approach system, a vertical visual guidance system, and a full approach light system for each primary runway;
- (5) a nonprecision instrument approach for each secondary runway;
- (6) runway end identifier lights on each runway that does not have an approach light system;
- (7) a surface movement radar system at each category III airport;
- (8) a taxiway lighting and sign system;
- (9) runway edge lighting and marking;
- (10) radar approach coverage for each airport terminal area; and
- (11) runway and taxiway incursion prevention devices, including integrated in-pavement lighting systems for runways and taxiways.

(g) **INTERMODAL PLANNING.**—To carry out the policy of subsection (a)(5) of this section, the Secretary of Transportation shall take each of the following actions:

(1) **COORDINATION IN DEVELOPMENT OF AIRPORT PLANS AND PROGRAMS.**—Cooperate with State and local officials in developing airport plans and programs that are based on overall transportation needs. The airport plans and programs shall be developed in coordination with other transportation planning and considering comprehensive long-range land-use plans and overall social, economic, environmental, system performance, and energy conservation objectives. The process of developing airport plans and programs shall be continuing, cooperative, and comprehensive to the degree appropriate to the complexity of the transportation problems.

(2) **GOALS FOR AIRPORT MASTER AND SYSTEM PLANS.**—Encourage airport sponsors and State and local officials to develop airport master plans and airport system plans that—

- (A) foster effective coordination between aviation planning and metropolitan planning;
- (B) include an evaluation of aviation needs within the context of multimodal planning;
- (C) consider passenger convenience, airport ground access, and access to airport facilities; and
- (D) are integrated with metropolitan plans to ensure that airport development proposals include adequate consideration of land use and ground transportation access.

(3) **REPRESENTATION OF AIRPORT OPERATORS ON MPO'S.**—Encourage metropolitan planning organizations, particularly in areas with populations greater than 200,000, to establish membership positions for airport operators.

(h) **CONSULTATION.**—To carry out the policy of subsection (a)(6) of this section, the Secretary of Transportation shall consult with the Secretary of the Interior and the Administrator of the Environmental Protection Agency about any project included in a project grant application involving the location of an airport or runway, or a major runway extension, that may have a significant effect on—

- (1) natural resources, including fish and wildlife;
- (2) natural, scenic, and recreation assets;
- (3) water and air quality; or
- (4) another factor affecting the environment.

(Pub. L. 103–272, §1(e), July 5, 1994, 108 Stat. 1246; Pub. L. 103–305, title I, §§104, 110, Aug. 23, 1994, 108 Stat. 1571, 1573; Pub. L. 103–429, §6(62), Oct. 31, 1994, 108 Stat. 4385; Pub. L. 104–264, title I, §141, Oct. 9, 1996, 110 Stat. 3220; Pub. L. 106–181, title I, §§121(a), (b), 137(a), Apr. 5, 2000, 114 Stat. 74, 85; Pub. L. 112–95, title I, §131, Feb. 14, 2012, 126 Stat. 21.)

HISTORICAL AND REVISION NOTES  
PUB. L. 103–272

<i>Revised Section</i>	<i>Source (U.S. Code)</i>	<i>Source (Statutes at Large)</i>
47101(a)(1)	49 App.:2201(a)(1), (2).	Sept. 3, 1982, Pub. L. 97–248, §§502(a)(1)–(3), (6), (b), 509(b)(5) (1st sentence, last sentence words before 11th comma), 96 Stat. 671, 672, 684.
	49 App.:2201(a)(9).	Sept. 3, 1982, Pub. L. 97–248, §502(a)(9), 96 Stat. 672; Dec. 30, 1987, Pub. L. 100–223, §102(b)(1), (c)(1), 101 Stat. 1487.

	49 App.:2201(a)(10).	Sept. 3, 1982, Pub. L. 97-248, §502(a)(10), 96 Stat. 672; Dec. 30, 1987, Pub. L. 100-223, §102(b)(1), (c)(2), 101 Stat. 1487.
47101(a)(2)	49 App.:2201(a)(8).	Sept. 3, 1982, Pub. L. 97-248, §502(a)(8), 96 Stat. 672; Dec. 30, 1987, Pub. L. 100-223, §102(b)(1), 101 Stat. 1487.
47101(a)(3)	49 App.:2201(a)(6).	
47101(a)(4)	49 App.:2201(a)(7).	Sept. 3, 1982, Pub. L. 97-248, 96 Stat. 324, §502(a)(7); added Dec. 30, 1987, Pub. L. 100-223, §102(b)(2), 101 Stat. 1487.
47101(a)(5)	49 App.:2201(b) (1st sentence).	
47101(a)(6)	49 App.:2208(b)(5) (1st sentence).	
47101(a)(7)	49 App.:2201(a)(11).	Sept. 3, 1982, Pub. L. 97-248, 96 Stat. 324, §502(a)(11); added Dec. 30, 1987, Pub. L. 100-223, §102(c)(3), 101 Stat. 1488.
47101(a)(8)	49 App.:2201(a)(12).	Sept. 3, 1982, Pub. L. 97-248, 96 Stat. 324, §502(a)(12); added Dec. 30, 1987, Pub. L. 100-223, §102(c)(3), 101 Stat. 1488; Nov. 5, 1990, Pub. L. 101-508, §9109(a)(1), 104 Stat. 1388-356.
47101(a)(9)	49 App.:2201(a)(13).	Sept. 3, 1982, Pub. L. 97-248, 96 Stat. 324, §502(a)(13); added Dec. 30, 1987, Pub. L. 100-223, §102(c)(3), 101 Stat. 1488; Nov. 5, 1990, Pub. L. 101-508, §§9103(2), 9109(a)(2), 104 Stat. 1388-354, 1388-356.
47101(a)(10)	49 App.:2201(a)(14).	Sept. 3, 1982, Pub. L. 97-248, 96 Stat. 324, §502(a)(14); added Nov. 5, 1990, Pub. L. 101-508, §9109(a)(3), 104 Stat. 1388-356.
47101(b)	49 App.:2201(c).	Sept. 3, 1982, Pub. L. 97-248, 96 Stat. 324, §502(c), (d); added Oct. 31, 1992, Pub. L. 102-581, §101, 106 Stat. 4875.
47101(c)	49 App.:2201(d).	
47101(d)	49 App.:2201(a)(5).	Sept. 3, 1982, Pub. L. 97-248, §502(a)(5), 96 Stat. 671; Nov. 5, 1990, Pub. L. 101-508, §9103(1), 104 Stat. 1388-354.
47101(e)	49 App.:2201(a)(3). 49 App.:2202(a)(20).	Sept. 3, 1982, Pub. L. 97-248, §503(a)(20), 96 Stat. 674; Dec. 30, 1987, Pub. L. 100-223, §103(c)(1), 101 Stat. 1488.
47101(f)	49 App.:2201(a)(4).	Sept. 3, 1982, Pub. L. 97-248, §502(a)(4), 96 Stat. 671; Dec. 30, 1987, Pub. L. 100-223, §102(a), 101 Stat. 1487.
47101(g)	49 App.:2201(b) (2d, last sentences).	
47101(h)	49 App.:2208(b)(5) (last sentence words before 11th comma).	

In subsection (a), before clause (1), the text of 49 App.:2201(a)(2), (9), and (10) is omitted as executed. The words "It is the policy of the United States" are substituted for "The Congress hereby . . . declares" in 49 App.:2201(a) (words before cl. (1)), "it is in the national interest" in 49 App.:2201(a)(12), "are not in the public interest and" in 49 App.:2201(a)(13), "It is declared to be in the national interest to" in 49 App.:2201(b), and "It is declared to be national policy that" in 49 App.:2208(b)(5) for consistency in the revised title and with other titles of the United States Code. In clause (1), the word "is" is substituted for "will continue to be" to eliminate unnecessary words. In clause (2), the words "with due regard" are omitted as surplus. In clause (3), the words "reliever airports make an important contribution to the efficient operation of the airport and airway system" are omitted as executed. In clause (4), the words "cargo hub airports play a critical role in the movement of commerce through the airport and airway system" are omitted as executed. In clause (5), the words "and promote" are omitted as surplus.

In subsection (d), the word "to" is substituted for "with due regard for the goals expressed therein of" to eliminate unnecessary words.

In subsection (e), before clause (1), the words "The facilities provided may include" are substituted for "including" because of the restatement. Clause (2) is substituted for "reliever heliports" to incorporate the definition of that term from 49 App.:2202(a)(19) into this subsection.

In subsection (f), before clause (1), the words "the goal of" are omitted as surplus.

In subsection (g), the words "formulated" and "due" are omitted as surplus. The words "process of developing airport plans and programs" are substituted for "process" for clarity.

#### **PUB. L. 103–429**

This amends 49:47101(a)(12) to translate a cross-reference to the Airport and Airway Improvement Act of 1982 (Public Law 97–248, 96 Stat. 671) to the corresponding cross-reference of title 49, United States Code.

#### **EDITORIAL NOTES**

#### **AMENDMENTS**

**2012**—Subsec. (g)(2)(C), (D). Pub. L. 112–95 added subpar. (C) and redesignated former subpar. (C) as (D).

**2000**—Subsec. (a)(5). Pub. L. 106–181, §137(a), amended par. (5) generally. Prior to amendment, par. (5) read as follows: "to encourage the development of transportation systems that use various modes of transportation in a way that will serve the States and local communities efficiently and effectively;"

Subsec. (a)(11). Pub. L. 106–181, §121(a), inserted "(including integrated in-pavement lighting systems for runways and taxiways and other runway and taxiway incursion prevention devices)" after "employ innovative technology".

Subsec. (f)(11). Pub. L. 106–181, §121(b), added par. (11).

**1996**—Subsec. (g). Pub. L. 104–264 substituted "INTERMODAL PLANNING" for "COOPERATION" in heading and amended text generally. Prior to amendment, text read as follows: "To carry out the policy of subsection (a)(5) of this section, the Secretary of Transportation shall cooperate with State and local officials in developing airport plans and programs that are based on overall transportation needs. The airport plans and programs shall be developed in coordination with other transportation planning and considering comprehensive long-range land-use plans and overall social, economic, environmental, system performance, and energy conservation objectives. The process of developing airport plans and programs shall be continuing, cooperative, and comprehensive to the degree appropriate to the complexity of the transportation problems."

**1994**—Subsec. (a)(11). Pub. L. 103–305, §104, added par. (11).

Subsec. (a)(12). Pub. L. 103–429 substituted "subchapter" for "Act".

Pub. L. 103–305, §110, added par. (12).

Subsec. (a)(13). Pub. L. 103–305, §110, added par. (13).

#### **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 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.

#### **LIMITED REGULATION OF NON-FEDERALLY SPONSORED PROPERTY**

Pub. L. 115–254, div. B, title I, §163(a)–(c), Oct. 5, 2018, 132 Stat. 3224, provided that:

"(a) IN GENERAL.—Except as provided in subsection (b), the Secretary of Transportation may not directly or indirectly regulate—

"(1) the acquisition, use, lease, encumbrance, transfer, or disposal of land by an airport owner or operator;

"(2) any facility upon such land; or

"(3) any portion of such land or facility.

"(b) EXCEPTIONS.—Subsection (a) does not apply to—

"(1) any regulation ensuring—

"(A) the safe and efficient operation of aircraft or safety of people and property on the ground related to aircraft operations;

"(B) that an airport owner or operator receives not less than fair market value in the context of a commercial transaction for the use, lease, encumbrance, transfer, or disposal of land, any facilities on such land, or any portion of such land or facilities; or

"(C) that the airport pays not more than fair market value in the context of a commercial transaction for the acquisition of land or facilities on such land;

"(2) any regulation imposed with respect to land or a facility acquired or modified using Federal funding; or

"(3) any authority contained in—

"(A) a Surplus Property Act [of 1944, act Oct. 3, 1944, ch. 479, 58 Stat. 765] instrument of transfer, or

"(B) section 40117 of title 49, United States Code.

"(c) RULE OF CONSTRUCTION.—Nothing in this section [enacting this note and amending section 47107 of this title] shall be construed to affect the applicability of sections [sic] 47107(b) or 47133 of title 49, United States Code, to revenues generated by the use, lease, encumbrance, transfer, or disposal of land under subsection (a), facilities upon such land, or any portion of such land or facilities."

### **REIMBURSABLE AGREEMENTS FOR CERTAIN AIRPORT PROJECTS**

Pub. L. 114–307, §1, Dec. 16, 2016, 130 Stat. 1523, provided that: "The Administrator of the Federal Aviation Administration may enter into a reimbursable agreement with a State or local government agency to carry out a project at an airport as to which notice is required under section 77.9 of title 14, Code of Federal Regulations, if the agreement—

"(1) includes measures for cost-effective completion of such project; and

"(2) would not negatively affect the safety or efficiency of the national airspace system."

### **RUNWAY SAFETY**

Pub. L. 112–95, title III, §314, Feb. 14, 2012, 126 Stat. 67, provided that:

"(a) STRATEGIC RUNWAY SAFETY PLAN.—

"(1) IN GENERAL.—Not later than 6 months after the date of enactment of this Act [Feb. 14, 2012], the Administrator of the Federal Aviation Administration shall develop and submit to Congress a report containing a strategic runway safety plan.

"(2) CONTENTS OF PLAN.—The strategic runway safety plan—

"(A) shall include, at a minimum—

"(i) goals to improve runway safety;

"(ii) near- and long-term actions designed to reduce the severity, number, and rate of runway incursions, losses of standard separation, and operational errors;

"(iii) time frames and resources needed for the actions described in clause (ii);

"(iv) a continuous evaluative process to track performance toward the goals referred to in clause (i); and

"(v) a review with respect to runway safety of every commercial service airport (as defined in section 47102 of title 49, United States Code) in the United States and proposed action to improve airport lighting, provide better signs, and improve runway and taxiway markings at those airports; and

"(B) shall address the increased runway safety risk associated with the expected increased volume of air traffic.

"(b) PROCESS.—Not later than 6 months after the date of enactment of this Act [Feb. 14, 2012], the Administrator shall develop a process for tracking and investigating operational errors, losses of standard separation, and runway incursions that includes procedures for—

"(1) identifying who is responsible for tracking operational errors, losses of standard separation, and runway incursions, including a process for lower level employees to report to higher supervisory levels and for frontline managers to receive the information in a timely manner;

"(2) conducting periodic random audits of the oversight process; and

"(3) ensuring proper accountability.

"(c) PLAN FOR INSTALLATION AND DEPLOYMENT OF SYSTEMS TO PROVIDE ALERTS OF POTENTIAL RUNWAY INCURSIONS.—Not later than June 30, 2012, the Administrator shall submit to Congress a report containing a plan for the installation and deployment of systems to alert air traffic controllers or flight crewmembers, or both, of potential runway incursions. The plan shall be integrated into the annual NextGen Implementation Plan of the Administration or any successor document."

### **AVAILABILITY OF GATES AND OTHER ESSENTIAL SERVICES**

Pub. L. 106–181, title I, §155(d), Apr. 5, 2000, 114 Stat. 89, provided that: "The Secretary [of Transportation] shall ensure that gates and other facilities are made available at costs that are fair and reasonable to air carriers at covered airports (as defined in section 47106(f)(4) [47106(f)(3)] of title 49, United States Code) where a 'majority-in-interest clause' of a contract or other agreement or arrangement inhibits the ability of the local airport authority to provide or build new gates or other facilities."

### **CONSTRUCTION OF RUNWAYS**

Pub. L. 106–181, title I, §158, Apr. 5, 2000, 114 Stat. 90, provided that: "Notwithstanding any provision of law that specifically restricts the number of runways at a single international airport, the Secretary [of Transportation] may obligate funds made available under chapters 471 and 481 of title 49, United States Code, for any project to construct a new runway at such airport, unless this section is expressly repealed."

### **INNOVATIVE FINANCING TECHNIQUES**

Pub. L. 104–264, title I, §148, Oct. 9, 1996, 110 Stat. 3223, authorized the Secretary of Transportation until Sept. 30, 1998, to carry out a demonstration program to provide information on the use of innovative financing techniques for airport development projects to Congress and the National Civil Aviation Review Commission. See section 47135 of this title.

### **AUTHORITY TO CLOSE AIRPORT LOCATED NEAR CLOSED OR REALIGNED MILITARY BASE**

Pub. L. 104–264, title XII, §1203, Oct. 9, 1996, 110 Stat. 3280, provided that: "Notwithstanding any other provision of a law, rule, or grant assurance, an airport that is not a commercial service airport may be closed by its sponsor without any obligation to repay grants made under chapter 471 of title 49, United States Code, the Airport and Airway Improvement Act of 1982 [see References in Text note set out under section 47108 of this title], or any other law if the airport is located within 2 miles of a United States Army depot which has been closed or realigned; except that in the case of disposal of the land associated with the airport, the part of the proceeds from the disposal that is proportional to the Government's share of the cost of acquiring the land shall be paid to the Secretary of Transportation for deposit in the Airport and Airway Trust Fund established under section 9502 of the Internal Revenue Code of 1986 (26 U.S.C. 9502)."

### **STUDY ON INNOVATIVE FINANCING**

Pub. L. 103–305, title V, §520, Aug. 23, 1994, 108 Stat. 1601, required the Secretary to conduct a study on innovative approaches for using Federal funds to finance airport development as a means of supplementing financing available under the Airport Improvement Program and set out matters for the Secretary to consider and persons to consult, and provided that the Secretary would transmit to Congress a report on the results of the study not later than 12 months after Aug. 23, 1994.

## **§47102. Definitions**

In this subchapter—

(1) "air carrier airport" means a public airport regularly served by—

(A) an air carrier certificated by the Secretary of Transportation under section 41102 of this title (except a charter air carrier); or

(B) at least one air carrier—

- (i) operating under an exemption from section 41101(a)(1) of this title that the Secretary grants; and
- (ii) having at least 2,500 passenger boardings at the airport during the prior calendar year.

(2) "airport"—

(A) means—

- (i) an area of land or water used or intended to be used for the landing and taking off of aircraft;
- (ii) an appurtenant area used or intended to be used for airport buildings or other airport facilities or rights of way; and
- (iii) airport buildings and facilities located in any of those areas; and

(B) includes a heliport.

(3) "airport development" means the following activities, if undertaken by the sponsor, owner, or operator of a public-use airport:

(A) constructing, repairing, or improving a public-use airport, including—

- (i) removing, lowering, relocating, marking, and lighting an airport hazard; and



(ii) preparing a plan or specification, including carrying out a field investigation.

(B) acquiring for, or installing at, a public-use airport—

(i) a navigation aid or another aid (including a precision approach system) used by aircraft for landing at or taking off from the airport, including preparing the site as required by the acquisition or installation;

(ii) safety or security equipment, including explosive detection devices, universal access systems, and emergency call boxes, the Secretary requires by regulation for, or approves as contributing significantly to, the safety or security of individuals and property at the airport and integrated in-pavement lighting systems for runways and taxiways and other runway and taxiway incursion prevention devices;

(iii) equipment to remove snow, to measure runway surface friction, or for aviation-related weather reporting, including closed circuit weather surveillance equipment if the airport is located in Alaska;

(iv) firefighting and rescue equipment at an airport that serves scheduled passenger operations of air carrier aircraft designed for more than 9 passenger seats;

(v) aircraft deicing equipment and structures (except aircraft deicing fluids and storage facilities for the equipment and fluids);

(vi) interactive training systems;

(vii) windshear detection equipment that is certified by the Administrator of the Federal Aviation Administration;

(viii) stainless steel adjustable lighting extensions approved by the Administrator;

(ix) engineered materials arresting systems as described in the Advisory Circular No. 150/5220-22 published by the Federal Aviation Administration on August 21, 1998, including any revision to the circular; and

(x) replacement of baggage conveyor systems, and reconfiguration of terminal baggage areas, that the Secretary determines are necessary to install bulk explosive detection devices; except that such activities shall be eligible for funding under this subchapter only using amounts apportioned under section 47114.

(C) acquiring an interest in land or airspace, including land for future airport development, that is needed—

(i) to carry out airport development described in subclause (A) or (B) of this clause; or

(ii) to remove or mitigate an existing airport hazard or prevent or limit the creation of a new airport hazard.

(D) acquiring land for, or constructing, a burn area training structure on or off the airport to provide live fire drill training for aircraft rescue and firefighting personnel required to receive the training under regulations the Secretary prescribes, including basic equipment and minimum structures to support the training under standards the Administrator of the Federal Aviation Administration prescribes.

(E) relocating after December 31, 1991, an air traffic control tower and any navigational aid (including radar) if the relocation is necessary to carry out a project approved by the Secretary under this subchapter or under section 40117.

(F) constructing, reconstructing, repairing, or improving an airport, or purchasing capital equipment for an airport, if necessary for compliance with the responsibilities of the operator or owner of the airport under the Americans with Disabilities Act of 1990 (42 U.S.C. 12101 et seq.), the Clean Air Act (42 U.S.C. 7401 et seq.), and the Federal Water Pollution Control Act (33 U.S.C. 1251 et seq.), except constructing or purchasing capital equipment that would benefit primarily a revenue-producing area of the airport used by a nonaeronautical business.

(G) acquiring land for, or work necessary to construct, a pad suitable for deicing aircraft before takeoff at a commercial service airport, including constructing or reconstructing paved areas, drainage collection structures, treatment and discharge systems, appropriate lighting, paved access for deicing vehicles and aircraft, and including acquiring glycol recovery vehicles, but not including acquiring aircraft deicing fluids or constructing or reconstructing storage facilities for aircraft deicing equipment or fluids.

(H) routine work to preserve and extend the useful life of runways, taxiways, and aprons at nonhub airports and airports that are not primary airports, under guidelines issued by the Administrator of the Federal Aviation Administration.

(I) constructing, reconstructing, or improving an airport, or purchasing nonrevenue generating capital equipment to be owned by an airport, for the purpose of transferring passengers, cargo, or baggage between the aeronautical and ground transportation modes on airport property.

(J) constructing an air traffic control tower or acquiring and installing air traffic control, communications, and related equipment at an air traffic control tower under the terms specified in section 47124(b)(4).

(K) work necessary to construct or modify airport facilities to provide low-emission fuel systems, gate electrification, and other related air quality improvements at a commercial service airport if the airport is located in an air quality nonattainment or maintenance area (as defined in sections 171(2) and 175A of the Clean Air Act (42 U.S.C. 7501(2); 7505a)) and if the airport would be able to receive emission credits, as described in section 47139.

(L) a project by a commercial service airport for the acquisition of airport-owned vehicles or ground support equipment equipped with low-emission technology if the airport is located in an air quality nonattainment or maintenance area (as defined in sections 171(2) and 175A of the Clean Air Act (42 U.S.C. 7501(2); 7505a)), if the

airport would be able to receive appropriate emission credits (as described in section 47139), and the vehicles are;

- (i) used exclusively on airport property; or
- (ii) used exclusively to transport passengers and employees between the airport and the airport's consolidated rental car facility or an intermodal surface transportation facility adjacent to the airport.

(M) construction of mobile refueler parking within a fuel farm at a nonprimary airport meeting the requirements of section 112.8 of title 40, Code of Federal Regulations.

(N) terminal development under section 47119(a).

(O) acquiring and installing facilities and equipment to provide air conditioning, heating, or electric power from terminal-based, nonexclusive use facilities to aircraft parked at a public use airport for the purpose of reducing energy use or harmful emissions as compared to the provision of such air conditioning, heating, or electric power from aircraft-based systems.

(P) an on-airport project to improve the reliability and efficiency of the airport's power supply and to prevent power disruptions to the airfield, passenger terminal, and any other airport facilities, including the acquisition and installation of electrical generators, separation of the airport's main power supply from its redundant power supply, and the construction or modification of airport facilities to install a microgrid (as defined in section 641 of the United States Energy Storage Competitiveness Act of 2007 (42 U.S.C. 17231)).

(Q) converting or retrofitting vehicles and ground support equipment into eligible zero-emission vehicles and equipment (as defined in section 47136) and for acquiring, by purchase or lease, eligible zero-emission vehicles and equipment.

(R) redevelopment planning, including financial, legal, or procurement consulting services, related to an application or proposed application for an exemption under section 47134.

(4) "airport hazard" means a structure or object of natural growth located on or near a public-use airport, or a use of land near the airport, that obstructs or otherwise is hazardous to the landing or taking off of aircraft at or from the airport.

(5) "airport planning" means planning as defined by requirements the Secretary prescribes and includes—

- (A) integrated airport system planning;
- (B) developing an environmental management system; and
- (C) developing a plan for recycling and minimizing the generation of airport solid waste, consistent with applicable State and local recycling laws, including the cost of a waste audit.

(6) "amount made available under section 48103" or "amount newly made available" means the amount authorized for grants under section 48103 as that amount may be limited in that year by a subsequent law, but as determined without regard to grant obligation recoveries made in that year or amounts covered by section 47107(f).

(7) "commercial service airport" means a public airport in a State that the Secretary determines has at least 2,500 passenger boardings each year and is receiving scheduled passenger aircraft service.

(8) "general aviation airport" means a public-use airport that is located in a State and that, as determined by the Secretary—

- (A) does not have scheduled service; or
- (B) has scheduled service with less than 2,500 passenger boardings each year.

(9) "integrated airport system planning" means developing for planning purposes information and guidance to decide the extent, kind, location, and timing of airport development needed in a specific area to establish a viable, balanced, and integrated system of public-use airports, including—

- (A) identifying system needs;
- (B) developing an estimate of systemwide development costs;
- (C) conducting studies, surveys, and other planning actions, including those related to airport access, needed to decide which aeronautical needs should be met by a system of airports; and
- (D) standards prescribed by a State, except standards for safety of approaches, for airport development at nonprimary public-use airports.

(10) "landed weight" means the weight of aircraft transporting only cargo in intrastate, interstate, and foreign air transportation, as the Secretary determines under regulations the Secretary prescribes.

(11) "large hub airport" means a commercial service airport that has at least 1.0 percent of the passenger boardings.

(12) "low-emission technology" means technology for vehicles and equipment whose emission performance is the best achievable under emission standards established by the Environmental Protection Agency and that relies exclusively on alternative fuels that are substantially nonpetroleum based, as defined by the Department of Energy, but not excluding hybrid systems or natural gas powered vehicles.

(13) "medium hub airport" means a commercial service airport that has at least 0.25 percent but less than 1.0 percent of the passenger boardings.

(14) "nonhub airport" means a commercial service airport that has less than 0.05 percent of the passenger boardings.

(15) "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.

(16) "primary airport" means a commercial service airport the Secretary determines to have more than 10,000 passenger boardings each year.

(17) "project" means a project, separate projects included in one project grant application, or all projects to be undertaken at an airport in a fiscal year, to achieve airport development or airport planning.

(18) "project cost" means a cost involved in carrying out a project.

(19) "project grant" means a grant of money the Secretary makes to a sponsor to carry out at least one project.

(20) "public agency" means—

(A) a State or political subdivision of a State;

(B) a tax-supported organization; or

(C) an Indian tribe or pueblo.

(21) "public airport" means an airport used or intended to be used for public purposes—

(A) that is under the control of a public agency; and

(B) of which the area used or intended to be used for the landing, taking off, or surface maneuvering of aircraft is publicly owned.

(22) "public-use airport" means—

(A) a public airport; or

(B) a privately-owned airport used or intended to be used for public purposes that is—

(i) a reliever airport; or

(ii) determined by the Secretary to have at least 2,500 passenger boardings each year and to receive scheduled passenger aircraft service.

(23) "reliever airport" means an airport the Secretary designates to relieve congestion at a commercial service airport and to provide more general aviation access to the overall community.

(24) "revenue producing aeronautical support facilities" means fuel farms, hangar buildings, self-service credit card aeronautical fueling systems, airplane wash racks, major rehabilitation of a hangar owned by a sponsor, or other aeronautical support facilities that the Secretary determines will increase the revenue producing ability of the airport.

(25) "small hub airport" means a commercial service airport that has at least 0.05 percent but less than 0.25 percent of the passenger boardings.

(26) "sponsor" means—

(A) a public agency that submits to the Secretary under this subchapter an application for financial assistance; and

(B) a private owner of a public-use airport that submits to the Secretary under this subchapter an application for financial assistance for the airport.

(27) "State" means a State of the United States, the District of Columbia, Puerto Rico, the Virgin Islands, American Samoa, the Northern Mariana Islands, the Trust Territory of the Pacific Islands, and Guam.

(28) "terminal development" means—

(A) development of—

(i) an airport passenger terminal building, including terminal gates;

(ii) access roads servicing exclusively airport traffic that leads directly to or from an airport passenger terminal building; and

(iii) walkways that lead directly to or from an airport passenger terminal building; and

(B) the cost of a vehicle described in section 47119(a)(1)(B).

(Pub. L. 103–272, §1(e), July 5, 1994, 108 Stat. 1248; Pub. L. 103–305, title I, §105, Aug. 23, 1994, 108 Stat. 1572; Pub. L. 104–264, title I, §142(b)(1), Oct. 9, 1996, 110 Stat. 3221; Pub. L. 106–181, title I, §§121(c), 122, 123(b), 137(b), title V, §514(a), Apr. 5, 2000, 114 Stat. 74, 75, 85, 144; Pub. L. 107–71, title I, §119(a)(1), (5), Nov. 19, 2001, 115 Stat. 628, 629; Pub. L. 108–7, div. I, title III, §370(a), Feb. 20, 2003, 117 Stat. 424; Pub. L. 108–176, title I, §§141, 142, 159(b)(1), (d), title VIII, §801(a), Dec. 12, 2003, 117 Stat. 2503, 2510, 2511, 2586; Pub. L. 112–95, title I, §132, Feb. 14, 2012, 126 Stat. 21; Pub. L. 115–254, div. B, title I, §165, Oct. 5, 2018, 132 Stat. 3225.)

## HISTORICAL AND REVISION NOTES

<i>Revised Section</i>	<i>Source (U.S. Code)</i>	<i>Source (Statutes at Large)</i>
47102(1)	(no source).	
47102(2)	49 App.:2202(a)(1).	Sept. 3, 1982, Pub. L. 97-248, §503(a)(1), 96 Stat. 672; Dec. 30, 1987, Pub. L. 100-223, §103(a), 101 Stat. 1488.
	49 App.:2202(a)(21).	Sept. 3, 1982, Pub. L. 97-248, §503(a)(13)-(19), (21)-(23), 96 Stat. 673, 674; Dec. 30, 1987, Pub. L. 100-223, §103(c)(1), 101 Stat. 1488.
47102(3)	49 App.:2202(a)(2).	Sept. 3, 1982, Pub. L. 97-248, §503(a)(2), 96 Stat. 672; Dec. 30, 1987, Pub. L. 100-223, §103(b), 101 Stat. 1488; Nov. 5, 1990, Pub. L. 101-508, §9102, 104 Stat. 1388-354; Oct. 31, 1992, Pub. L. 102-581, §112(a), (b), 106 Stat. 4880.
47102(4)	49 App.:2202(a)(3).	Sept. 3, 1982, Pub. L. 97-248, §503(a)(3)-(5), (7), (8), (b), 96 Stat. 673, 674.
47102(5)	49 App.:2202(a)(4).	
47102(6)	49 App.:2202(b).	
47102(7)	49 App.:2202(a)(5).	
47102(8)	49 App.:2202(a)(7).	
47102(9)	49 App.:2202(a)(9).	Sept. 3, 1982, Pub. L. 97-248, 96 Stat. 324, §503(a)(9); added Dec. 30, 1987, Pub. L. 100-223, §103(c)(2), 101 Stat. 1488.
47102(10)	49 App.:2202(a)(10).	Sept. 3, 1982, Pub. L. 97-248, §503(a)(10), 96 Stat. 673; Dec. 30, 1987, Pub. L. 100-223, §103(c)(1), (d), 101 Stat. 1488; Oct. 31, 1992, Pub. L. 102-581, §115, 106 Stat. 4881.
47102(11)	49 App.:2202(a)(12).	Sept. 3, 1982, Pub. L. 97-248, §503(a)(12), 96 Stat. 673; Dec. 30, 1987, Pub. L. 100-223, §103(c)(1), (e), 101 Stat. 1488.
47102(12)	49 App.:2202(a)(13).	
47102(13)	49 App.:2202(a)(14).	
47102(14)	49 App.:2202(a)(15).	
47102(15)	49 App.:2202(a)(16).	
47102(16)	49 App.:2202(a)(8), (17).	
47102(17)	49 App.:2202(a)(18).	
47102(18)	49 App.:2202(a)(19).	
47102(19)	49 App.:2202(a)(22).	
47102(20)	49 App.:2202(a)(23).	

In this section, before clause (1), the words "In this subchapter" are substituted for "As used in this chapter" and "Whenever in this chapter reference is made to . . . such reference shall mean" for consistency in the revised title and with other titles of the United States Code and to eliminate unnecessary words.

Clause (1) restates the definition of "air carrier airport" that was contained in section 11(1) of the Airport and Airway Development Act of 1970 as in effect both on February 18, 1980, and immediately before September 3, 1982. The clause is added to this section to eliminate the cross-references to definitions in section 11 of the Airport and Airway Development Act of 1970 that are contained in the source provisions restated in sections 47106(d) and 47119(a) of the revised title. Because some of the terms used in the definition of "air carrier airport" were themselves defined in section 11, the definitions of those terms are incorporated in the definition added in clause (1) to the extent they differ from the definitions of those terms restated in this section. The words "Secretary of Transportation" and "Secretary" are substituted for "Civil Aeronautics Board" because of the transfer of authority under 49 App.:1551(b)(1)(E).

In clause (2), before subclause (A), the text of 49 App.:2202(a)(21) is omitted as surplus because the complete name of the Secretary of Transportation is used the first time the term appears in a section. In subclause (A)(iii), the words "those areas" are substituted for "thereon" for clarity.

In clause (3)(A), before subclause (i), the words "any work involved in" and "or portion thereof" are eliminated as unnecessary. The word "reconstructing" is omitted as being included in "constructing". In subclause (ii), the words "carrying out a field investigation" are substituted for "field investigations incidental thereto" for clarity.

In clause (3)(B), before subclause (i), the word "for" is substituted for "by" for clarity. In subclause (i), the words "required by the acquisition or installation" are substituted for "thereby required" for clarity. In subclause (ii), the word "individuals" is substituted for "persons" for clarity and consistency in the revised title and with other titles of the Code.

In clause (3)(C), before subclause (i), the words "interest in land or airspace" are substituted for "land or of any interest therein, or of any easement through or other interest in airspace" to eliminate unnecessary words. In subclause (ii), the words "existing airport hazard . . . the creation of a new airport hazard" are added for clarity and consistency in this chapter.

In clause (3)(D), the words "any . . . work involved to" are omitted as surplus. The word "Secretary" is substituted for "Department of Transportation" because of 49:102(b). The words "Administrator of the" are added because of 49:106(b).

In clause (4), the word "near" is substituted for "in the vicinity of" to eliminate unnecessary words. The words "obstructs or otherwise is hazardous to the landing or taking off" are substituted for "obstructs the airspace required for the flight of aircraft in landing or taking off . . . or is otherwise hazardous to such landing or taking off" for clarity and to eliminate unnecessary words.

In clause (6), the words "for a fiscal year . . . for that fiscal year" are omitted as surplus. The words "authorized for grants" are substituted for "made available for obligation" for clarity and consistency. The word "law" is substituted for "Act of Congress" for consistency in the revised title and with other titles of the Code. The words "or limited" are omitted as surplus.

In clause (8), before subclause (A), the words "the initial as well as continuing" and "nature" are omitted as surplus. In subclause (C), the words "needed to decide which aeronautical needs should be met" are substituted for "as may be necessary to determine the short-, intermediate-, and long-range aeronautical demands required to be met" for clarity and to eliminate unnecessary words. The word "particular" is eliminated as unnecessary. In subclause (D), the word "prescribed" is substituted for "the establishment . . . of" for consistency in the revised title and with other titles of the Code.

In clause (9), the words "scheduled and nonscheduled" are omitted as surplus. The word "cargo" is substituted for "property (including mail)" for consistency in the revised title.

In clause (10), before subclause (A), the words "passenger boardings" are substituted for "passengers enplaned" for clarity. In subclause (A), the words "domestic, territorial, and international", "in the States", "scheduled and nonscheduled", and "intrastate, interstate, and foreign" are omitted as surplus. In subclause (B), the words "who continue on an aircraft in" are substituted for "on board" for clarity. (See Cong. Rec., pp. S15296, 15297, Oct. 28, 1987, daily ed.). The words "that stops" are substituted for "which transit" for clarity. The word "located" is omitted as surplus.

In clause (12), the words "included in one project grant application" are substituted for "submitted together", and the words "or all projects to be undertaken" are substituted for "including the combined submission of all projects", for clarity and consistency in this chapter.

In clause (15)(A), the words "or any agency of a State, a municipality . . . other" are omitted as surplus.

In clause (19)(A), the words "either individually or jointly with one or more other public agencies" are omitted as surplus.

In clause (20), the words "the Commonwealth of" and "the Government of" are omitted as surplus.

#### EDITORIAL NOTES

#### REFERENCES IN TEXT

The Americans with Disabilities Act of 1990, referred to in par. (3)(F), is Pub. L. 101-336, [July 26, 1990](#), 104 Stat. 327, which is classified principally to chapter 126 (§12101 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 12101 of Title 42 and Tables.

The Clean Air Act, referred to in par. (3)(F), is act [July 14, 1955, ch. 360](#), 69 Stat. 322, which is classified generally to chapter 85 (§7401 et seq.) of Title 42. For complete classification of this Act to the Code, see Short Title note set out under section 7401 of Title 42 and Tables.

The Federal Water Pollution Control Act, referred to in par. (3)(F), is act June 30, 1948, ch. 758, as amended generally by Pub. L. 92-500, [§2, Oct. 18, 1972](#), 86 Stat. 816, which is classified generally to chapter 26 (§1251 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 1251 of Title 33 and Tables.

## AMENDMENTS

**2018**—Par. (3)(K). Pub. L. 115–254, §165(1)(A), substituted "7505a)) and if the airport would be able to receive" for "7505a) and if such project will result in an airport receiving appropriate".

Par. (3)(L). Pub. L. 115–254, §165(1)(B), added subpar. (L) and struck out former subpar. (L) which read as follows: "a project for the acquisition or conversion of vehicles and ground support equipment, owned by a commercial service airport, to low-emission technology, if the airport is located in an air quality nonattainment or maintenance area (as defined in sections 171(2) and 175A of the Clean Air Act (42 U.S.C. 7501(2); 7505a) and if such project will result in an airport receiving appropriate emission credits as described in section 47139."

Par. (3)(P) to (R). Pub. L. 115–254, §165(1)(C), added subpars. (P) to (R).

Par. (5). Pub. L. 115–254, §165(2), substituted "requirements" for "regulations" in introductory provisions.

Par. (8). Pub. L. 115–254, §165(3), substituted "public-use" for "public" in introductory provisions.

**2012**—Par. (3)(B)(iv). Pub. L. 112–95, §132(a)(1), substituted "9" for "20".

Par. (3)(G). Pub. L. 112–95, §132(a)(2), inserted "and including acquiring glycol recovery vehicles," after "vehicles and aircraft,".

Par. (3)(M) to (O). Pub. L. 112–95, §132(a)(3), added subpars. (M) to (O).

Par. (5). Pub. L. 112–95, §132(b), amended par. (5) generally. Prior to amendment, par. (5) read as follows: "'airport planning' means planning as defined by regulations the Secretary prescribes and includes integrated airport system planning."

Par. (8). Pub. L. 112–95, §132(c)(3), added par. (8). Former par. (8) redesignated (9).

Pars. (9) to (23). Pub. L. 112–95, §132(c)(2), redesignated pars. (8) to (22) as (9) to (23), respectively. Former par. (23) redesignated (25).

Par. (24). Pub. L. 112–95, §132(d), added par. (24). Former par. (24) redesignated (26).

Pars. (25) to (27). Pub. L. 112–95, §132(c)(1), redesignated pars. (23) to (25) as (25) to (27), respectively.

Par. (28). Pub. L. 112–95, §132(e), added par. (28).

**2003**—Par. (3)(B)(x). Pub. L. 108–176, §142, inserted "; except that such activities shall be eligible for funding under this subchapter only using amounts apportioned under section 47114" before period at end.

Par. (3)(H). Pub. L. 108–176, §141, inserted "nonhub airports and" before "airports that are not primary airports".

Par. (3)(J). Pub. L. 108–176, §159(b)(1)(A), redesignated subpar. (M) as (J) and struck out former subpar. (J) which read as follows: "in fiscal year 2002, any additional security related activity required by law or by the Secretary after September 11, 2001, and before October 1, 2002."

Par. (3)(K), (L). Pub. L. 108–176, §159(b)(1), added subpars. (K) and (L) and struck out former subpars. (K) and (L) which read as follows:

"(K) in fiscal year 2002 with respect to funds apportioned under section 47114 in fiscal years 2001 and 2002, any activity, including operational activities, of an airport that is not a primary airport if that airport is located within the confines of enhanced class B airspace, as defined by Notice to Airmen FDC 1/0618 issued by the Federal Aviation Administration and the activity was carried out when any restriction in the Notice is in effect.

"(L) in fiscal year 2002, payments for debt service on indebtedness incurred to carry out a project at an airport owned or controlled by the sponsor or at a privately owned or operated airport passenger terminal financed by indebtedness incurred by the sponsor if the Secretary determines that such payments are necessary to prevent a default on the indebtedness."

Par. (3)(M). Pub. L. 108–176, §159(b)(1)(A), redesignated subpar. (M) as (J).

Pub. L. 108–7 added subpar. (M).

Par. (6). Pub. L. 108–176, §801(a)(6), added par. (6) and struck out former par. (6) which read as follows: "'amount made available under section 48103 of this title' means the amount authorized for grants under section 48103 of this title as reduced by any law enacted after September 3, 1982."

Par. (10). Pub. L. 108–176, §801(a)(5), added par. (10). Former par. (10) redesignated (14).

Par. (10)(A), (B). Pub. L. 108–176, §801(a)(3), added subpars. (A) and (B) and struck out former subpars. (A) and (B) which read as follows:

"(A) means revenue passenger boardings 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."

Par. (11). Pub. L. 108–176, §159(d), amended section as amended by Pub. L. 108–176, §801, by adding par. (11).

Pub. L. 108–176, §801(a)(4), redesignated par. (11) as (15).

Pars. (12) to (18). Pub. L. 108–176, §801(a)(4), (5), added pars. (12) and (13) and redesignated pars. (10) to (14) as (14) to (18), respectively. Former pars. (15) to (18) redesignated (19) to (22), respectively.

Pars. (19), (20). Pub. L. 108–176, §801(a)(4), redesignated pars. (15) and (16) as (19) and (20), respectively. Former pars. (19) and (20) redesignated (24) and (25), respectively.

Pars. (21) and (22). Pub. L. 108–176, §801(a)(4), redesignated pars. (17) and (18) as pars. (21) and (22), respectively.

Par. (23). Pub. L. 108–176, §801(a)(2), added par. (23).

Pars. (24), (25). Pub. L. 108–176, §801(a)(1), redesignated pars. (19) and (20) as (24) and (25), respectively.

**2001**—Par. (3)(B)(x). Pub. L. 107–71, §119(a)(5), added cl. (x).

Par. (3)(J) to (L). Pub. L. 107–71, §119(a)(1), added subpars. (J) to (L).

**2000**—Par. (3)(B)(ii). Pub. L. 106–181, §121(c)(1), substituted ", universal access systems, and emergency call boxes," for "and universal access systems," and inserted "and integrated in-pavement lighting systems for runways and taxiways and other runway and taxiway incursion prevention devices" before semicolon at end.

Par. (3)(B)(iii). Pub. L. 106–181, §121(c)(2), inserted before semicolon at end ", including closed circuit weather surveillance equipment if the airport is located in Alaska".

Par. (3)(B)(vii), (viii). Pub. L. 106–181, §122, added cls. (vii) and (viii).

Par. (3)(B)(ix). Pub. L. 106–181, §514(a), added cl. (ix).

Par. (3)(H). Pub. L. 106–181, §123(b), added subpar. (H).

Par. (3)(I). Pub. L. 106–181, §137(b), added subpar. (I).

**1996**—Par. (3)(E). Pub. L. 104–264, §142(b)(1)(A), inserted "or under section 40117" before period at end.

Par. (3)(F). Pub. L. 104–264, §142(b)(1)(B), struck out "paid for by a grant under this subchapter and" after "airport, if".

**1994**—Par. (3)(B)(ii). Pub. L. 103–305 inserted ", including explosive detection devices and universal access systems," after "or security equipment".

#### 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 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.

#### AIRPORT ACCESS ROADS IN REMOTE LOCATIONS

Pub. L. 115–254, div. B, title I, §162, Oct. 5, 2018, 132 Stat. 3223, provided that: "Notwithstanding section 47102 of title 49, United States Code, for fiscal years 2018 through 2023—

"(1) the definition of the term 'airport development' under that section includes the construction of a storage facility to shelter snow removal equipment or aircraft rescue and firefighting equipment that is owned by an airport sponsor and used exclusively to maintain safe airfield operations, up to the facility size necessary to accommodate the types and quantities of equipment prescribed by the FAA, regardless of whether Federal funding was used to acquire the equipment;

"(2) a storage facility to shelter snow removal equipment may exceed the facility size limitation described in paragraph (1) if the airport sponsor certifies to the Secretary that the following conditions are met:

"(A) The storage facility to be constructed will be used to store snow removal equipment exclusively used for clearing airfield pavement of snow and ice following a weather event.

"(B) The airport is categorized as a local general aviation airport in the Federal Aviation Administration's 2017–2021 National Plan of Integrated Airport Systems (NPIAS) report.

"(C) The 30-year annual snowfall normal of the nearest weather station based on the National Oceanic and Atmospheric Administration Summary of Monthly Normals 1981–2010 exceeds 26 inches.

"(D) The airport serves as a base for a medical air ambulance transport aircraft.

"(E) The airport master record (Form 5010–1) effective on September 14, 2017 for the airport indicates 45 based aircraft consisting of single engine, multiple engine, and jet engine aircraft.

"(F) No funding under this section will be used for any portion of the storage facility designed to shelter maintenance and operations equipment that are not required for clearing airfield pavement of snow and ice.

"(G) The airport sponsor will complete design of the storage building not later than September 30, 2019, and will initiate construction of the storage building not later than September 30, 2020.

"(H) The area of the storage facility, or portion thereof, to be funded under this subsection [sic] does not exceed 6,000 square feet; and

"(3) the definition of the term 'terminal development' under that section includes the development of an airport access road that—

"(A) is located in a noncontiguous State;

"(B) is not more than 5 miles in length;

"(C) connects to the nearest public roadways of not more than the 2 closest census designated places; and

"(D) may provide incidental access to public or private property that is adjacent to the road and is not otherwise connected to a public road."

### GUIDANCE

Pub. L. 108–176, title I, §159(b)(2), Dec. 12, 2003, 117 Stat. 2510, provided that:

"(A) ELIGIBLE LOW-EMISSION MODIFICATIONS AND IMPROVEMENTS.—The Secretary of Transportation, in consultation with the Administrator of the Environmental Protection Agency, shall issue guidance describing eligible low-emission modifications and improvements, and stating how airport sponsors will demonstrate benefits, under section 47102(3)(K) of title 49, United States Code, as added by this subsection.

"(B) ELIGIBLE LOW-EMISSION VEHICLE TECHNOLOGY.—The Secretary, in consultation with the Administrator, shall issue guidance describing eligible low-emission vehicle technology, and stating how airport sponsors will demonstrate benefits, under section 47102(3)(L) of title 49, United States Code, as added by this subsection."

### 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.

### §47103. National plan of integrated airport systems

(a) GENERAL REQUIREMENTS AND CONSIDERATIONS.—The Secretary of Transportation shall maintain the plan for developing public-use airports in the United States, named "the national plan of integrated airport systems". The plan shall include the kind and estimated cost of eligible airport development the Secretary of Transportation considers necessary to provide a safe, efficient, and integrated system of public-use airports adequate to anticipate and meet the needs of civil aeronautics, to meet the national defense requirements of the Secretary of Defense, and to meet identified needs of the United States Postal Service. Airport development included in the plan may not be limited to meeting the needs of any particular classes or categories of public-use airports. In maintaining the plan, the Secretary of Transportation shall consider the needs of each segment of civil aviation and the relationship of the airport system to —

- (1) the rest of the transportation system, including connection to the surface transportation network; and
- (2) forecasted technological developments in aeronautics.

(b) SPECIFIC REQUIREMENTS.—In maintaining the plan, the Secretary of Transportation shall—

- (1) to the extent possible and as appropriate, consult with departments, agencies, and instrumentalities of the United States Government, with public agencies, and with the aviation community; and
- (2) make every reasonable effort to address the needs of air cargo operations and rotary wing aircraft operations.

(c) AVAILABILITY OF DOMESTIC MILITARY AIRPORTS AND AIRPORT FACILITIES.—To the extent possible, the Secretary of Defense shall make domestic military airports and airport facilities available for civil use. In advising the Secretary of



Transportation under subsection (a) of this section, the Secretary of Defense shall indicate the extent to which domestic military airports and airport facilities are available for civil use.

(d) PUBLICATION.—The Secretary of Transportation shall publish the plan every 2 years.

(Pub. L. 103–272, §1(e), July 5, 1994, 108 Stat. 1251; Pub. L. 112–95, title I, §152(a), Feb. 14, 2012, 126 Stat. 32.)

#### HISTORICAL AND REVISION NOTES

<i>Revised Section</i>	<i>Source (U.S. Code)</i>	<i>Source (Statutes at Large)</i>
47103(a)	49 App.:2203(a)(1) (2d–last sentences).	Sept. 3, 1982, Pub. L. 97–248, §504(a)(1), 96 Stat. 675; Dec. 30, 1987, Pub. L. 100–223, §104(a)(1)(A), (2), 101 Stat. 1489.
47103(b)	49 App.:2203(a)(2).  49 App.:2203(c).	Sept. 3, 1982, Pub. L. 97–248, 96 Stat. 324, §504(a)(2); added Dec. 30, 1987, Pub. L. 100–223, §104(a)(1)(B), 101 Stat. 1489. Sept. 3, 1982, Pub. L. 97–248, §504(c), 96 Stat. 676.
47103(c)	49 App.:2203(d)(1).	Sept. 3, 1982, Pub. L. 97–248, §504(d)(1), 96 Stat. 676; Dec. 30, 1987, Pub. L. 100–223, §104(b)(2), 101 Stat. 1489.
47103(d)	49 App.:2203(a)(1) (1st sentence).	

In subsection (a), before clause (1), the words "shall maintain" and "In maintaining" are substituted for "In reviewing and revising" for clarity and consistency in the revised title. The word "named" is substituted for "After September 3, 1982, the revised national airport system plan shall be known as", and the words "the national defense requirements of the Secretary of Defense" are substituted for "requirements in support of the national defense as determined by the Secretary of Defense", to eliminate unnecessary words. The words "included in the plan may not be limited to meeting the needs of any particular" are substituted for "identified by this plan shall not be limited to the requirements of any" for clarity and consistency in this section. The words "among other things" are omitted as surplus.

In subsection (b), before clause (1), the words "In maintaining" are substituted for "In reviewing and revising" for consistency in this section. In clause (1), the words "departments, agencies, and instrumentalities of the United States Government" are substituted for "Federal . . . agencies" for consistency in the revised title and with other titles of the United States Code. In clauses (2) and (3), the words "As soon as feasible following December 30, 1987" are omitted as obsolete. In clause (3), the word "legitimate" is omitted as surplus.

In subsection (c), the words "Secretary of Defense" are substituted for "Department of Defense" because of 10:133.

In subsection (d), the words "Not later than two years after September 3, 1982" are omitted as executed.

#### EDITORIAL NOTES

#### AMENDMENTS

**2012**—Subsec. (a). Pub. L. 112–95, §152(a)(1)(A), substituted "the airport system to" for "each airport to" in introductory provisions.

Subsec. (a)(1). Pub. L. 112–95, §152(a)(1)(B), substituted "system, including connection to the surface transportation network; and" for "system in the particular area;"

Subsec. (a)(2). Pub. L. 112–95, §152(a)(1)(C), substituted period at end for "; and".

Subsec. (a)(3). Pub. L. 112–95, §152(a)(1)(D), struck out par. (3) which read as follows: "forecasted developments in other modes of intercity transportation."

Subsec. (b). Pub. L. 112–95, §152(a)(2), inserted "and" at end of par. (1), redesignated par. (3) as (2) and struck out ", Short Takeoff and Landing/Very Short Takeoff and Landing aircraft operations," after "air cargo operations", and struck out former par. (2) which read as follows: "consider tall structures that reduce safety or airport capacity; and".

Subsec. (d). Pub. L. 112–95, §152(a)(3), struck out "status of the" before "plan".

### §47104. Project grant authority

(a) GENERAL AUTHORITY.—To maintain a safe and efficient nationwide system of public-use airports that meets the present and future needs of civil aeronautics, the Secretary of Transportation may make project grants under this

subchapter from the Airport and Airway Trust Fund.

(b) **INCURRING OBLIGATIONS.**—The Secretary may incur obligations to make grants from amounts made available under section 48103 of this title as soon as the amounts are apportioned under section 47114(c) and (d)(2) of this title.

(c) **EXPIRATION OF AUTHORITY.**—After September 30, 2023, the Secretary may not incur obligations under subsection (b) of this section, except for obligations of amounts—

(1) remaining available after that date under section 47117(b) of this title; or

(2) recovered by the United States Government from grants made under this chapter if the amounts are obligated only for increases under section 47108(b)(2) and (3) of this title in the maximum amount of obligations of the Government for any other grant made under this title.

(Pub. L. 103–272, §1(e), July 5, 1994, 108 Stat. 1252; Pub. L. 103–305, title I, §101(b), Aug. 23, 1994, 108 Stat. 1571; Pub. L. 103–429, §6(63), Oct. 31, 1994, 108 Stat. 4385; Pub. L. 104–264, title I, §101(b), Oct. 9, 1996, 110 Stat. 3216; Pub. L. 105–277, div. C, title I, §110(b)(2), Oct. 21, 1998, 112 Stat. 2681–587; Pub. L. 106–6, §2(b), Mar. 31, 1999, 113 Stat. 10; Pub. L. 106–31, title VI, §6002(b), May 21, 1999, 113 Stat. 113; Pub. L. 106–59, §1(b), Sept. 29, 1999, 113 Stat. 482; Pub. L. 106–181, title I, §101(b), Apr. 5, 2000, 114 Stat. 65; Pub. L. 108–176, title I, §101(b), Dec. 12, 2003, 117 Stat. 2494; Pub. L. 110–190, §4(b), Feb. 28, 2008, 122 Stat. 644; Pub. L. 110–253, §4(b), June 30, 2008, 122 Stat. 2418; Pub. L. 110–330, §4(b), Sept. 30, 2008, 122 Stat. 3718; Pub. L. 111–12, §4(b), Mar. 30, 2009, 123 Stat. 1458; Pub. L. 111–69, §4(b), Oct. 1, 2009, 123 Stat. 2055; Pub. L. 111–116, §4(b), Dec. 16, 2009, 123 Stat. 3032; Pub. L. 111–153, §4(b), Mar. 31, 2010, 124 Stat. 1085; Pub. L. 111–161, §4(b), Apr. 30, 2010, 124 Stat. 1127; Pub. L. 111–197, §4(b), July 2, 2010, 124 Stat. 1354; Pub. L. 111–216, title I, §103, Aug. 1, 2010, 124 Stat. 2349; Pub. L. 111–249, §4(b), Sept. 30, 2010, 124 Stat. 2628; Pub. L. 111–329, §4(b), Dec. 22, 2010, 124 Stat. 3567; Pub. L. 112–7, §4(b), Mar. 31, 2011, 125 Stat. 32; Pub. L. 112–16, §4(b), May 31, 2011, 125 Stat. 219; Pub. L. 112–21, §4(b), June 29, 2011, 125 Stat. 234; Pub. L. 112–27, §4(b), Aug. 5, 2011, 125 Stat. 271; Pub. L. 112–30, title II, §204(b), Sept. 16, 2011, 125 Stat. 358; Pub. L. 112–91, §4(b), Jan. 31, 2012, 126 Stat. 4; Pub. L. 112–95, title I, §101(b), Feb. 14, 2012, 126 Stat. 15; Pub. L. 114–55, title I, §101(b), Sept. 30, 2015, 129 Stat. 523; Pub. L. 114–141, title I, §101(b), Mar. 30, 2016, 130 Stat. 323; Pub. L. 114–190, title I, §1101(b), July 15, 2016, 130 Stat. 617; Pub. L. 115–63, title I, §101(b), Sept. 29, 2017, 131 Stat. 1169; Pub. L. 115–141, div. M, title I, §101(b), Mar. 23, 2018, 132 Stat. 1046; Pub. L. 115–254, div. B, title I, §111(b), Oct. 5, 2018, 132 Stat. 3199.)

HISTORICAL AND REVISION NOTES  
PUB. L. 103–272

<i>Revised Section</i>	<i>Source (U.S. Code)</i>	<i>Source (Statutes at Large)</i>
47104(a)	49 App.:2202(a)(24).	Sept. 3, 1982, Pub. L. 97–248, §503(a)(24), 96 Stat. 674; Dec. 30, 1987, Pub. L. 100–223, §103(c)(1), 101 Stat. 1488.
	49 App.:2204(a) (1st sentence).	Sept. 3, 1982, Pub. L. 97–248, §505(a) (1st sentence), 96 Stat. 676.
47104(b)	49 App.:2204(b)(1) (1st sentence).	Sept. 3, 1982, Pub. L. 97–248, §505(b)(1), 96 Stat. 677; Nov. 5, 1990, Pub. L. 101–508, §9104(2), 104 Stat. 1388–355; Oct. 31, 1992, Pub. L. 102–581, §102(b), 106 Stat. 4877.
47104(c)	49 App.:2204(b)(1) (last sentence).	

In subsection (a), the words "project grants" are substituted for "grants . . . for airport development and airport planning by project grants" in 49 App.:2204(a) to eliminate unnecessary words and because of the definitions of "project" and "project grant" in section 47102 of the revised title.

In subsection (b), the words "and such authority shall exist with respect to funds available for the making of grants for any fiscal year or part thereof pursuant to subsection (a) of this section" are omitted as surplus.

In subsection (c), the words "except for obligations of amounts" are substituted for "except that nothing in this section shall preclude the obligation by grant agreement of apportioned funds" to eliminate unnecessary words.

PUB. L. 103–429

<i>Revised Section</i>	<i>Source (U.S. Code)</i>	<i>Source (Statutes at Large)</i>
47104(c)	49 App.:2204(b)(1) (last sentence). 49 App.:2204 note.	Sept. 3, 1982, Pub. L. 97–248, §505(b)(1) (last sentence), as amended May 26, 1994, Pub. L. 103–260, §109, 108 Stat. 700.

In subsection (c), the text of section 109(b) of the Airport Improvement Program Temporary Extension Act of 1994 (Public Law 103–260, 108 Stat. 700) is omitted as executed.

**EDITORIAL NOTES****AMENDMENTS**

**2018**—Subsec. (c). Pub. L. 115–254 substituted "2023," for "2018," in introductory provisions.

Pub. L. 115–141 substituted "September 30, 2018," for "March 31, 2018," in introductory provisions.

**2017**—Subsec. (c). Pub. L. 115–63 substituted "March 31, 2018," for "September 30, 2017," in introductory provisions.

**2016**—Subsec. (c). Pub. L. 114–190 substituted "September 30, 2017," for "July 15, 2016," in introductory provisions.

Pub. L. 114–141 substituted "July 15, 2016," for "March 31, 2016," in introductory provisions.

**2015**—Subsec. (c). Pub. L. 114–55 substituted "March 31, 2016," for "September 30, 2015," in introductory provisions.

**2012**—Subsec. (c). Pub. L. 112–95 substituted "After September 30, 2015," for "After February 17, 2012," in introductory provisions.

Pub. L. 112–91 substituted "February 17, 2012," for "January 31, 2012," in introductory provisions.

**2011**—Subsec. (c). Pub. L. 112–30 substituted "January 31, 2012," for "September 16, 2011," in introductory provisions.

Pub. L. 112–27 substituted "September 16, 2011," for "July 22, 2011," in introductory provisions.

Pub. L. 112–21 substituted "July 22, 2011," for "June 30, 2011," in introductory provisions.

Pub. L. 112–16 substituted "June 30, 2011," for "May 31, 2011," in introductory provisions.

Pub. L. 112–7 substituted "May 31, 2011," for "March 31, 2011," in introductory provisions.

**2010**—Subsec. (c). Pub. L. 111–329 substituted "March 31, 2011," for "December 31, 2010," in introductory provisions.

Pub. L. 111–249 substituted "December 31, 2010," for "September 30, 2010," in introductory provisions.

Pub. L. 111–216 substituted "September 30, 2010," for "August 1, 2010," in introductory provisions.

Pub. L. 111–197 substituted "August 1, 2010," for "July 3, 2010," in introductory provisions.

Pub. L. 111–161 substituted "July 3, 2010," for "April 30, 2010," in introductory provisions.

Pub. L. 111–153 substituted "April 30, 2010," for "March 31, 2010," in introductory provisions.

**2009**—Subsec. (c). Pub. L. 111–116 substituted "March 31, 2010," for "December 31, 2009," in introductory provisions.

Pub. L. 111–69 substituted "December 31, 2009," for "September 30, 2009," in introductory provisions.

Pub. L. 111–12 substituted "September 30, 2009," for "March 31, 2009," in introductory provisions.

**2008**—Subsec. (c). Pub. L. 110–330 substituted "March 31, 2009," for "September 30, 2008," in introductory provisions.

Pub. L. 110–253 substituted "September 30, 2008," for "June 30, 2008," in introductory provisions.

Pub. L. 110–190 substituted "June 30, 2008," for "September 30, 2007," in introductory provisions.

**2003**—Subsec. (c). Pub. L. 108–176 substituted "September 30, 2007" for "September 30, 2003" in introductory provisions.

**2000**—Subsec. (c). Pub. L. 106–181 substituted "September 30, 2003," for "September 30, 1999," in introductory provisions.

**1999**—Subsec. (c). Pub. L. 106–59 substituted "September 30, 1999" for "August 6, 1999" in introductory provisions.

Pub. L. 106–31 substituted "August 6, 1999" for "May 31, 1999" in introductory provisions.

Pub. L. 106–6 substituted "May" for "March" in introductory provisions.

**1998**—Subsec. (c). Pub. L. 105–277 substituted "March 31, 1999" for "September 30, 1998" in introductory provisions.

**1996**—Subsec. (c). Pub. L. 104–264 substituted "1998" for "1996" in introductory provisions.

**1994**—Subsec. (c). Pub. L. 103–429 reenacted heading without change and amended text generally. Prior to amendment, text read as follows: "After September 30, 1996, the Secretary may not incur obligations under subsection (b) of this section, except for obligations of amounts remaining available after that date under section 47117(b) of this title."

Pub. L. 103–305 substituted "After September 30, 1996, the Secretary" for "After September 30, 1993, the Secretary".

**STATUTORY NOTES AND RELATED SUBSIDIARIES****EFFECTIVE DATE OF 2008 AMENDMENT**

Pub. L. 110–253, §4(c), June 30, 2008, 122 Stat. 2418, provided that: "The amendments made by this section [amending this section and section 48103 of this title] shall take effect on July 1, 2008."

### **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.

### **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.

### **REMOTE TOWER PILOT PROGRAM FOR RURAL AND SMALL COMMUNITIES**

Pub. L. 115–254, div. B, title I, §161, Oct. 5, 2018, 132 Stat. 3221, provided that:

"(a) PILOT PROGRAM.—

"(1) ESTABLISHMENT.—The Administrator of the Federal Aviation Administration shall establish—

"(A) in consultation with airport operators and other aviation stakeholders, a pilot program at public-use airports to construct and operate remote towers in order to assess their operational benefits;

"(B) a selection process for participation in the pilot program; and

"(C) a clear process for the safety and operational certification of the remote towers.

"(2) SAFETY CONSIDERATIONS.—

"(A) SAFETY RISK MANAGEMENT PANEL.—Prior to the operational use of a remote tower under the pilot program established in subsection (a), the Administrator shall convene a safety risk management panel for the tower to address any safety issues with respect to the tower. The panels shall be created and utilized in a manner similar to that of the safety risk management panels previously convened for remote towers and shall take into account existing best practices and operational data from existing remote towers in the United States.

"(B) CONSULTATION.—In establishing the pilot program, the Administrator shall consult with operators of remote towers in the United States and foreign countries to design the pilot program in a manner that leverages as many safety and airspace efficiency benefits as possible.

"(3) APPLICATIONS.—The operator of an airport seeking to participate in the pilot program shall submit to the Administrator an application that is in such form and contains such information as the Administrator may require.

"(4) PROGRAM DESIGN.—In designing the pilot program, the Administrator shall—

"(A) to the maximum extent practicable, ensure that at least 2 different vendors of remote tower systems participate;

"(B) identify which air traffic control information and data will assist the Administrator in evaluating the feasibility, safety, costs, and benefits of remote towers;

"(C) implement processes necessary to collect the information and data identified in subparagraph (B);

"(D) develop criteria, in addition to considering possible selection criteria in paragraph (5), for the selection of airports that will best assist the Administrator in evaluating the feasibility, safety, costs, and benefits of remote towers, including the amount and variety of air traffic at an airport; and

"(E) prioritize the selection of airports that can best demonstrate the capabilities and benefits of remote towers, including applicants proposing to operate multiple remote towers from a single facility.

"(5) SELECTION CRITERIA FOR CONSIDERATION.—In selecting airports for participation in the pilot program, the Administrator, after consultation with representatives of labor organizations representing

operators and employees of the air traffic control system, shall consider for participation in the pilot program—

"(A) 1 nonhub airport;

"(B) 3 airports that are not primary airports and that do not have existing air traffic control towers;

"(C) 1 airport that participates in the Contract Tower Program; and

"(D) 1 airport selected at the discretion of the Administrator.

"(6) DATA.—The Administrator shall clearly identify and collect air traffic control information and data from participating airports that will assist the Administrator in evaluating the feasibility, safety, costs, and benefits of remote towers.

"(7) REPORT.—Not later than 1 year after the date the first remote tower is operational, and annually thereafter, 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—

"(A) detailing any benefits, costs, or safety improvements associated with the use of the remote towers; and

"(B) evaluating the feasibility of using remote towers, particularly in the Contract Tower Program, for airports without an air traffic control tower, to improve safety at airports with towers, or to reduce costs without impacting safety at airports with or without existing towers.

"(8) DEADLINE.—Not later than 1 year after the date of enactment of this Act [Oct. 5, 2018], the Administrator shall select airports for participation in the pilot program.

"(9) DEFINITIONS.—In this subsection:

"(A) CONTRACT TOWER PROGRAM.—The term 'Contract Tower Program' has the meaning given the term in section 47124(e) of title 49, United States Code, as added by this Act.

"(B) REMOTE TOWER.—The term 'remote tower' means a remotely operated air navigation facility, including all necessary system components, that provides the functions and capabilities of an air traffic control tower whereby air traffic services are provided to operators at an airport from a location that may not be on or near the airport.

"(C) OTHER DEFINITIONS.—The terms 'nonhub airport', 'primary airport', and 'public-use airport' have the meanings given such terms in section 47102 of title 49, United States Code.

"(10) SUNSET.—This subsection, including the report required under paragraph (8), shall not be in effect after September 30, 2023.

"(b) REMOTE TOWER PROGRAM.—Concurrent with the establishment of the process for safety and operational certification of remote towers under subsection (a)(1)(C), the Administrator shall establish a process to authorize the construction and commissioning of additional remote towers that are certificated under subsection (a)(1)(C) at other airports.

"(c) AIP FUNDING ELIGIBILITY.—For purposes of the pilot program under subsection (a), and after certificated remote towers are available under subsection (b), constructing a remote tower or acquiring and installing air traffic control, communications, or related equipment specifically for a remote tower shall be considered airport development (as defined in section 47102 of title 49, United States Code) for purposes of subchapter I of chapter 471 of that title if the components are installed and used at the airport, except, as needed, for off-airport sensors installed on leased towers."

## **ENVIRONMENTAL MITIGATION PILOT PROGRAM**

Pub. L. 115–254, div. B, title I, §190, Oct. 5, 2018, 132 Stat. 3237, provided that:

"(a) IN GENERAL.—The Secretary of Transportation may carry out a pilot program involving not more than 6 projects at public-use airports in accordance with this section.

"(b) GRANTS.—In carrying out the program, the Secretary may make grants to sponsors of public-use airports from funds apportioned under section 47117(e)(1)(A) of title 49, United States Code.

"(c) USE OF FUNDS.—Amounts from a grant received by the sponsor of a public-use airport under the program shall be used for environmental mitigation projects that will measurably reduce or mitigate aviation impacts on noise, air quality, or water quality at the airport or within 5 miles of the airport.

"(d) ELIGIBILITY.—Notwithstanding any other provision of chapter 471 of title 49, United States Code, an environmental mitigation project approved under this section shall be treated as eligible for assistance under that chapter.

"(e) SELECTION CRITERIA.—In selecting from among applicants for participation in the program, the Secretary may give priority consideration to projects that—

"(1) will achieve the greatest reductions in aircraft noise, airport emissions, or airport water quality impacts either on an absolute basis or on a per dollar of funds expended basis; and

"(2) will be implemented by an eligible consortium.

"(f) FEDERAL SHARE.—The Federal share of the cost of a project carried out under the program shall be 50 percent.

"(g) MAXIMUM AMOUNT.—Not more than \$2,500,000 may be made available by the Secretary in grants under the program for any single project.

"(h) IDENTIFYING BEST PRACTICES.—The Secretary may establish and publish information identifying best practices for reducing or mitigating aviation impacts on noise, air quality, and water quality at airports or in the vicinity of airports based on the projects carried out under the program.

"(i) SUNSET.—The program shall terminate 5 years after the Secretary makes the first grant under the program.

"(j) DEFINITIONS.—In this section, the following definitions apply:

"(1) ELIGIBLE CONSORTIUM.—The term 'eligible consortium' means a consortium that is composed of 2 or more of the following entities:

"(A) Businesses incorporated in the United States.

"(B) Public or private educational or research organizations located in the United States.

"(C) Entities of State or local governments in the United States.

"(D) Federal laboratories.

"(2) ENVIRONMENTAL MITIGATION PROJECT.—The term 'environmental mitigation project' means a project that—

"(A) introduces new environmental mitigation techniques or technologies that have been proven in laboratory demonstrations;

"(B) proposes methods for efficient adaptation or integration of new concepts into airport operations; and

"(C) will demonstrate whether new techniques or technologies for environmental mitigation are

—

"(i) practical to implement at or near multiple public-use airports; and

"(ii) capable of reducing noise, airport emissions, or water quality impacts in measurably significant amounts.

"(k) AUTHORIZATION FOR THE TRANSFER OF FUNDS FROM DEPARTMENT OF DEFENSE.—

"(1) IN GENERAL.—The Administrator of the Federal Aviation Administration may accept funds from the Secretary of Defense to increase the authorized funding for this section by the amount of such transfer only to carry out projects designed for environmental mitigation at a site previously, but not currently, managed by the Department of Defense.

"(2) ADDITIONAL GRANTEES.—If additional funds are made available by the Secretary of Defense under paragraph (1), the Administrator may increase the number of grantees under subsection (a)."

## DESIGN-BUILD CONTRACTING

Pub. L. 106–181, [title I, §139, Apr. 5, 2000](#), 114 Stat. 85, authorized the Administrator of the Federal Aviation Administration to establish a pilot program, subject to certain contract and cost specifications, under which design-build contracts could be used to carry out up to 7 projects at airports in the United States with a grant awarded under this section, and stipulated that this authorization would expire on Sept. 30, 2003.

### §47105. Project grant applications

(a) SUBMISSION AND CONSULTATION.—(1) An application for a project grant under this subchapter may be submitted to the Secretary of Transportation by—

(A) a sponsor; or

(B) a State, as the only sponsor, for an airport development project benefitting 1 or more airports in the State or for airport planning for projects for 1 or more airports in the State if—

(i) the sponsor of each airport gives written consent that the State be the applicant;

(ii) the Secretary is satisfied there is administrative merit and aeronautical benefit in the State being the sponsor; and

(iii) an acceptable agreement exists that ensures that the State will comply with appropriate grant conditions and other assurances the Secretary requires.

(2) Before deciding to undertake an airport development project at an airport under this subchapter, a sponsor shall consult with the airport users that will be affected by the project.

(3) This subsection does not authorize a public agency that is subject to the laws of a State to apply for a project grant in violation of a law of the State.

(b) CONTENTS AND FORM.—An application for a project grant under this subchapter—

(1) shall describe the project proposed to be undertaken;

(2) may propose a project only for a public-use airport included in the current national plan of integrated airport systems;

(3) may propose airport development only if the development complies with standards the Secretary prescribes or approves, including standards for site location, airport layout, site preparation, paving, lighting, and safety of approaches; and

(4) shall be in the form and contain other information the Secretary prescribes.

(c) STATE STANDARDS FOR AIRPORT DEVELOPMENT.—

(1) IN GENERAL.—The Secretary may approve standards (except standards for safety of approaches) that a State prescribes for airport development at nonprimary public-use airports in the State. On approval under this subsection, a State's standards apply to the nonprimary public-use airports in the State instead of the comparable standards prescribed by the Secretary under subsection (b)(3) of this section. The Secretary, or the State with the approval of the Secretary, may revise standards approved under this subsection.

(2) PAVEMENT STANDARDS.—

(A) TECHNICAL ASSISTANCE.—At the request of a State, the Secretary shall, not later than 30 days after the date of the request, provide technical assistance to the State in developing standards, acceptable to the Secretary under subparagraph (B), for pavement on nonprimary public-use airports in the State.

(B) REQUIREMENTS.—The Secretary shall—

(i) continue to provide technical assistance under subparagraph (A) until the standards are approved under paragraph (1); and

(ii) clearly indicate to the State the standards that are acceptable to the Secretary, considering, at a minimum, local conditions and locally available materials.

(d) CERTIFICATION OF COMPLIANCE.—The Secretary may require a sponsor to certify that the sponsor will comply with this subchapter in carrying out the project. The Secretary may rescind the acceptance of a certification at any time. This subsection does not affect an obligation or responsibility of the Secretary under another law of the United States.

(e) PREVENTIVE MAINTENANCE.—After January 1, 1995, the Secretary may approve an application under this subchapter for the replacement or reconstruction of pavement at an airport only if the sponsor has provided such assurances or certifications as the Secretary may determine appropriate that such airport has implemented an effective airport pavement maintenance-management program. The Secretary may require such reports on pavement condition and pavement management programs as the Secretary determines may be useful.

(f) NOTIFICATION.—The sponsor of an airport for which an amount is apportioned under section 47114(c) of this title shall notify the Secretary of the fiscal year in which the sponsor intends to submit a project grant application for the apportioned amount. The notification shall be given by the time and contain the information the Secretary prescribes.

(Pub. L. 103–272, §1(e), July 5, 1994, 108 Stat. 1253; Pub. L. 103–305, title I, §§106, 107(a), Aug. 23, 1994, 108 Stat. 1572; Pub. L. 115–254, div. B, title I, §183, Oct. 5, 2018, 132 Stat. 3233.)

#### HISTORICAL AND REVISION NOTES

<i>Revised Section</i>	<i>Source (U.S. Code)</i>	<i>Source (Statutes at Large)</i>
47105(a) (1)(A)	49 App.:2208(a)(1) (1st sentence related to authority to submit applications).	Sept. 3, 1982, Pub. L. 97–248, §§509(a)(1), (c), (d), 511(c), 96 Stat. 682, 685, 688.
47105(a) (1)(B)	49 App.:2208(a)(3).	Sept. 3, 1982, Pub. L. 97–248, 96 Stat. 324, §509(a)(3); added Dec. 30, 1987, Pub. L. 100–223, §108, 101 Stat. 1498.
47105(a)(2)	49 App.:2210(c).	
47105(a)(3)	49 App.:2208(a)(1) (3d sentence).	
47105(b)	49 App.:2208(a)(1) (1st sentence related to form and contents, 2d, last sentences).	
47105(c)	49 App.:2208(c).	
47105(d)	49 App.:2208(d).	
47105(e)	49 App.:2208(e).	Sept. 3, 1982, Pub. L. 97–248, §509(e), 96 Stat. 685; Dec. 30, 1987, Pub. L. 100–223, §106(b)(3)(B), 101 Stat. 1498.

In subsection (a)(1), before clause (A), the words "Subject to the provisions of this subsection" are omitted as surplus. The words "for one or more projects" are omitted as surplus because of the definition of "project grant" in section 47102 of the revised title. Clause (A) is substituted for "(A) any public agency, or two or more public agencies acting jointly, or (B) any sponsor of a public-use airport, or two or more such sponsors, acting jointly" because of the definition of "sponsor" in section 47102 of the revised title.

In subsection (a)(2), the word "Before" is substituted for "In" as the more appropriate word. The words "at an airport" are substituted for "at which such project is proposed" to eliminate unnecessary words. The words "airport users that will be affected by the project" are substituted for "affected parties" for clarity.

Subsection (a)(3) is substituted for 49 App.:2208(a)(1) (3d sentence) to eliminate unnecessary words.

In subsection (b)(1), the words "shall describe" are substituted for "setting forth" for clarity.

In subsection (b)(2), the word "project" is substituted for "airport development or airport planning" because of the definition of "project" in section 47102 of the revised title. The words "prepared pursuant to section 2203 of the Appendix" are eliminated as unnecessary.

In subsection (c), the words "from time to time" are eliminated as unnecessary.

In subsection (d), the words "in connection with any project" are omitted as surplus. The words "that the sponsor will comply with this subchapter in carrying out the project" are substituted for "that such sponsor will comply with all of the statutory and administrative requirements imposed on such sponsor under this chapter in connection with such project" to eliminate unnecessary words. The words "or discharge" are omitted as included in "affect". The words "including, but not limited to, the National Environmental Policy Act of 1969 (42 U.S.C. 4321 et seq.), section 303 of title 49, title VI of the Civil Rights Act of 1964 (42 U.S.C. 2000b) [42 U.S.C. 2000d et seq.], title VIII of the Act of April 11, 1968 (42 U.S.C. 3601 et seq.), and the Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970 (42 U.S.C. 4601 et seq.)" are omitted as included in "another law of the United States".

In subsection (e), the words "of an airport for which" are substituted for "to which" for clarity.

#### EDITORIAL NOTES

#### AMENDMENTS

**2018**—Subsec. (c). Pub. L. 115–254 designated existing provisions as par. (1), inserted heading, and added par. (2).

**1994**—Subsec. (a)(1)(B). Pub. L. 103–305, §106, in introductory provisions, substituted "1 or more airports" for "at least 2 airports" in two places and struck out "similar" before "projects".

Subsecs. (e), (f). Pub. L. 103–305, §107(a), added subsec. (e) and redesignated former subsec. (e) as (f).

### **§47106. Project grant application approval conditioned on satisfaction of project requirements**

(a) PROJECT GRANT APPLICATION APPROVAL.—The Secretary of Transportation may approve an application under this subchapter for a project grant only if the Secretary is satisfied that—

(1) the project is consistent with plans (existing at the time the project is approved) of public agencies authorized by the State in which the airport is located to plan for the development of the area surrounding the airport;

(2) the project will contribute to carrying out this subchapter;

(3) enough money is available to pay the project costs that will not be paid by the United States Government under this subchapter;

(4) the project will be completed without unreasonable delay;

(5) the sponsor has authority to carry out the project as proposed;

(6) if the project is for an airport that has an airport master plan that includes the project, the master plan addresses issues relating to solid waste recycling at the airport, including—

(A) the feasibility of solid waste recycling at the airport;

(B) minimizing the generation of solid waste at the airport;

(C) operation and maintenance requirements;

(D) the review of waste management contracts; and

(E) the potential for cost savings or the generation of revenue; and

(7) if the project is at an airport that is listed as having an unclassified status under the most recent national plan of integrated airport systems (as described in section 47103), the project will be funded with an amount appropriated under section 47114(d)(3)(B) and is—

(A) for maintenance of the pavement of the primary runway;

(B) for obstruction removal for the primary runway;

(C) for the rehabilitation of the primary runway; or

(D) for a project that the Secretary considers necessary for the safe operation of the airport.

(b) AIRPORT DEVELOPMENT PROJECT GRANT APPLICATION APPROVAL.—The Secretary may approve an application under this subchapter for an airport development project grant for an airport only if the Secretary is satisfied that—



(1) the sponsor, a public agency, or the Government holds good title to the areas of the airport used or intended to be used for the landing, taking off, or surface maneuvering of aircraft, or that good title will be acquired;

(2) the interests of the community in or near which the project may be located have been given fair consideration; and

(3) the application provides touchdown zone and centerline runway lighting, high intensity runway lighting, or land necessary for installing approach light systems that the Secretary, considering the category of the airport and the kind and volume of traffic using it, decides is necessary for safe and efficient use of the airport by aircraft.

(c) ENVIRONMENTAL REQUIREMENTS.—(1) The Secretary may approve an application under this subchapter for an airport development project involving the location of an airport or runway or a major runway extension—

(A) only if the sponsor certifies to the Secretary that—

(i) an opportunity for a public hearing was given to consider the economic, social, and environmental effects of the location and the location's consistency with the objectives of any planning that the community has carried out;

(ii) the airport management board has voting representation from the communities in which the project is located or has advised the communities that they have the right to petition the Secretary about a proposed project; and

(iii) with respect to an airport development project involving the location of an airport, runway, or major runway extension at a medium or large hub airport, the airport sponsor has made available to and has provided upon request to the metropolitan planning organization in the area in which the airport is located, if any, a copy of the proposed amendment to the airport layout plan to depict the project and a copy of any airport master plan in which the project is described or depicted; and

(B) if the application is found to have a significant adverse effect on natural resources, including fish and wildlife, natural, scenic, and recreation assets, water and air quality, or another factor affecting the environment, only after finding that no possible and prudent alternative to the project exists and that every reasonable step has been taken to minimize the adverse effect.

(2) The Secretary may approve an application under this subchapter for an airport development project that does not involve the location of an airport or runway, or a major runway extension, at an existing airport without requiring an environmental impact statement related to noise for the project if—

(A) completing the project would allow operations at the airport involving aircraft complying with the noise standards prescribed for "stage 3" aircraft in section 36.1 of title 14, Code of Federal Regulations, to replace existing operations involving aircraft that do not comply with those standards; and

(B) the project meets the other requirements under this subchapter.

(3) At the Secretary's request, the sponsor shall give the Secretary a copy of the transcript of any hearing held under paragraph (1)(A) of this subsection.

(4) The Secretary may make a finding under paragraph (1)(B) of this subsection only after completely reviewing the matter. The review and finding must be a matter of public record.

(d) WITHHOLDING APPROVAL.—(1) The Secretary may withhold approval of an application under this subchapter for amounts apportioned under section 47114(c) and (e) of this title for violating an assurance or requirement of this subchapter only if—

(A) the Secretary provides the sponsor an opportunity for a hearing; and

(B) not later than 180 days after the later of the date of the application or the date the Secretary discovers the noncompliance, the Secretary finds that a violation has occurred.

(2) The 180-day period may be extended by—

(A) agreement between the Secretary and the sponsor; or

(B) the hearing officer if the officer decides an extension is necessary because the sponsor did not follow the schedule the officer established.

(3) A person adversely affected by an order of the Secretary withholding approval may obtain review of the order by filing a petition in the United States Court of Appeals for the District of Columbia Circuit or in the court of appeals of the United States for the circuit in which the project is located. The action must be brought not later than 60 days after the order is served on the petitioner.

(e) REPORTS RELATING TO CONSTRUCTION OF CERTAIN NEW HUB AIRPORTS.—At least 90 days prior to the approval under this subchapter of a project grant application for construction of a new hub airport that is expected to have 0.25 percent or more of the total annual enplanements in the United States, the Secretary shall submit to Congress a report analyzing the anticipated impact of such proposed new airport on—

(1) the fees charged to air carriers (including landing fees), and other costs that will be incurred by air carriers, for using the proposed airport;

(2) air transportation that will be provided in the geographic region of the proposed airport; and

(3) the availability and cost of providing air transportation to rural areas in such geographic region.

## (f) COMPETITION PLANS.—

(1) PROHIBITION.—Beginning in fiscal year 2001, no passenger facility charge may be approved for a covered airport under section 40117 and no grant may be made under this subchapter for a covered airport unless the airport has submitted to the Secretary a written competition plan in accordance with this subsection.

(2) CONTENTS.—A competition plan under this subsection shall include information on the availability of airport gates and related facilities, leasing and sub-leasing arrangements, gate-use requirements, gate-assignment policy, financial constraints, airport controls over air- and ground-side capacity, and whether the airport intends to build or acquire gates that would be used as common facilities.

(3) SPECIAL RULE FOR FISCAL YEAR 2002.—This subsection does not apply to any passenger facility fee approved, or grant made, in fiscal year 2002 if the fee or grant is to be used to improve security at a covered airport.

(4) COVERED AIRPORT DEFINED.—In this subsection, the term "covered airport" means a commercial service airport—

- (A) that has more than .25 percent of the total number of passenger boardings each year at all such airports; and
- (B) at which one or two air carriers control more than 50 percent of the passenger boardings.

(g) CONSULTATION WITH SECRETARY OF HOMELAND SECURITY.—The Secretary shall consult with the Secretary of Homeland Security before approving an application under this subchapter for an airport development project grant for activities described in section 47102(3)(B)(ii) only as they relate to security equipment or section 47102(3)(B)(x) only as they relate to installation of bulk explosive detection system.

(h) EVALUATION OF AIRPORT MASTER PLANS.—When evaluating the master plan of an airport for purposes of this subchapter, the Secretary shall take into account—

- (1) the role the airport plays with respect to medical emergencies and evacuations; and
- (2) the role the airport plays in emergency or disaster preparedness in the community served by the airport.

(Pub. L. 103–272, §1(e), July 5, 1994, 108 Stat. 1254; Pub. L. 103–305, title I, §§108, 109, Aug. 23, 1994, 108 Stat. 1573; Pub. L. 106–181, title I, §155(b), Apr. 5, 2000, 114 Stat. 88; Pub. L. 107–71, title I, §123(a), Nov. 19, 2001, 115 Stat. 630; Pub. L. 107–296, title IV, §426(b), Nov. 25, 2002, 116 Stat. 2187; Pub. L. 108–176, title I, §187, title III, §305, Dec. 12, 2003, 117 Stat. 2518, 2539; Pub. L. 112–95, title I, §§111(c)(2)(A)(i), 133, 134, Feb. 14, 2012, 126 Stat. 18, 22; Pub. L. 115–254, div. B, title I, §§148(a), 149, Oct. 5, 2018, 132 Stat. 3214, 3215.)

## HISTORICAL AND REVISION NOTES

<i>Revised Section</i>	<i>Source (U.S. Code)</i>	<i>Source (Statutes at Large)</i>
47106(a)	49 App.:2208(b) (1)(A)–(D).	Sept. 3, 1982, Pub. L. 97–248, §§503(a)(8), 509(b)(1)(A)–(D), (2)–(4), (5) (last sentence words after 11th comma), (6)(B)–(8), 96 Stat. 673, 683, 684.
47106(b)	49 App.:2202(a)(8). 49 App.:2208(b) (2)–(4).	
47106(c) (1)(A)	49 App.:2208(b)(6)(A).	Sept. 3, 1982, Pub. L. 97–248, §509(b)(6)(A), 96 Stat. 684; Oct. 31, 1992, Pub. L. 102–581, §113(b), 106 Stat. 4881.
47106(c) (1)(B)	49 App.:2208(b)(7)(A) (1st, 2d sentences).	
47106(c) (1)(C)	49 App.:2208(b)(5) (last sentence words between 11th and 12th commas and after last comma).	
47106(c)(2)	49 App.:2208(b)(8).	
47106(c)(3)	49 App.:2208(b)(6)(B).	
47106(c)(4)	49 App.:2208(b)(7)(A) (last sentence), (B).	
47106(c)(5)	49 App.:2208(b)(5) (last sentence words between 12th and last commas).	
47106(d)	49 App.:1731.	May 21, 1970, Pub. L. 91–258, 84 Stat. 219, §31; added Feb. 18, 1980, Pub. L. 96–193, §206, 94 Stat. 55; Sept. 3, 1982, Pub. L. 97–248, §524(e), 96 Stat. 697.
47106(e)	49 App.:2218(b) (related to application).	Sept. 3, 1982, Pub. L. 97–248, 96 Stat. 324, §519(b) (related to application); added Dec. 30, 1987, Pub. L. 100–223, §112(2), 101 Stat. 1504.

In subsection (a)(1), the word "reasonably" is omitted as surplus.

In subsection (a)(2), the words "carrying out" are substituted for "accomplishment of the purposes of" for consistency in the revised title.

In subsection (a)(3), the words "that portion of" are omitted as surplus.

In subsection (a)(5), the words "which submitted the project grant application" and "legal" are omitted as surplus.

In subsection (b), before clause (1), the words "for an airport" are added for clarity. In clause (1), the words "or an agency thereof" are omitted surplus. In clause (3), the words "that the Secretary . . . decides is necessary" are substituted for "when it is determined by the Secretary that any such item is required" to eliminate unnecessary words.

In subsection (c)(1)(B), before subclause (i), the words "chief executive officer" are substituted for "Governor" because this chapter applies to the District of Columbia which does not have a Governor. The words "except that the Administrator of the Environmental Protection Agency shall make the certification instead of the chief executive officer if" are substituted for "In any case where . . . certification shall be obtained from such Administrator" for clarity. Subclause (i) is substituted for "such standards have not been approved" for clarity.

In subsection (c)(2), before clause (A), the words "Notwithstanding any other provision of law" are omitted as surplus. The words "that does not involve the location of an airport or runway, or a major runway extension" are substituted for "(other than an airport development project in which paragraph (7) (A) applies)" for clarity. The words "the preparation of" are omitted as surplus. In clause (B), the words "statutory and administrative" are omitted as surplus.

In subsection (c)(4)(A), the words "to the Secretary" are added for clarity.

In subsection (c)(5), the words "full and" are omitted as surplus. The words "in writing" are omitted as surplus because of the requirement that the decision be a matter of public record.

In subsection (d)(1), the words "(as defined by section 1711(8) of this Appendix, as in effect on February 18, 1980)" are omitted because of the definition of "air carrier airport" in section 47102 of the revised title.

In subsection (d)(2), the words "Notwithstanding any other provision of the Airport and Airway Improvement Act of 1982 [49 App. U.S.C. 2201 et seq.]" and "single" are omitted as surplus.

In subsection (e)(1) and (2), the word "sponsor" is substituted for "applicant" for consistency.

In subsection (e)(1), before clause (A), the words "under this subchapter" are added for consistency in this section. The word "other" is omitted as surplus.

In subsection (e)(2)(A), the word "mutual" is omitted as surplus.

In subsection (e)(3), the words "adversely affected" are substituted for "aggrieved" for consistency in the revised title and with other titles of the United States Code. The words "the date on which" are omitted as surplus.

## EDITORIAL NOTES

## AMENDMENTS

**2018**—Subsec. (a)(6). Pub. L. 115–254, §148(a)(2), inserted "that includes the project" before ", the master plan" in introductory provisions.

Subsec. (a)(7). Pub. L. 115–254, §148(a)(1), (3), (4), added par. (7).

Subsec. (h). Pub. L. 115–254, §149, added subsec. (h).

**2012**—Subsec. (a)(6). Pub. L. 112–95, §133, added par. (6).

Subsec. (f)(1). Pub. L. 112–95, §111(c)(2)(A)(i), substituted "charge" for "fee".

Subsec. (f)(2). Pub. L. 112–95, §134, struck out "patterns of air service," after "gate-use requirements," and ", and airfare levels (as compiled by the Department of Transportation) compared to other large airports" after "common facilities" and inserted "and" after "ground-side capacity,".

**2003**—Subsec. (c)(1)(A)(iii). Pub. L. 108–176, §305(1), inserted "and" after semicolon at end.

Pub. L. 108–176, §187, added cl. (iii).

Subsec. (c)(1)(B), (C). Pub. L. 108–176, §305(2), (3), redesignated subpar. (C) as (B) and struck out former subpar. (B) which read as follows: "only if the chief executive officer of the State in which the project will be located certifies in writing to the Secretary that there is reasonable assurance that the project will be located, designed, constructed, and operated in compliance with applicable air and water quality standards, except that the Administrator of the Environmental Protection Agency shall make the certification instead of the chief executive officer if—

"(i) the State has not approved any applicable State or local standards; and

"(ii) the Administrator has prescribed applicable standards; and".

Subsec. (c)(2)(A). Pub. L. 108–176, §305(4), substituted "stage 3" for "stage 2".

Subsec. (c)(4), (5). Pub. L. 108–176, §305(5)–(7), redesignated par. (5) as (4), substituted "paragraph (1)(B)" for "paragraph (1)(C)", and struck out former par. (4) which read as follows:

"(4)(A) Notice of certification or of refusal to certify under paragraph (1)(B) of this subsection shall be provided to the Secretary not later than 60 days after the Secretary receives the application.

"(B) The Secretary shall condition approval of the application on compliance with the applicable standards during construction and operation."

**2002**—Subsec. (g). Pub. L. 107–296 added subsec. (g).

**2001**—Subsec. (f)(3), (4). Pub. L. 107–71, which directed the amendment of section 47106(f) by adding par. (3) and redesignating former par. (3) as (4), without specifying the Code title to be amended, was executed by making the amendments to this section, to reflect the probable intent of Congress.

**2000**—Subsec. (f). Pub. L. 106–181 added subsec. (f).

**1994**—Subsecs. (d), (e). Pub. L. 103–305 added subsec. (e), redesignated former subsec. (e) as (d), and struck out former subsec. (d) which read as follows:

"(d) GENERAL AVIATION AIRPORT PROJECT GRANT APPLICATION APPROVAL.—(1) In this subsection, 'general aviation airport' means a public airport that is not an air carrier airport.

"(2) The Secretary may approve an application under this subchapter for an airport development project included in a project grant application involving the construction or extension of a runway at a general aviation airport located on both sides of a boundary line separating 2 counties within a State only if, before the application is submitted to the Secretary, the project is approved by the governing body of each village incorporated under the laws of the State and located entirely within 5 miles of the nearest boundary of the airport."

#### **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 2002 AMENDMENT**

Amendment by Pub. L. 107–296 effective 60 days after Nov. 25, 2002, see section 4 of Pub. L. 107–296, set out as an Effective Date note under section 101 of Title 6, Domestic Security.

#### **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.

#### **ENVIRONMENTAL REVIEW OF AIRPORT IMPROVEMENT PROJECTS**

Pub. L. 106–181, [title III, §310, Apr. 5, 2000](#), 114 Stat. 128, provided that:

"(a) **STUDY.**—The Secretary [of Transportation] shall conduct a study of Federal environmental requirements related to the planning and approval of airport improvement projects.

"(b) **CONTENTS.**—In conducting the study, the Secretary, at a minimum, shall assess—

"(1) the current level of coordination among Federal and State agencies in conducting environmental reviews in the planning and approval of airport improvement projects;

"(2) the role of public involvement in the planning and approval of airport improvement projects;

"(3) the staffing and other resources associated with conducting such environmental reviews; and

"(4) the time line for conducting such environmental reviews.

"(c) **CONSULTATION.**—The Secretary shall conduct the study in consultation with the Administrator [of the Federal Aviation Administration], the heads of other appropriate Federal departments and agencies, airport sponsors, the heads of State aviation agencies, representatives of the design and construction industry, representatives of employee organizations, and representatives of public interest groups.

"(d) **REPORT.**—Not later than 1 year after the date of the enactment of this Act [Apr. 5, 2000], the Secretary shall transmit 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 study, together with recommendations for streamlining, if appropriate, the environmental review process in the planning and approval of airport improvement projects."

#### **GRANTS FOR ENGINEERED MATERIALS ARRESTING SYSTEMS**

Pub. L. 106–181, title V, §514(c), Apr. 5, 2000, 114 Stat. 144, provided that: "In making grants under section 47104 of title 49, United States Code, for engineered materials arresting systems, the Secretary [of Transportation] shall require the sponsor to demonstrate that the effects of jet blasts have been adequately considered."

### **GRANTS FOR RUNWAY REHABILITATION**

Pub. L. 106–181, title V, §514(d), Apr. 5, 2000, 114 Stat. 144, provided that: "In any case in which an airport's runways are constrained by physical conditions, the Secretary [of Transportation] shall consider alternative means for ensuring runway safety (other than a safety overrun area) when prescribing conditions for grants for runway rehabilitation."

### **COMPLIANCE WITH REQUIREMENTS**

Pub. L. 106–181, title VII, §737, Apr. 5, 2000, 114 Stat. 172, provided that: "Notwithstanding any other provision of law, in order to avoid unnecessary duplication of expense and effort, the Secretary [of Transportation] may authorize the use, in whole or in part, of a completed environmental assessment or environmental impact study for new construction projects on the air operations area of an airport, if the completed assessment or study was for a project at the airport that is substantially similar in nature to the new project. Any such authorized use shall meet all requirements of Federal law for the completion of such an assessment or study."

## **§47107. Project grant application approval conditioned on assurances about airport operations**

(a) GENERAL WRITTEN ASSURANCES.—The Secretary of Transportation may approve a project grant application under this subchapter for an airport development project only if the Secretary receives written assurances, satisfactory to the Secretary, that—

- (1) the airport will be available for public use on reasonable conditions and without unjust discrimination;
- (2) air carriers making similar use of the airport will be subject to substantially comparable charges—
  - (A) for facilities directly and substantially related to providing air transportation; and
  - (B) regulations and conditions, except for differences based on reasonable classifications, such as between—
    - (i) tenants and nontenants; and
    - (ii) signatory and nonsignatory carriers;

(3) the airport operator will not withhold unreasonably the classification or status of tenant or signatory from an air carrier that assumes obligations substantially similar to those already imposed on air carriers of that classification or status;

(4) a person providing, or intending to provide, aeronautical services to the public will not be given an exclusive right to use the airport, with a right given to only one fixed-base operator to provide services at an airport deemed not to be an exclusive right if—

- (A) the right would be unreasonably costly, burdensome, or impractical for more than one fixed-base operator to provide the services; and
- (B) allowing more than one fixed-base operator to provide the services would require reducing the space leased under an existing agreement between the one fixed-base operator and the airport owner or operator;

(5) fixed-base operators similarly using the airport will be subject to the same charges;

(6) an air carrier using the airport may service itself or use any fixed-base operator allowed by the airport operator to service any carrier at the airport;

(7) the airport and facilities on or connected with the airport will be operated and maintained suitably, with consideration given to climatic and flood conditions;

(8) a proposal to close the airport temporarily for a nonaeronautical purpose must first be approved by the Secretary;

(9) appropriate action will be taken to ensure that terminal airspace required to protect instrument and visual operations to the airport (including operations at established minimum flight altitudes) will be cleared and protected by mitigating existing, and preventing future, airport hazards;

(10) appropriate action, including the adoption of zoning laws, has been or will be taken to the extent reasonable to restrict the use of land next to or near the airport to uses that are compatible with normal airport operations;

(11) each of the airport's facilities developed with financial assistance from the United States Government and each of the airport's facilities usable for the landing and taking off of aircraft always will be available without charge for use by Government aircraft in common with other aircraft, except that if the use is substantial, the Government may be charged a reasonable share, proportionate to the use, of the cost of operating and maintaining the facility used;

(12) the airport owner or operator will provide, without charge to the Government, property interests of the sponsor in land or water areas or buildings that the Secretary decides are desirable for, and that will be used for, constructing at Government expense, facilities for carrying out activities related to air traffic control or navigation;

(13) the airport owner or operator will maintain a schedule of charges for use of facilities and services at the airport

—  
(A) that will make the airport as self-sustaining as possible under the circumstances existing at the airport, including volume of traffic and economy of collection; and

(B) without including in the rate base used for the charges the Government's share of costs for any project for which a grant is made under this subchapter or was made under the Federal Airport Act or the Airport and Airway Development Act of 1970;

(14) the project accounts and records will be kept using a standard system of accounting that the Secretary, after consulting with appropriate public agencies, prescribes;

(15) the airport owner or operator will submit any annual or special airport financial and operations reports to the Secretary that the Secretary reasonably requests and make such reports available to the public;

(16) the airport owner or operator will maintain a current layout plan of the airport that meets the following requirements:

(A) the plan will be in a form the Secretary prescribes;

(B) the Secretary will review and approve or disapprove only those portions of the plan (or any subsequent revision to the plan) that materially impact the safe and efficient operation of aircraft at, to, or from the airport or that would adversely affect the safety of people or property on the ground adjacent to the airport as a result of aircraft operations, or that adversely affect the value of prior Federal investments to a significant extent;

(C) the owner or operator will not make or allow any alteration in the airport or any of its facilities unless the alteration—

(i) is outside the scope of the Secretary's review and approval authority as set forth in subparagraph (B); or

(ii) complies with the portions of the plan approved by the Secretary; and

(D) when an alteration in the airport or its facility is made that is within the scope of the Secretary's review and approval authority as set forth in subparagraph (B), and does not conform with the portions of the plan approved by the Secretary, and the Secretary decides that the alteration adversely affects the safety, utility, or efficiency of aircraft operations, or of any property on or off the airport that is owned, leased, or financed by the Government, then the owner or operator will, if requested by the Secretary—

(i) eliminate the adverse effect in a way the Secretary approves; or

(ii) bear all cost of relocating the property or its replacement to a site acceptable to the Secretary and of restoring the property or its replacement to the level of safety, utility, efficiency, and cost of operation that existed before the alteration was made, except in the case of a relocation or replacement of an existing airport facility that meets the conditions of section 47110(d);

(17) if any phase of such project has received funds under this subchapter, each contract and subcontract for program management, construction management, planning studies, feasibility studies, architectural services, preliminary engineering, design, engineering, surveying, mapping, and related services will be awarded in the same way that a contract for architectural and engineering services is negotiated under chapter 11 of title 40 or an equivalent qualifications-based requirement prescribed for or by the sponsor;

(18) the airport and each airport record will be available for inspection by the Secretary on reasonable request, and a report of the airport budget will be available to the public at reasonable times and places;

(19) the airport owner or operator will submit to the Secretary and make available to the public an annual report listing in detail—

(A) all amounts paid by the airport to any other unit of government and the purposes for which each such payment was made; and

(B) all services and property provided to other units of government and the amount of compensation received for provision of each such service and property;

(20) the airport owner or operator will permit, to the maximum extent practicable, intercity buses or other modes of transportation to have access to the airport, but the sponsor does not have any obligation under this paragraph, or because of it, to fund special facilities for intercity bus service or for other modes of transportation; and

(21) if the airport owner or operator and a person who owns an aircraft agree that a hangar is to be constructed at the airport for the aircraft at the aircraft owner's expense, the airport owner or operator will grant to the aircraft owner for the hangar a long-term lease that is subject to such terms and conditions on the hangar as the airport owner or operator may impose.

(b) WRITTEN ASSURANCES ON USE OF REVENUE.—(1) The Secretary of Transportation may approve a project grant application under this subchapter for an airport development project only if the Secretary receives written assurances, satisfactory to the Secretary, that local taxes on aviation fuel (except taxes in effect on December 30, 1987) and the revenues generated by a public airport will be expended for the capital or operating costs of—

- (A) the airport;
- (B) the local airport system; or
- (C) other local facilities owned or operated by the airport owner or operator and directly and substantially related to the air transportation of passengers or property.

(2) Paragraph (1) of this subsection does not apply if a provision enacted not later than September 2, 1982, in a law controlling financing by the airport owner or operator, or a covenant or assurance in a debt obligation issued not later than September 2, 1982, by the owner or operator, provides that the revenues, including local taxes on aviation fuel at public airports, from any of the facilities of the owner or operator, including the airport, be used to support not only the airport but also the general debt obligations or other facilities of the owner or operator.

(3) This subsection does not prevent the use of a State tax on aviation fuel to support a State aviation program or the use of airport revenue on or off the airport for a noise mitigation purpose.

(c) WRITTEN ASSURANCES ON ACQUIRING LAND.—(1) In this subsection, land is needed for an airport purpose (except a noise compatibility purpose) if—

- (A)(i) the land may be needed for an aeronautical purpose (including runway protection zone) or serves as noise buffer land; and
- (ii) revenue from interim uses of the land contributes to the financial self-sufficiency of the airport; and
- (B) for land purchased with a grant the owner or operator received not later than December 30, 1987, the Secretary of Transportation or the department, agency, or instrumentality of the Government that made the grant was notified by the owner or operator of the use of the land and did not object to the use and the land is still being used for that purpose.

(2) The Secretary of Transportation may approve an application under this subchapter for an airport development project grant only if the Secretary receives written assurances, satisfactory to the Secretary, that if an airport owner or operator has received or will receive a grant for acquiring land and—

(A) if the land was or will be acquired for a noise compatibility purpose (including land serving as a noise buffer either by being undeveloped or developed in a way that is compatible with using the land for noise buffering purposes)—

- (i) the owner or operator will dispose of the land at fair market value at the earliest practicable time after the land no longer is needed for a noise compatibility purpose;
- (ii) the disposition will be subject to retaining or reserving an interest in the land necessary to ensure that the land will be used in a way that is compatible with noise levels associated with operating the airport; and
- (iii) the part of the proceeds from disposing of the land that is proportional to the Government's share of the cost of acquiring the land will be reinvested in another project at the airport or transferred to another airport as the Secretary prescribes under paragraph (4); or

(B) if the land was or will be acquired for an airport purpose (except a noise compatibility purpose)—

- (i) the owner or operator, when the land no longer is needed for an airport purpose, will dispose of the land at fair market value or make available to the Secretary an amount equal to the Government's proportional share of the fair market value;
- (ii) the disposition will be subject to retaining or reserving an interest in the land necessary to ensure that the land will be used in a way that is compatible with noise levels associated with operating the airport; and
- (iii) the part of the proceeds from disposing of the land that is proportional to the Government's share of the cost of acquiring the land will be reinvested in another project at the airport or transferred to another airport as the Secretary prescribes under paragraph (4).

(3) Proceeds referred to in paragraph (2)(A)(iii) and (B)(iii) of this subsection and deposited in the Airport and Airway Trust Fund are available as provided in subsection (f) of this section.

(4) In approving the reinvestment or transfer of proceeds under paragraph (2)(A)(iii) or (2)(B)(iii), the Secretary shall give preference, in descending order, to the following actions:

- (A) Reinvestment in an approved noise compatibility project.
- (B) Reinvestment in an approved project that is eligible for funding under section 47117(e).
- (C) Reinvestment in an approved airport development project that is eligible for funding under section 47114, 47115, or 47117.
- (D) Transfer to a sponsor of another public airport to be reinvested in an approved noise compatibility project at that airport.
- (E) Payment to the Secretary for deposit in the Airport and Airway Trust Fund established under section 9502 of the Internal Revenue Code of 1986.

(5)(A) A lease at fair market value by an airport owner or operator of land acquired for a noise compatibility purpose using a grant provided under this subchapter shall not be considered a disposal for purposes of paragraph (2).

(B) The airport owner or operator may use revenues from a lease described in subparagraph (A) for an approved airport development project that is eligible for funding under section 47114, 47115, or 47117.

(C) The Secretary shall coordinate with each airport owner or operator to ensure that leases described in subparagraph (A) are consistent with noise buffering purposes.

(D) The provisions of this paragraph apply to all land acquired before, on, or after the date of enactment of this paragraph.

(d) ASSURANCES OF CONTINUATION AS PUBLIC-USE AIRPORT.—The Secretary of Transportation may approve an application under this subchapter for an airport development project grant for a privately owned public-use airport only if the Secretary receives appropriate assurances that the airport will continue to function as a public-use airport during the economic life (that must be at least 10 years) of any facility at the airport that was developed with Government financial assistance under this subchapter.

(e) WRITTEN ASSURANCES OF OPPORTUNITIES FOR SMALL BUSINESS CONCERNS.—(1) The Secretary of Transportation may approve a project grant application under this subchapter for an airport development project only if the Secretary receives written assurances, satisfactory to the Secretary, that the airport owner or operator will take necessary action to ensure, to the maximum extent practicable, that at least 10 percent of all businesses at the airport selling consumer products or providing consumer services to the public are small business concerns (as defined by regulations of the Secretary) owned and controlled by a socially and economically disadvantaged individual (as defined in section 47113(a) of this title) or qualified HUBZone small business concerns (as defined in section 31(b) of the Small Business Act).

(2) An airport owner or operator may meet the percentage goal of paragraph (1) of this subsection by including any business operated through a management contract or subcontract. The dollar amount of a management contract or subcontract with a disadvantaged business enterprise shall be added to the total participation by disadvantaged business enterprises in airport concessions and to the base from which the airport's percentage goal is calculated. The dollar amount of a management contract or subcontract with a non-disadvantaged business enterprise and the gross revenue of business activities to which the management contract or subcontract pertains may not be added to this base.

(3) Except as provided in paragraph (4) of this subsection, an airport owner or operator may meet the percentage goal of paragraph (1) of this subsection by including the purchase from disadvantaged business enterprises of goods and services used in businesses conducted at the airport, but the owner or operator and the businesses conducted at the airport shall make good faith efforts to explore all available options to achieve, to the maximum extent practicable, compliance with the goal through direct ownership arrangements, including joint ventures and franchises.

(4)(A) In complying with paragraph (1) of this subsection, an airport owner or operator shall include the revenues of car rental firms at the airport in the base from which the percentage goal in paragraph (1) is calculated.

(B) An airport owner or operator may require a car rental firm to meet a requirement under paragraph (1) of this subsection by purchasing or leasing goods or services from a disadvantaged business enterprise. If an owner or operator requires such a purchase or lease, a car rental firm shall be permitted to meet the requirement by including purchases or leases of vehicles from any vendor that qualifies as a small business concern owned and controlled by a socially and economically disadvantaged individual or as a qualified HUBZone small business concern (as defined in section 31(b) of the Small Business Act).

(C) This subsection does not require a car rental firm to change its corporate structure to provide for direct ownership arrangements to meet the requirements of this subsection.

(5) This subsection does not preempt—

(A) a State or local law, regulation, or policy enacted by the governing body of an airport owner or operator; or

(B) the authority of a State or local government or airport owner or operator to adopt or enforce a law, regulation, or policy related to disadvantaged business enterprises.

(6) An airport owner or operator may provide opportunities for a small business concern owned and controlled by a socially and economically disadvantaged individual or a qualified HUBZone small business concern (as defined in section 31(b) of the Small Business Act) to participate through direct contractual agreement with that concern.

(7) An air carrier that provides passenger or property-carrying services or another business that conducts aeronautical activities at an airport may not be included in the percentage goal of paragraph (1) of this subsection for participation of small business concerns at the airport.

(8) Not later than April 29, 1993, the Secretary of Transportation shall prescribe regulations to carry out this subsection.

(f) AVAILABILITY OF AMOUNTS.—An amount deposited in the Airport and Airway Trust Fund under—

(1) subsection (c)(2)(A)(iii) of this section is available to the Secretary of Transportation to make a grant for airport development or airport planning under section 47104 of this title;

(2) subsection (c)(2)(B)(iii) of this section is available to the Secretary—

(A) to make a grant for a purpose described in section 47115(b) of this title; and

(B) for use under section 47114(d)(2) of this title at another airport in the State in which the land was disposed of under subsection (c)(2)(B)(ii) of this section; and

(3) subsection (c)(2)(B)(iii) of this section is in addition to an amount made available to the Secretary under section 48103 of this title and not subject to apportionment under section 47114 of this title.

(g) ENSURING COMPLIANCE.—(1) To ensure compliance with this section, the Secretary of Transportation—



- (A) shall prescribe requirements for sponsors that the Secretary considers necessary; and
- (B) may make a contract with a public agency.

(2) The Secretary of Transportation may approve an application for a project grant only if the Secretary is satisfied that the requirements prescribed under paragraph (1)(A) of this subsection have been or will be met.

(h) **MODIFYING ASSURANCES AND REQUIRING COMPLIANCE WITH ADDITIONAL ASSURANCES.—**

(1) **IN GENERAL.—**Subject to paragraph (2), before modifying an assurance required of a person receiving a grant under this subchapter and in effect after December 29, 1987, or to require compliance with an additional assurance from the person, the Secretary of Transportation must—

- (A) publish notice of the proposed modification in the Federal Register; and
- (B) provide an opportunity for comment on the proposal.

(2) **PUBLIC NOTICE BEFORE WAIVER OF AERONAUTICAL LAND-USE ASSURANCE.—**Before modifying an assurance under subsection (c)(2)(B) that requires any property to be used for an aeronautical purpose, the Secretary must provide notice to the public not less than 30 days before making such modification.

(i) **RELIEF FROM OBLIGATION TO PROVIDE FREE SPACE.—**When a sponsor provides a property interest in a land or water area or a building that the Secretary of Transportation uses to construct a facility at Government expense, the Secretary may relieve the sponsor from an obligation in a contract made under this chapter, the Airport and Airway Development Act of 1970, or the Federal Airport Act to provide free space to the Government in an airport building, to the extent the Secretary finds that the free space no longer is needed to carry out activities related to air traffic control or navigation.

(j) **USE OF REVENUE IN HAWAII.—**(1) In this subsection—

(A) "duty-free merchandise" and "duty-free sales enterprise" have the same meanings given those terms in section 555(b)(8) of the Tariff Act of 1930 (19 U.S.C. 1555(b)(8)).

(B) "highway" and "Federal-aid system" have the same meanings given those terms in section 101(a) of title 23.

(2) Notwithstanding subsection (b)(1) of this section, Hawaii may use, for a project for construction or reconstruction of a highway on a Federal-aid system that is not more than 10 miles by road from an airport and that will facilitate access to the airport, revenue from the sales at off-airport locations in Hawaii of duty-free merchandise under a contract between Hawaii and a duty-free sales enterprise. However, the revenue resulting during a Hawaiian fiscal year may be used only if the amount of the revenue, plus amounts Hawaii receives in the fiscal year from all other sources for costs Hawaii incurs for operating all airports it operates and for debt service related to capital projects for the airports (including interest and amortization of principal costs), is more than 150 percent of the projected costs for the fiscal year.

(3)(A) Revenue from sales referred to in paragraph (2) of this subsection in a Hawaiian fiscal year that Hawaii may use may not be more than the amount that is greater than 150 percent as determined under paragraph (2).

(B) The maximum amount of revenue Hawaii may use under paragraph (2) of this subsection is \$250,000,000.

(4) If a fee imposed or collected for rent, landing, or service from an aircraft operator by an airport operated by Hawaii is increased during the period from May 4, 1990, through December 31, 1994, by more than the percentage change in the Consumer Price Index of All Urban Consumers for Honolulu, Hawaii, that the Secretary of Labor publishes during that period and if revenue derived from the fee increases because the fee increased, the amount under paragraph (3)(B) of this subsection shall be reduced by the amount of the projected revenue increase in the period less the part of the increase attributable to changes in the Index in the period.

(5) Hawaii shall determine costs, revenue, and projected revenue increases referred to in this subsection and shall submit the determinations to the Secretary of Transportation. A determination is approved unless the Secretary disapproves it not later than 30 days after it is submitted.

(6) Hawaii is not eligible for a grant under section 47115 of this title in a fiscal year in which Hawaii uses under paragraph (2) of this subsection revenue from sales referred to in paragraph (2). Hawaii shall repay amounts it receives in a fiscal year under a grant it is not eligible to receive because of this paragraph to the Secretary of Transportation for deposit in the discretionary fund established under section 47115.

(7)(A) This subsection applies only to revenue from sales referred to in paragraph (2) of this subsection from May 5, 1990, through December 30, 1994, and to amounts in the Airport Revenue Fund of Hawaii that are attributable to revenue before May 4, 1990, on sales referred to in paragraph (2).

(B) Revenue from sales referred to in paragraph (2) of this subsection from May 5, 1990, through December 30, 1994, may be used under paragraph (2) in any Hawaiian fiscal year, including a Hawaiian fiscal year beginning after December 31, 1994.

(k) **POLICIES AND PROCEDURES TO ENSURE ENFORCEMENT AGAINST ILLEGAL DIVERSION OF AIRPORT REVENUE.—**

(1) **IN GENERAL.—**Not later than 90 days after August 23, 1994, the Secretary of Transportation shall establish policies and procedures that will assure the prompt and effective enforcement of subsections (a)(13) and (b) of this section and grant assurances made under such subsections. Such policies and procedures shall recognize the exemption provision in subsection (b)(2) of this section and shall respond to the information contained in the reports of the Inspector General of the Department of Transportation on airport revenue diversion and such other relevant information as the Secretary may by law consider.

(2) REVENUE DIVERSION.—Policies and procedures to be established pursuant to paragraph (1) of this subsection shall prohibit, at a minimum, the diversion of airport revenues (except as authorized under subsection (b) of this section) through—

- (A) direct payments or indirect payments, other than payments reflecting the value of services and facilities provided to the airport;
- (B) use of airport revenues for general economic development, marketing, and promotional activities unrelated to airports or airport systems;
- (C) payments in lieu of taxes or other assessments that exceed the value of services provided; or
- (D) payments to compensate nonsponsoring governmental bodies for lost tax revenues exceeding stated tax rates.

(3) EFFORTS TO BE SELF-SUSTAINING.—With respect to subsection (a)(13) of this section, policies and procedures to be established pursuant to paragraph (1) of this subsection shall take into account, at a minimum, whether owners and operators of airports, when entering into new or revised agreements or otherwise establishing rates, charges, and fees, have undertaken reasonable efforts to make their particular airports as self-sustaining as possible under the circumstances existing at such airports.

(4) ADMINISTRATIVE SAFEGUARDS.—Policies and procedures to be established pursuant to paragraph (1) shall mandate internal controls, auditing requirements, and increased levels of Department of Transportation personnel sufficient to respond fully and promptly to complaints received regarding possible violations of subsections (a)(13) and (b) of this section and grant assurances made under such subsections and to alert the Secretary to such possible violations.

(5) STATUTE OF LIMITATIONS.—In addition to the statute of limitations specified in subsection (m)(7), with respect to project grants made under this chapter—

- (A) any request by a sponsor or any other governmental entity to any airport for additional payments for services conducted off of the airport or for reimbursement for capital contributions or operating expenses shall be filed not later than 6 years after the date on which the expense is incurred; and
- (B) any amount of airport funds that are used to make a payment or reimbursement as described in subparagraph (A) after the date specified in that subparagraph shall be considered to be an illegal diversion of airport revenues that is subject to subsection (m).

(l) AUDIT CERTIFICATION.—

(1) IN GENERAL.—The Secretary of Transportation, acting through the Administrator of the Federal Aviation Administration, shall include a provision in the compliance supplement provisions to require a recipient of a project grant (or any other recipient of Federal financial assistance that is provided for an airport) to include as part of an annual audit conducted under sections 7501 through 7505 of title 31, a review concerning the funding activities with respect to an airport that is the subject of the project grant (or other Federal financial assistance) and the sponsors, owners, or operators (or other recipients) involved.

(2) CONTENT OF REVIEW.—A review conducted under paragraph (1) shall provide reasonable assurances that funds paid or transferred to sponsors are paid or transferred in a manner consistent with the applicable requirements of this chapter and any other applicable provision of law (including regulations promulgated by the Secretary or the Administrator).

(m) RECOVERY OF ILLEGALLY DIVERTED FUNDS.—

(1) IN GENERAL.—Not later than 180 days after the issuance of an audit or any other report that identifies an illegal diversion of airport revenues (as determined under subsections (b) and (k) and section 47133), the Secretary, acting through the Administrator, shall—

- (A) review the audit or report;
- (B) perform appropriate factfinding; and
- (C) conduct a hearing and render a final determination concerning whether the illegal diversion of airport revenues asserted in the audit or report occurred.

(2) NOTIFICATION.—Upon making such a finding, the Secretary, acting through the Administrator, shall provide written notification to the sponsor and the airport of—

- (A) the finding; and
- (B) the obligations of the sponsor to reimburse the airport involved under this paragraph.

(3) ADMINISTRATIVE ACTION.—The Secretary may withhold any amount from funds that would otherwise be made available to the sponsor, including funds that would otherwise be made available to a State, municipality, or political subdivision thereof (including any multimodal transportation agency or transit authority of which the sponsor is a member entity) as part of an apportionment or grant made available pursuant to this title, if the sponsor—

- (A) receives notification that the sponsor is required to reimburse an airport; and
- (B) has had an opportunity to reimburse the airport, but has failed to do so.

(4) CIVIL ACTION.—If a sponsor fails to pay an amount specified under paragraph (3) during the 180-day period beginning on the date of notification and the Secretary is unable to withhold a sufficient amount under paragraph (3), the Secretary, acting through the Administrator, may initiate a civil action under which the sponsor shall be liable for civil penalty in an amount equal to the illegal diversion in question plus interest (as determined under subsection (n)).

(5) DISPOSITION OF PENALTIES.—

(A) AMOUNTS WITHHELD.—The Secretary or the Administrator shall transfer any amounts withheld under paragraph (3) to the Airport and Airway Trust Fund.

(B) CIVIL PENALTIES.—With respect to any amount collected by a court in a civil action under paragraph (4), the court shall cause to be transferred to the Airport and Airway Trust Fund any amount collected as a civil penalty under paragraph (4).

(6) REIMBURSEMENT.—The Secretary, acting through the Administrator, shall, as soon as practicable after any amount is collected from a sponsor under paragraph (4), cause to be transferred from the Airport and Airway Trust Fund to an airport affected by a diversion that is the subject of a civil action under paragraph (4), reimbursement in an amount equal to the amount that has been collected from the sponsor under paragraph (4) (including any amount of interest calculated under subsection (n)).

(7) STATUTE OF LIMITATIONS.—No person may bring an action for the recovery of funds illegally diverted in violation of this section (as determined under subsections (b) and (k)) or section 47133 after the date that is 6 years after the date on which the diversion occurred.

(n) INTEREST.—

(1) IN GENERAL.—Except as provided in paragraph (2), the Secretary, acting through the Administrator, shall charge a minimum annual rate of interest on the amount of any illegal diversion of revenues referred to in subsection (m) in an amount equal to the average investment interest rate for tax and loan accounts of the Department of the Treasury (as determined by the Secretary of the Treasury) for the applicable calendar year, rounded to the nearest whole percentage point.

(2) ADJUSTMENT OF INTEREST RATES.—If, with respect to a calendar quarter, the average investment interest rate for tax and loan accounts of the Department of the Treasury exceeds the average investment interest rate for the immediately preceding calendar quarter, rounded to the nearest whole percentage point, the Secretary of the Treasury may adjust the interest rate charged under this subsection in a manner that reflects that change.

(3) ACCRUAL.—Interest assessed under subsection (m) shall accrue from the date of the actual illegal diversion of revenues referred to in subsection (m).

(4) DETERMINATION OF APPLICABLE RATE.—The applicable rate of interest charged under paragraph (1) shall—

(A) be the rate in effect on the date on which interest begins to accrue under paragraph (3); and

(B) remain at a rate fixed under subparagraph (A) during the duration of the indebtedness.

(o) PAYMENT BY AIRPORT TO SPONSOR.—If, in the course of an audit or other review conducted under this section, the Secretary or the Administrator determines that an airport owes a sponsor funds as a result of activities conducted by the sponsor or expenditures by the sponsor for the benefit of the airport, interest on that amount shall be determined in the same manner as provided in paragraphs (1) through (4) of subsection (n), except that the amount of any interest assessed under this subsection shall be determined from the date on which the Secretary or the Administrator makes that determination.

(p) Notwithstanding any written assurances prescribed in subsections (a) through (o), a general aviation airport with more than 300,000 annual operations may be exempt from having to accept scheduled passenger air carrier service, provided that the following conditions are met:

(1) No scheduled passenger air carrier has provided service at the airport within 5 years prior to January 1, 2002.

(2) The airport is located within or underneath the Class B airspace of an airport that maintains an airport operating certificate pursuant to section 44706 of title 49.

(3) The certificated airport operating under section 44706 of title 49 does not contribute to significant passenger delays as defined by DOT/FAA in the "Airport Capacity Benchmark Report 2001".

(q) An airport that meets the conditions of paragraphs (1) through (3) of subsection (p) is not subject to section 47524 of title 49 with respect to a prohibition on all scheduled passenger service.

(r) COMPETITION DISCLOSURE REQUIREMENT.—

(1) IN GENERAL.—The Secretary of Transportation may approve an application under this subchapter for an airport development project grant for a large hub airport or a medium hub airport only if the Secretary receives assurances that the airport sponsor will provide the information required by paragraph (2) at such time and in such form as the Secretary may require.

(2) COMPETITIVE ACCESS.—On February 1 and August 1 of each year, an airport that during the previous 6-month period has been unable to accommodate one or more requests by an air carrier for access to gates or other facilities at that airport in order to provide service to the airport or to expand service at the airport shall transmit a report to the Secretary that—

(A) describes the requests;

(B) provides an explanation as to why the requests could not be accommodated; and

(C) provides a time frame within which, if any, the airport will be able to accommodate the requests.

(3) SUNSET PROVISION.—This subsection shall cease to be effective beginning October 1, 2023.

(s) AGREEMENTS GRANTING THROUGH-THE-FENCE ACCESS TO GENERAL AVIATION AIRPORTS.—

(1) IN GENERAL.—Subject to paragraph (2), a sponsor of a general aviation airport shall not be considered to be in violation of this subtitle, or to be in violation of a grant assurance made under this section or under any other provision of law as a condition for the receipt of Federal financial assistance for airport development, solely because the sponsor enters into an agreement that grants to a person that owns residential real property adjacent to or near the airport access to the airfield of the airport for the following:

- (A) Aircraft of the person.
- (B) Aircraft authorized by the person.

(2) THROUGH-THE-FENCE AGREEMENTS.—

(A) IN GENERAL.—An agreement described in paragraph (1) between an airport sponsor and a property owner (or an association representing such property owner) shall be a written agreement that prescribes the rights, responsibilities, charges, duration, and other terms the airport sponsor determines are necessary to establish and manage the airport sponsor's relationship with the property owner.

(B) TERMS AND CONDITIONS.—An agreement described in paragraph (1) between an airport sponsor and a property owner (or an association representing such property owner) shall require the property owner, at minimum

- (i) to pay airport access charges that, as determined by the airport sponsor, are comparable to those charged to tenants and operators on-airport making similar use of the airport;
- (ii) to bear the cost of building and maintaining the infrastructure that, as determined by the airport sponsor, is necessary to provide aircraft located on the property adjacent to or near the airport access to the airfield of the airport;
- (iii) to maintain the property for residential, noncommercial use for the duration of the agreement;
- (iv) to prohibit access to the airport from other properties through the property of the property owner; and
- (v) to prohibit any aircraft refueling from occurring on the property.

(3) EXEMPTION.—The terms and conditions of paragraph (2) shall not apply to an agreement described in paragraph (1) made before the enactment of the FAA Modernization and Reform Act of 2012 (Public Law 112–95) that the Secretary determines does not comply with such terms and conditions but involves property that is subject to deed or lease restrictions that are considered perpetual and that cannot readily be brought into compliance. However, if the Secretary determines that the airport sponsor and residential property owners are able to make any modification to such an agreement on or after the date of enactment of this paragraph, the exemption provided by this paragraph shall no longer apply.

(t) RENEWAL OF CERTAIN LEASES.—

(1) IN GENERAL.—Notwithstanding subsection (a)(13), an airport owner or operator who renews a covered lease shall not be treated as violating a written assurance requirement under this section as a result of such renewal.

(2) COVERED LEASE DEFINED.—In this subsection, the term "covered lease" means a lease—

- (A) originally entered into before the date of enactment of this subsection;
- (B) under which a nominal lease rate is provided;
- (C) under which the lessee is a Federal or State government entity; and
- (D) that supports the operation of military aircraft by the Air Force or Air National Guard—
  - (i) at the airport; or
  - (ii) remotely from the airport.

(u) CONSTRUCTION OF RECREATIONAL AIRCRAFT.—

(1) IN GENERAL.—The construction of a covered aircraft shall be treated as an aeronautical activity for purposes of

- (A) determining an airport's compliance with a grant assurance made under this section or any other provision of law; and
- (B) the receipt of Federal financial assistance for airport development.

(2) COVERED AIRCRAFT DEFINED.—In this subsection, the term "covered aircraft" means an aircraft—

- (A) used or intended to be used exclusively for recreational purposes; and
- (B) constructed or under construction by a private individual at a general aviation airport.

(v) COMMUNITY USE OF AIRPORT LAND.—

(1) IN GENERAL.—Notwithstanding subsection (a)(13), and subject to paragraph (2), the sponsor of a public-use airport shall not be considered to be in violation of this subtitle, or to be found in violation of a grant assurance made

under this section, or under any other provision of law, as a condition for the receipt of Federal financial assistance for airport development, solely because the sponsor has entered into an agreement, including a revised agreement, with a local government providing for the use of airport property for an interim compatible recreational purpose at below fair market value.

(2) RESTRICTIONS.—This subsection shall apply only—

(A) to an agreement regarding airport property that was initially entered into before the publication of the Federal Aviation Administration's Policy and Procedures Concerning the Use of Airport Revenue, dated February 16, 1999;

(B) if the agreement between the sponsor and the local government is subordinate to any existing or future agreements between the sponsor and the Secretary, including agreements related to a grant assurance under this section;

(C) to airport property that was acquired under a Federal airport development grant program;

(D) if the airport sponsor has provided a written statement to the Administrator that the property made available for a recreational purpose will not be needed for any aeronautical purpose during the next 10 years;

(E) if the agreement includes a term of not more than 2 years to prepare the airport property for the interim compatible recreational purpose and not more than 10 years of use for that purpose;

(F) if the recreational purpose will not impact the aeronautical use of the airport;

(G) if the airport sponsor provides a certification that the sponsor is not responsible for preparation, start-up, operations, maintenance, or any other costs associated with the recreational purpose; and

(H) if the recreational purpose is consistent with Federal land use compatibility criteria under section 47502.

(3) STATUTORY CONSTRUCTION.—Nothing in this subsection may be construed as permitting a diversion of airport revenue for the capital or operating costs associated with the community use of airport land.

(w) MOTHERS' ROOMS.—

(1) IN GENERAL.—The Secretary of Transportation may approve an application under this subchapter for an airport development project grant only if the Secretary receives written assurances that the airport owner or operator will maintain—

(A) a lactation area in the sterile area of each passenger terminal building of the airport; and

(B) a baby changing table in at least one men's and at least one women's restroom in each passenger terminal building of the airport.

(2) APPLICABILITY.—

(A) AIRPORT SIZE.—

(i) IN GENERAL.—The requirements in paragraph (1) shall only apply to applications submitted by the airport sponsor of—

(I) a medium or large hub airport in fiscal year 2021 and each fiscal year thereafter; and

(II) an applicable small hub airport in fiscal year 2023 and each fiscal year thereafter.

(ii) APPLICABLE SMALL HUB AIRPORT DEFINED.—In clause (i)(II), the term "applicable small hub airport" means an airport designated as a small hub airport during—

(I) the 3-year period consisting of 2020, 2021, and 2022; or

(II) any consecutive 3-year period beginning after 2020.

(B) PREEXISTING FACILITIES.—On application by an airport sponsor, the Secretary may determine that a lactation area in existence on October 5, 2018, complies with the requirement in paragraph (1)(A), notwithstanding the absence of one of the facilities or characteristics referred to in the definition of the term "lactation area" in this subsection.

(C) SPECIAL RULE.—The requirement in paragraph (1)(A) shall not apply with respect to a project grant application for a period of time, determined by the Secretary, if the Secretary determines that construction or maintenance activities make it impracticable or unsafe for the lactation area to be located in the sterile area of the building.

(3) DEFINITION.—In this section, the term—

(A) "lactation area" means a room or similar accommodation that—

(i) provides a location for members of the public to express breast milk that is shielded from view and free from intrusion from the public;

(ii) has a door that can be locked;

(iii) includes a place to sit, a table or other flat surface, a sink or sanitizing equipment, and an electrical outlet;

(iv) is readily accessible to and usable by individuals with disabilities, including individuals who use wheelchairs; and

(v) is not located in a restroom; and

(B) "sterile area" has the same meaning given that term in section 1540.5 of title 49, Code of Federal Regulations.

(Pub. L. 103–272, §1(e), July 5, 1994, 108 Stat. 1256; Pub. L. 103–305, title I, §§111(a), (c), 112(a), Aug. 23, 1994, 108 Stat. 1573, 1574; Pub. L. 104–264, title I, §143, title VIII, §805(a), (b)(2), Oct. 9, 1996, 110 Stat. 3221, 3271, 3274; Pub. L. 104–287, §5(9), (80), Oct. 11, 1996, 110 Stat. 3389, 3397; Pub. L. 105–135, title VI, §604(h)(1), Dec. 2, 1997, 111 Stat. 2634; Pub. L. 106–181, title I, §125(a), Apr. 5, 2000, 114 Stat. 75; Pub. L. 107–217, §3(n)(7), Aug. 21, 2002, 116 Stat. 1303; Pub. L. 108–7, div. I, title III, §321(a), Feb. 20, 2003, 117 Stat. 411; Pub. L. 108–11, title II, §2702, Apr. 16, 2003, 117 Stat. 600; Pub. L. 108–176, title I, §§144, 164, 165, title IV, §424, Dec. 12, 2003, 117 Stat. 2503, 2513, 2514, 2554; Pub. L. 110–330, §5(e), Sept. 30, 2008, 122 Stat. 3718; Pub. L. 111–12, §5(d), Mar. 30, 2009, 123 Stat. 1458; Pub. L. 111–69, §5(e), Oct. 1, 2009, 123 Stat. 2055; Pub. L. 111–116, §5(d), Dec. 16, 2009, 123 Stat. 3032; Pub. L. 111–153, §5(d), Mar. 31, 2010, 124 Stat. 1085; Pub. L. 111–161, §5(d), Apr. 30, 2010, 124 Stat. 1127; Pub. L. 111–197, §5(d), July 2, 2010, 124 Stat. 1354; Pub. L. 111–216, title I, §104(d), Aug. 1, 2010, 124 Stat. 2349; Pub. L. 111–249, §5(e), Sept. 30, 2010, 124 Stat. 2628; Pub. L. 111–329, §5(d), Dec. 22, 2010, 124 Stat. 3567; Pub. L. 112–7, §5(d), Mar. 31, 2011, 125 Stat. 32; Pub. L. 112–16, §5(d), May 31, 2011, 125 Stat. 219; Pub. L. 112–21, §5(d), June 29, 2011, 125 Stat. 234; Pub. L. 112–27, §5(d), Aug. 5, 2011, 125 Stat. 271; Pub. L. 112–30, title II, §205(e), Sept. 16, 2011, 125 Stat. 358; Pub. L. 112–91, §5(e), Jan. 31, 2012, 126 Stat. 4; Pub. L. 112–95, title I, §§135, 136(a), title IV, §404, Feb. 14, 2012, 126 Stat. 22, 23, 85; Pub. L. 113–188, title XV, §1501(b)(1), (2)(A), Nov. 26, 2014, 128 Stat. 2023, 2024; Pub. L. 114–55, title I, §102(a), Sept. 30, 2015, 129 Stat. 523; Pub. L. 114–141, title I, §102(a), Mar. 30, 2016, 130 Stat. 323; Pub. L. 114–190, title I, §1102(a), July 15, 2016, 130 Stat. 617; Pub. L. 114–238, §1, Oct. 7, 2016, 130 Stat. 972; Pub. L. 115–63, title I, §102(a), Sept. 29, 2017, 131 Stat. 1169; Pub. L. 115–91, div. A, title XVII, §1701(a)(4)(G)(i), Dec. 12, 2017, 131 Stat. 1796; Pub. L. 115–141, div. M, title I, §102(a), Mar. 23, 2018, 132 Stat. 1046; Pub. L. 115–254, div. B, title I, §§131, 132(a), 163(d), 185, Oct. 5, 2018, 132 Stat. 3203–3205, 3224, 3234; Pub. L. 116–190, §2, Oct. 30, 2020, 134 Stat. 974.)

#### HISTORICAL AND REVISION NOTES

<i>Revised Section</i>	<i>Source (U.S. Code)</i>	<i>Source (Statutes at Large)</i>
47107(a)	49 App.:2202(a)(6).  49 App.:2208(b)(1)(E) (related to 49 App.:2210(a) (1)–(11), (15), (16)). 49 App.:2210(a)(1)(A).  49 App.:2210(a)(1)(B), (C), (2). 49 App.:2210(a)(3).  49 App.:2210(a)(4).  49 App.:2210(a) (5)–(10). 49 App.:2210(a)(11).  49 App.:2210(a)(15).  49 App.:2210(a)(16).	Sept. 3, 1982, Pub. L. 97–248, §§503(a)(6), 505(b)(2), 509(b)(1)(E), 511(a)(1)(B), (C), (2), (5)–(10), (b), 96 Stat. 673, 677, 683, 686, 687.  Sept. 3, 1982, Pub. L. 97–248, §511(a)(1)(A), 96 Stat. 686; Dec. 30, 1987, Pub. L. 100–223, §109(a), 101 Stat. 1499.  Sept. 3, 1982, Pub. L. 97–248, §511(a)(3), 96 Stat. 686; Dec. 30, 1987, Pub. L. 100–223, §109(b), 101 Stat. 1499.  Sept. 3, 1982, Pub. L. 97–248, §511(a)(4), 96 Stat. 686; restated Dec. 30, 1987, Pub. L. 100–223, §109(c), 101 Stat. 1499.  Sept. 3, 1982, Pub. L. 97–248, §511(a)(11), 96 Stat. 687; Oct. 31, 1992, Pub. L. 102–581, §113(a), 106 Stat. 4881.  Sept. 3, 1982, Pub. L. 97–248, 96 Stat. 324, §511(a)(15); added Dec. 30, 1987, Pub. L. 100–223, §109(f), 101 Stat. 1500.  Sept. 3, 1982, Pub. L. 97–248, 96 Stat. 324, §511(a)(16); added Dec. 30, 1987, Pub. L. 100–223, §109(g), 101 Stat. 1501.
47107(b)(1), (2)	49 App.:2208(b)(1)(E) (related to 49 App.:2210(a)(12)). 49 App.:2210(a)(12).	Sept. 3, 1982, Pub. L. 97–248, §511(a)(12), 96 Stat. 687; restated Dec. 30, 1987, Pub. L. 100–223, §109(d), 101 Stat. 1499.
47107(b)(3)	49 App.:2210(d).	Sept. 3, 1982, Pub. L. 97–248, 96 Stat. 324, §511(d); added Dec. 30, 1987, Pub. L. 100–223, §109(i), 101 Stat. 1501.

47107(c)(1), (2)	49 App.:2202(a)(24).  49 App.:2208(b)(1)(E) (related to 49 App.:2210(a)(13), (14)). 49 App.:2210(a)(13).  49 App.:2210(a)(14).	Sept. 3, 1982, Pub. L. 97-248, §503(a)(24), 96 Stat. 674; Dec. 30, 1987, Pub. L. 100-223, §103(c)(1), 101 Stat. 1488.  Sept. 3, 1982, Pub. L. 97-248, §511(a)(13), 96 Stat. 688; restated Dec. 30, 1987, Pub. L. 100-223, §109(e), 101 Stat. 1499.  Sept. 3, 1982, Pub. L. 97-248, §511(a)(14), 96 Stat. 688; Dec. 30, 1987, Pub. L. 100-223, §109(e), 101 Stat. 1499; restated Dec. 15, 1989, Pub. L. 101-236, §4, 103 Stat. 2061.
47107(c)(3)	(no source).	
47107(d)	49 App.:2204(b)(2). 49 App.:2208(b)(1)(E) (related to 49 App.:2204(b)(2)).	
47107(e)	49 App.:2208(b)(1)(E) (related to 49 App.:2210(a)(17)). 49 App.:2210(a)(17).  49 App.:2210(h).  49 App.:2210 (note).	Sept. 3, 1982, Pub. L. 97-248, 96 Stat. 324, §511(a)(17); added Dec. 30, 1987, Pub. L. 100-223, §109(h), 101 Stat. 1501; Oct. 31, 1992, Pub. L. 102-581, §117(a), 106 Stat. 4882.  Sept. 3, 1982, Pub. L. 97-248, 96 Stat. 324, §511(h); added Oct. 31, 1992, Pub. L. 102-581, §117(b), 106 Stat. 4882.  Oct. 31, 1992, Pub. L. 102-581, §117(d), 106 Stat. 4883.
47107(f)	49 App.:2210(e).	Sept. 3, 1982, Pub. L. 97-248, 96 Stat. 324, §511(e); added Dec. 30, 1987, Pub. L. 100-223, §109(j), 101 Stat. 1501.
47107(g)(1)	49 App.:2210(b) (1st, 2d sentences).	
47107(g)(2)	49 App.:2208(b)(1)(E) (related to 49 App.:2210(b)).	
47107(h)	49 App.:2210(f).	Sept. 3, 1982, Pub. L. 97-248, 96 Stat. 324, §511(f); added Dec. 30, 1987, Pub. L. 100-223, §109(k), 101 Stat. 1502.
47107(i)	49 App.:2210(b) (last sentence).	
47107(j)(1)	49 App.:2210(g)(4)(B), (D).	Sept. 3, 1982, Pub. L. 97-248, 96 Stat. 324, §511(g); added May 4, 1990, Pub. L. 101-281, §2, 104 Stat. 164.
47107(j)(2)	49 App.:2210(g)(1), (2)(B), (4)(A), (C).	
47107(j)(3)	49 App.:2210(g)(2)(C), (D).	
47107(j)(4)	49 App.:2210(g)(2)(E).	
47107(j)(5)	49 App.:2210(g)(2)(F).	
47107(j)(6)	49 App.:2210(g)(2)(G).	
47107(j) (7)(A)	49 App.:2210(g)(2)(A).	
47107(j) (7)(B)	49 App.:2210(g)(3).	

In subsection (a), before clause (1), the words "may approve a project grant application under this subchapter for an airport development project only if" are substituted for 49 App.:2208(b)(1)(E) (related to 49 App.:2210(a)) and the words "As a condition precedent to approval of an airport development project contained in a project grant application submitted under this chapter . . . shall" in 49 App.:2210(a) for clarity and to eliminate unnecessary words. In clause (1), the words "to which the project relates" and "fair and" are omitted as surplus. In clause (2), before subclause (A), the words "including the requirement that" are omitted as unnecessary because of the restatement. The words "air carriers making similar use of the airport" are substituted for "each air carrier using such airport (whether as a tenant, nontenant, or subtenant of another air carrier tenant) . . . all such air carriers which make similar use of such airport" to eliminate unnecessary words. The words "and which utilize similar facilities" are omitted because of the

definition of "airport" in section 47102 of the revised title. The words "nondiscriminatory and" and "rates, fees, rentals, and other" are omitted as surplus. In subclause (B), before subclause (i), the words "except for differences based on" are substituted for "subject to" for clarity. In clause (3), the words "airport operator" are substituted for "airport" for clarity and consistency in this chapter. In clause (4), before subclause (A), the words "a right given to only one fixed-base operator to provide services at an airport" are substituted for "the providing of services at an airport by a single fixed-based operator" for clarity. In subclause (B), the words "the airport operator or owner" are substituted for "such airport" for clarity and consistency in this subchapter. Clause (5) is substituted for 49 App.:2210(a)(1)(B) for consistency and to eliminate unnecessary words. In clause (6), the words "allowed by the airport operator" are substituted for "authorized by the airport or permitted by the airport" for clarity and consistency in this chapter and to eliminate unnecessary words. In clause (9), the words "operations at" are added for clarity. The words "adequately", "removing, lowering, relocating, marking, or lighting or otherwise", and "the establishment or creation of" are omitted as surplus. In clause (10), the word "near" is substituted for "in the immediate vicinity of", and the word "uses" is substituted for "activities and purposes", to eliminate unnecessary words. The words "including landing and takeoff of aircraft" are omitted as surplus. In clause (12), the words "property interests of the sponsor in land or water areas or buildings" are substituted for "any areas of land or water, or estate therein, or rights in buildings of the sponsor" for consistency in the revised title and to eliminate unnecessary words. The words "necessary or" are omitted as surplus. The words "for, and that will be used for, constructing . . . facilities for carrying out activities related to air traffic control or navigation" are substituted for "for use in connection with any air traffic control or navigation activities, or weather-reporting and communication activities related to air traffic control . . . for construction . . . of space or facilities for such purposes" to eliminate unnecessary words. In clause (13), before subclause (A), the words "schedule of charges" are substituted for "fee and rental structure" for clarity and consistency in this chapter. In subclause (A), the word "particular" is omitted as surplus. The word "including" is substituted for "taking into account such factors as" to eliminate unnecessary words. In subclause (B), the words "fees, rates, and" are omitted as surplus. The words "airport development or airport planning" are omitted because of the definition of "project" in section 47102 of the revised title. In clause (16), before subclause (A), the words "maintain . . . current" are substituted for "keep up to date at all times" to eliminate unnecessary words. In subclause (B), the words "be submitted to, and" and "amendment" are omitted as surplus. In subclauses (C) and (D), the words "changes or" and "change or", respectively, are omitted as surplus. In subclause (D)(ii), the words "was made" are added for clarity. In clause (17), the words "with respect to the project" are omitted as surplus. In clause (18), the words "duly authorized agent of" are omitted because of 49:322(b).

In subsection (b)(1), before clause (A), the words "may approve a project grant application under this subchapter for an airport development project only if" are substituted for 49 App.:2208(b)(1)(E) (related to 49 App.:2210(a)(12)) and "As a condition precedent to approval of an airport development project contained in a project grant application submitted under this chapter . . . shall" in 49 App.:2210(a) for clarity and to eliminate unnecessary words. In clause (C) the word "actual" is omitted as surplus.

In subsection (b)(2), the words "Paragraph (1) of this subsection does not apply" are substituted for "except that . . . then this limitation on the use of all other revenues generated by the airport . . . shall not apply" to eliminate unnecessary words. The word "law" is substituted for "provisions . . . in governing statutes" for consistency in the revised title and to eliminate unnecessary words.

In subsection (c)(1), before clause (A), the words "considered to be" are omitted as surplus. In clause (B), the words "department, agency, or instrumentality of the Government" are substituted for "Federal agency" for consistency in the revised title and with other titles of the United States Code.

In subsection (c)(2), before clause (A), the words "may approve an application under this subchapter for an airport development project grant only if" are substituted for 49 App.:2208(b)(1)(E) (related to 49 App.:2210(a)(13), (14)) and "As a condition precedent to approval of an airport development project contained in a project grant application submitted under this chapter" in 49 App.:2210(a) for clarity and to eliminate unnecessary words. The words "has received or will receive" are substituted for "before, on, or after December 30, 1987" and "before, on, or after December 31, 1987" because of the restatement. In clauses (A)(ii) and (B)(ii), the words "or right" and "only" are omitted as surplus. In clause (A)(iii), the words "at the discretion of the Secretary" in 49 App.:2210(a)(13)(C) are omitted as surplus. In clause (B)(iii), the words "under this subchapter" are substituted for "at that airport or within the national airport system" for clarity and to eliminate unnecessary words.

Subsection (c)(3) is added for clarity.

In subsection (d), the words "may approve an application under this subchapter for an airport development project grant . . . only if" are substituted for 49 App.:2208(b)(1)(E) (related to 49 App.:2204(b)(2)) and "No obligation shall be incurred by the Secretary for airport development . . . unless" in 49 App.:2204(b) for clarity and to eliminate unnecessary words.



In subsection (e)(1), the words "may approve a project grant application under this subchapter for an airport development project only if" are substituted for 49 App.:2208(b)(1)(E) (related to 49 App.:2210(a)(17)) and "As a condition precedent to approval of an airport development project contained in a project grant application submitted under this chapter . . . shall" for clarity and to eliminate unnecessary words. The words "food, beverages, printed materials, or other" and "ground transportation, baggage carts, automobile rentals, or other" are omitted as surplus.

In subsection (e)(2)–(5), the words "disadvantaged business enterprise" are substituted for "DBE" for clarity.

In subsection (e)(4), the words "(as defined by the Secretary by regulation)" and "(as defined under section 2204(d)(2)(B) of this title)" are omitted as unnecessary because of paragraph (1) of this subsection.

In subsection (f)(2)(A), the words "at the discretion of the Secretary" are omitted as surplus. The words "at primary airports and reliever airports" are omitted as surplus because 49 App.:2206(c)(2), restated in section 47115(c) of the revised title, involves only primary and reliever airports.

In subsection (g)(1)(A), the words "consistent with the terms of this chapter" are omitted as surplus.

In subsection (g)(1)(B), the words "Among other steps to insure such compliance" and "on behalf of the United States" are omitted as surplus.

In subsection (g)(2), the words "by or . . . the authority of" are omitted as surplus.

In subsection (h), before clause (1), the words "proposes to" are omitted as surplus. The word "subchapter" is substituted for "Act" in section 511(f) of the Airport and Airway Improvement Act of 1982, as added by section 109(k) of the Airport and Airway Safety and Capacity Expansion Act of 1987 (Public Law 100–223, 101 Stat. 1502), to correct a mistake.

In subsection (i), the words "a property interest in a land or water area or a building that the Secretary of Transportation uses to construct a facility" are substituted for "any area of land or water, or estate therein, or rights in buildings of the sponsor and constructs space or facilities thereon" for consistency in this section.

In subsection (j)(2), the words "the limitation on the use of revenues generated by airports contained in", "located", "of funds", and "(including revenues generated by such airports from other sources, unrestricted cash on hand, and Federal funds made available under this chapter for expenditure at such airports)" are omitted as surplus.

In subsection (j)(3)(A), the words "amount that is greater than 150 percent as determined" are substituted for "amount of the excess determined" for clarity.

In subsection (j)(3)(B), the words "in the aggregate" are omitted as surplus.

In subsection (j)(4), the word "imposed" is substituted for "levied" for consistency in the revised title and with other titles of the Code. The words "for the use of airport facilities" and "a percentage which is" are omitted as surplus. The words "Secretary of Labor" are substituted for "Bureau of Labor Statistics of the Department of Labor" because of 29:551 and 557.

In subsection (j)(5), the words "from fee increases" and "for approval" are omitted as surplus.

## EDITORIAL NOTES

### REFERENCES IN TEXT

The Federal Airport Act, referred to in subsecs. (a)(13)(B) and (i), is act [May 13, 1946, ch. 251](#), 60 Stat. 170, which was classified to chapter 14 (§1101 et seq.) of former Title 49, Transportation, prior to repeal by Pub. L. 91–258, [title I, §52\(a\), May 21, 1970](#), 84 Stat. 235.

The Airport and Airway Development Act of 1970, referred to in subsecs. (a)(13)(B) and (i), is title I of Pub. L. 91–258, [May 21, 1970](#), 84 Stat. 219, which was classified principally to chapter 25 (§1701 et seq.) of former Title 49, Transportation. Sections 1 through 30 of title I of Pub. L. 91–258, which enacted sections 1701 to 1703, 1711 to 1713, and 1714 to 1730 of former Title 49, and a provision set out as a note under section 1701 of former Title 49, were repealed by Pub. L. 97–248, [title V, §523\(a\), Sept. 3, 1982](#), 96 Stat. 695. Sections 31, 51, 52(a), (b)(4), (6), (c), (d), and 53 of title I of Pub. L. 91–258 were repealed by Pub. L. 103–272, [§7\(b\), July 5, 1994](#), 108 Stat. 1379, the first section of which enacted subtitles II, III, and V to X of Title 49, Transportation. For complete classification of this Act to the Code, see Tables. For disposition of sections of former Title 49, see table at the beginning of Title 49.

Section 9502 of the Internal Revenue Code of 1986, referred to in subsec. (c)(4)(E), is classified to section 9502 of Title 26, Internal Revenue Code.

The date of enactment of this paragraph, referred to in subsec. (c)(5)(D), is the date of enactment of Pub. L. 112–95, which was approved Feb. 14, 2012.

Section 31(b) of the Small Business Act, referred to in subsec. (e)(1), (4)(B), (6), is classified to section 657a(b) of Title 15, Commerce and Trade.

Section 101(a) of title 23, referred to in subsec. (j)(1)(B), was subsequently amended, and section 101(a) no longer defines "Federal-aid system".

The enactment of the FAA Modernization and Reform Act of 2012, referred to in subsec. (s)(3), means the enactment of Pub. L. 112–95, which was approved Feb. 14, 2012.

The date of enactment of this paragraph, referred to in subsec. (s)(3), is the date of enactment of Pub. L. 115–254, which was approved Oct. 5, 2018.

The date of enactment of this subsection, referred to in subsec. (t)(2)(A), is the date of enactment of Pub. L. 114–238, which was approved Oct. 7, 2016.

## AMENDMENTS

**2020**—Subsec. (w)(1). Pub. L. 116–190, §2(1), substituted "The Secretary of Transportation" for "In fiscal year 2021 and each fiscal year thereafter, the Secretary of Transportation".

Subsec. (w)(1)(B). Pub. L. 116–190, §2(2), substituted "at least one men's and at least one women's" for "one men's and one women's".

Subsec. (w)(2)(A). Pub. L. 116–190, §2(3), added subpar. (A) and struck out former subpar. (A) which read as follows: "The requirement in paragraph (1) shall only apply to applications submitted by the airport sponsor of a medium or large hub airport."

Subsec. (w)(2)(B). Pub. L. 116–190, §2(4), substituted "October 5, 2018, complies with the requirement in paragraph (1)(A)" for "the date of enactment of this Act complies with the requirement in paragraph (1)".

Subsec. (w)(2)(C). Pub. L. 116–190, §2(5), substituted "paragraph (1)(A)" for "paragraph (1)".

**2018**—Subsec. (a)(16)(B). Pub. L. 115–254, §163(d)(1), added subpar. (B) and struck out former subpar. (B) which read as follows: "the Secretary will approve the plan and any revision or modification before the plan, revision, or modification takes effect;"

Subsec. (a)(16)(C). Pub. L. 115–254, §163(d)(2), substituted "unless the alteration—" and cls. (i) and (ii) for "if the alteration does not comply with the plan the Secretary approves, and the Secretary is of the opinion that the alteration may affect adversely the safety, utility, or efficiency of the airport; and".

Subsec. (a)(16)(D). Pub. L. 115–254, §163(d)(3), which directed substitution of "when an alteration in the airport or its facility is made that is within the scope of the Secretary's review and approval authority as set forth in subparagraph (B), and does not conform with the portions of the plan approved by the Secretary, and the Secretary decides that the alteration adversely affects the safety, utility, or efficiency of aircraft operations, or of any property on or off the airport that is owned, leased, or financed by the Government, then the owner or operator will, if requested by the Secretary" for "when an alternation" and all that follows through "Secretary, will", was executed by making the substitution for "when an alteration in the airport or its facility is made that does not conform to the approved plan and that the Secretary decides adversely affects the safety, utility, or efficiency of any property on or off the airport that is owned, leased, or financed by the Government, the owner or operator, if requested by the Secretary, will" to reflect the probable intent of Congress.

Subsec. (a)(17). Pub. L. 115–254, §131(1), substituted "if any phase of such project has received funds under this subchapter, each contract" for "each contract".

Subsec. (r)(3). Pub. L. 115–254, §131(2), substituted "2023" for "2018".

Pub. L. 115–141 substituted "October 1, 2018" for "April 1, 2018".

Subsec. (s)(3). Pub. L. 115–254, §185, added par. (3).

Subsecs. (u), (v). Pub. L. 115–254, §131(3), added subsecs. (u) and (v).

Subsec. (w). Pub. L. 115–254, §132(a), added subsec. (w).

**2017**—Subsec. (e)(1), (4)(B), (6). Pub. L. 115–91 substituted "section 31(b) of the Small Business Act" for "section 3(p) of the Small Business Act".

Subsec. (r)(3). Pub. L. 115–63 substituted "April 1, 2018" for "October 1, 2017".

**2016**—Subsec. (r)(3). Pub. L. 114–190 substituted "October 1, 2017" for "July 16, 2016".

Pub. L. 114–141 substituted "July 16, 2016" for "April 1, 2016".

Subsec. (t). Pub. L. 114–238 added subsec. (t).

**2015**—Subsec. (r)(3). Pub. L. 114–55 substituted "April 1, 2016" for "October 1, 2015".

**2014**—Subsec. (k). Pub. L. 113–188, §1501(b)(1), (2)(A)(i), redesignated subsec. (l) as (k) and struck out former subsec. (k). Prior to amendment, text of subsec. (k) read as follows: "The Secretary shall provide to the Committee on Commerce, Science, and Transportation of the Senate and the Committee on Transportation and Infrastructure of the House of Representatives an annual summary of the reports submitted to the Secretary under subsection (a)(19) of this section and under section 111(b) of the Federal Aviation Administration Authorization Act of 1994."

Subsec. (k)(5). Pub. L. 113–188, §1501(b)(2)(A)(ii), substituted "subsection (m)(7)" for "subsection (n)(7)" in introductory provisions and "subsection (m)" for "subsection (n)" in subpar. (B).

Subsec. (l). Pub. L. 113–188, §1501(b)(2)(A)(i), redesignated subsec. (m) as (l). Former subsec. (l) redesignated (k).

Subsec. (m). Pub. L. 113–188, §1501(b)(2)(A)(i), (iii), redesignated subsec. (n) as (m) and substituted "subsections (b) and (k)" for "subsections (b) and (l)" in pars. (1) and (7) and "subsection (n)" for "subsection (o)" in pars. (4) and (6). Former subsec. (m) redesignated (l).

Subsec. (n). Pub. L. 113–188, §1501(b)(2)(A)(i), (iv), redesignated subsec. (o) as (n) and substituted "subsection (m)" for "subsection (n)" wherever appearing. Former subsec. (n) redesignated (m).

Subsec. (o). Pub. L. 113–188, §1501(b)(2)(A)(i), (v), redesignated subsec. (p) as (o) and substituted "subsection (n)" for "subsection (o)". Former subsec. (o) redesignated (n).

Subsec. (p). Pub. L. 113–188, §1501(b)(2)(A)(i), (vi), redesignated subsec. (q) as (p) and substituted "subsections (a) through (o)" for "subsections (a) through (p)" in introductory provisions. Former subsec. (p) redesignated (o).

Subsec. (q). Pub. L. 113–188, §1501(b)(2)(A)(i), (vii), redesignated subsec. (r) as (q) and substituted "paragraphs (1) through (3) of subsection (p)" for "subsections (q)(1) through (3)". Former subsec. (q) redesignated (p).

Subsecs. (r) to (t). Pub. L. 113–188, §1501(b)(2)(A)(i), redesignated subsecs. (s) and (t) as (r) and (s), respectively. Former subsec. (r) redesignated (q).

**2012**—Subsec. (a)(16)(D)(ii). Pub. L. 112–95, §135(a), inserted ", except in the case of a relocation or replacement of an existing airport facility that meets the conditions of section 47110(d)" before semicolon at end.

Subsec. (c)(2)(A). Pub. L. 112–95, §135(b)(1)(A)(i), substituted "purpose (including land serving as a noise buffer either by being undeveloped or developed in a way that is compatible with using the land for noise buffering purposes)" for "purpose" in introductory provisions.

Subsec. (c)(2)(A)(iii). Pub. L. 112–95, §135(b)(1)(A)(ii), substituted "reinvested in another project at the airport or transferred to another airport as the Secretary prescribes under paragraph (4)" for "paid to the Secretary for deposit in the Airport and Airway Trust Fund established under section 9502 of the Internal Revenue Code of 1986 (26 U.S.C. 9502) or, as the Secretary prescribes, reinvested in an approved noise compatibility project, including the purchase of nonresidential buildings or property in the vicinity of residential buildings or property previously purchased by the airport as part of a noise compatibility program".

Subsec. (c)(2)(B)(iii). Pub. L. 112–95, §135(b)(1)(B), substituted "reinvested in another project at the airport or transferred to another airport as the Secretary prescribes under paragraph (4)" for "reinvested, on application to the Secretary, in another eligible airport development project the Secretary approves under this subchapter or paid to the Secretary for deposit in the Fund if another eligible project does not exist".

Subsec. (c)(4), (5). Pub. L. 112–95, §135(b)(2), added pars. (4) and (5).

Subsec. (s)(3). Pub. L. 112–95, §404, amended par. (3) generally. Prior to amendment, text read as follows: "This subsection shall cease to be effective beginning February 18, 2012."

Pub. L. 112–91 substituted "February 18, 2012." for "February 1, 2012."

Subsec. (t). Pub. L. 112–95, §136(a), added subsec. (t).

**2011**—Subsec. (s)(3). 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. (s)(3). 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. (s)(3). 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. (s)(3). Pub. L. 110–330 substituted "April 1, 2009" for "October 1, 2008".

**2003**—Subsec. (a)(21). Pub. L. 108–176, §165, added par. (21).

Subsec. (c)(2)(A)(iii). Pub. L. 108–176, §164, inserted before semicolon at end ", including the purchase of nonresidential buildings or property in the vicinity of residential buildings or property previously purchased by the airport as part of a noise compatibility program".

Subsec. (l)(5)(A). Pub. L. 108–176, §144(a), inserted "or any other governmental entity" after "sponsor".

Subsec. (m)(1). Pub. L. 108–176, §144(b)(1), (2), substituted "include a provision in the compliance supplement provisions to" for "promulgate regulations that" and struck out "and opinion of the review" before "concerning the funding activities".

Subsec. (m)(3). Pub. L. 108–176, §144(b)(3), struck out heading and text of par. (3). Text read as follows: "The report submitted to the Secretary under this subsection shall include a specific determination and opinion regarding the appropriateness of the disposition of airport funds paid or transferred to a sponsor."

Subsec. (q). Pub. L. 108–7 added subsec. (q).

Subsec. (q)(2). Pub. L. 108–11, §2702(1), which directed the amendment of subsec. (q)(2) of section 321 of Pub. L. 108–7 by inserting "or underneath" before "the Class B airspace", was executed by making the insertion in subsec. (q)(2) of this section, to reflect the probable intent of Congress.

Subsec. (q)(3). Pub. L. 108–11, §2702(2), (3), which directed the amendment of subsec. (q)(3) of section 321 of Pub. L. 108–7 by striking out "has sufficient capacity and" after "Title 49" and inserting "passenger" before "delays", was executed by inserting "passenger" before "delays" and striking out "has sufficient capacity and" after "title 49" in subsec. (q)(3) of this section, to reflect the probable intent of Congress.

Subsec. (r). Pub. L. 108–7 added subsec. (r).

Subsec. (s). Pub. L. 108–176, §424, added subsec. (s).

**2002**—Subsec. (a)(17). Pub. L. 107–217 substituted "chapter 11 of title 40" for "title IX of the Federal Property and Administrative Services Act of 1949 (40 U.S.C. 541 et seq.)".

**2000**—Subsec. (h). Pub. L. 106–181 amended heading and text of subsec. (h) generally. Prior to amendment, text read as follows: "Before modifying an assurance required of a person receiving a grant under this subchapter and in effect after December 29, 1987, or to require compliance with an additional assurance from the person, the Secretary of Transportation must—

"(1) publish notice of the proposed modification in the Federal Register; and

"(2) provide an opportunity for comment on the proposal."

**1997**—Subsec. (e)(1). Pub. L. 105–135, §604(h)(1)(A), inserted before period at end "or qualified HUBZone small business concerns (as defined in section 3(p) of the Small Business Act)".

Subsec. (e)(4)(B). Pub. L. 105–135, §604(h)(1)(B), which directed the amendment of subpar. (B) by inserting before the period "or as a qualified HUBZone small business concern (as defined in section 3(p) of the Small Business Act)", was executed by inserting the material before period at end of last sentence to reflect the probable intent of Congress.

Subsec. (e)(6). Pub. L. 105–135, §604(h)(1)(C), inserted "or a qualified HUBZone small business concern (as defined in section 3(p) of the Small Business Act)" after "disadvantaged individual".

**1996**—Subsec. (a)(20). Pub. L. 104–264, §143, added par. (20).

Subsec. (k). Pub. L. 104–287, §5(9), substituted "Transportation and Infrastructure" for "Public Works and Transportation".

Subsec. (l)(1). Pub. L. 104–287, §5(80), substituted "August 23, 1994" for "the date of the enactment of this subsection".

Subsec. (l)(5). Pub. L. 104–264, §805(b)(2), added par. (5).

Subsecs. (m) to (p). Pub. L. 104–264, §805(a), added subsecs. (m) to (p).

**1994**—Subsec. (a)(15). Pub. L. 103–305, §111(a)(1), inserted before semicolon at end "and make such reports available to the public".

Subsec. (a)(19). Pub. L. 103–305, §111(a)(2)–(4), added par. (19).

Subsec. (k). Pub. L. 103–305, §111(c), added subsec. (k).

Subsec. (l). Pub. L. 103–305, §112(a), added subsec. (l).

## STATUTORY NOTES AND RELATED SUBSIDIARIES

### EFFECTIVE DATE OF 2017 AMENDMENT

Amendment by Pub. L. 115–91 effective Jan. 1, 2020, see section 1701(j) of Pub. L. 115–91, set out as a note under section 657a of Title 15, Commerce and Trade.

### EFFECTIVE DATE OF 2012 AMENDMENT

Pub. L. 112–95, [title I, §136\(b\)](#), [Feb. 14, 2012](#), 126 Stat. 24, provided that: "The amendment made by subsection (a) [amending this section] shall apply to an agreement between an airport sponsor and a property owner (or an association representing such property owner) entered into before, on, or after the date of enactment of this Act [Feb. 14, 2012]."

### EFFECTIVE DATE OF 2011 AMENDMENT

Amendment by Pub. L. 112–27 effective July 23, 2011, see section 5(j) of Pub. L. 112–27, set out as a note under section 40117 of this title.

Amendment by Pub. L. 112–21 effective July 1, 2011, see section 5(j) of Pub. L. 112–21, set out as a note under section 40117 of this title.

Amendment by Pub. L. 112–16 effective June 1, 2011, see section 5(j) of Pub. L. 112–16, set out as a note under section 40117 of this title.

Amendment by Pub. L. 112–7 effective Apr. 1, 2011, see section 5(j) of Pub. L. 112–7, set out as a note under section 40117 of this title.

### **EFFECTIVE DATE OF 2010 AMENDMENT**

Amendment by Pub. L. 111–329 effective Jan. 1, 2011, see section 5(j) of Pub. L. 111–329, set out as a note under section 40117 of this title.

Amendment by Pub. L. 111–249 effective Oct. 1, 2010, see section 5(l) of Pub. L. 111–249, set out as a note under section 40117 of this title.

Amendment by Pub. L. 111–216 effective Aug. 2, 2010, see section 104(j) of Pub. L. 111–216, set out as a note under section 40117 of this title.

Amendment by Pub. L. 111–197 effective July 4, 2010, see section 5(j) of Pub. L. 111–197, set out as a note under section 40117 of this title.

Amendment by Pub. L. 111–161 effective May 1, 2010, see section 5(j) of Pub. L. 111–161, set out as a note under section 40117 of this title.

Amendment by Pub. L. 111–153 effective Apr. 1, 2010, see section 5(j) of Pub. L. 111–153, set out as a note under section 40117 of this title.

### **EFFECTIVE DATE OF 2009 AMENDMENT**

Amendment by Pub. L. 111–116 effective Jan. 1, 2010, see section 5(j) of Pub. L. 111–116, set out as a note under section 40117 of this title.

Amendment by Pub. L. 111–12 effective Apr. 1, 2009, see section 5(j) of Pub. L. 111–12, set out as a note under section 40117 of this title.

### **EFFECTIVE DATE OF 2008 AMENDMENT**

Amendment by Pub. L. 110–330 effective Oct. 1, 2008, see section 5(l) of Pub. L. 110–330, set out as a note under section 40117 of this title.

### **EFFECTIVE DATE OF 2003 AMENDMENTS**

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.

Pub. L. 108–7, [div. I, title III, §321\(b\)](#), [Feb. 20, 2003](#), 117 Stat. 411, provided that: "This section [amending this section] shall be effective upon enactment [Feb. 20, 2003], notwithstanding any other section of title 49."

### **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**

Amendment by Pub. L. 105–135 effective Oct. 1, 1997, see section 3 of Pub. L. 105–135, set out as a note under section 631 of Title 15, Commerce and Trade.

### **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 2000 AMENDMENT**

Pub. L. 106–181, [title I, §125\(e\)](#), [Apr. 5, 2000](#), 114 Stat. 76, provided that: "Nothing in any amendment made by this section [amending this section and sections 47125, 47151, and 47153 of this title] shall be construed to authorize the Secretary [of Transportation] to issue a waiver or make a modification referred to in such amendment."

## **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.

## **DIVERSION OF AIRPORT REVENUES FOR CLAIMS RELATED TO CERTAIN CEDED LANDS**

Pub. L. 105–66, [title III, §340, Oct. 27, 1997](#), 111 Stat. 1448, provided that:

"(a) FINDINGS.—The Congress finds that—

"(1) Congress has the authority under article I, section 8 of the Constitution to regulate the air commerce of the United States;

"(2) section 47107 of title 49, United States Code, prohibits the diversion of certain revenue generated by a public airport as a condition of receiving a project grant;

"(3) a grant recipient that uses airport revenues for purposes that are not airport-related in a manner inconsistent with chapter 471 of title 49, United States Code, illegally diverts airport revenues;

"(4) illegal diversion of airport revenues undermines the interest of the United States in promoting a strong national air transportation system;

"(5) the policy of the United States that airports should be as self-sustaining as possible and that revenues generated at airports should not be diverted from airport purposes was stated by Congress in 1982 and reaffirmed and strengthened in 1987, 1994, and 1996;

"(6) certain airports are constructed on lands that may have belonged, at one time, to Native Americans, Native Hawaiians, or Alaska Natives;

"(7) contrary to the prohibition against diverting airport revenues from airport purposes under section 47107 of title 49, United States Code, certain payments from airport revenues may have been made for the betterment of Native Americans, Native Hawaiians, or Alaska Natives based upon the claims related to lands ceded to the United States;

"(8) Federal law prohibits diversions of airport revenues obtained from any source whatsoever to occur in the future whether related to claims for periods of time prior to or after the date of enactment of this Act [Oct. 27, 1997]; and

"(9) because of the special circumstances surrounding such past diversions of airport revenues for the betterment of Native Americans, Native Hawaiians, or Alaska Natives, it is in the national interest that amounts from airport revenues previously received by any entity for the betterment of Native Americans, Native Hawaiians, or Alaska Natives, as specified in subsection (b) of this section, should not be subject to repayment.

"(b) TERMINATION OF REPAYMENT RESPONSIBILITY.—Notwithstanding the provisions of [section] 47107 of title 49, United States Code, or any other provision of law, monies paid for claims related to ceded lands and diverted from airport revenues and received prior to April 1, 1996, by any entity for the betterment of Native Americans, Native Hawaiians, or Alaska Natives, shall not be subject to repayment.

"(c) PROHIBITION ON FURTHER DIVERSION.—There shall be no further payment of airport revenues for claims related to ceded lands, whether characterized as operating expenses, rent, or otherwise, and whether related to claims for periods of time prior to or after the date of enactment of this Act [Oct. 27, 1997].

"(d) CLARIFICATION.—Nothing in this Act [see Tables for classification] shall be construed to affect any existing Federal statutes, enactments, or trust obligations created thereunder, or any statute of the several States that define the obligations of such States to Native Americans, Native Hawaiians, or Alaska Natives in connection with ceded lands, except to make clear that airport revenues may not be used to satisfy such obligations."

## **FINDINGS AND PURPOSE**

Pub. L. 104–264, [title VIII, §802, Oct. 9, 1996](#), 110 Stat. 3270, provided that:

"(a) IN GENERAL.—Congress finds that—

"(1) section 47107 of title 49, United States Code, prohibits the diversion of certain revenue generated by a public airport as a condition of receiving a project grant;

"(2) a grant recipient that uses airport revenue for purposes that are not airport related in a manner inconsistent with chapter 471 of title 49, United States Code, illegally diverts airport revenues;

"(3) any diversion of airport revenues in violation of the condition referred to in paragraph (1) undermines the interest of the United States in promoting a strong national air transportation system that is responsive to the needs of airport users;

"(4) the Secretary and the Administrator have not enforced airport revenue diversion rules adequately and must have additional regulatory tools to increase enforcement efforts; and

"(5) sponsors who have been found to have illegally diverted airport revenues—

"(A) have not reimbursed or made restitution to airports in a timely manner; and

"(B) must be encouraged to do so.

"(b) PURPOSE.—The purpose of this title [see Short Title of 1996 Amendment note set out under section 40101 of this title] is to ensure that airport users are not burdened with hidden taxation for unrelated municipal services and activities by—

"(1) eliminating the ability of any State or political subdivision thereof that is a recipient of a project grant to divert airport revenues for purposes that are not related to an airport, in violation of section 47107 of title 49, United States Code;

"(2) imposing financial reporting requirements that are designed to identify instances of illegal diversions referred to in paragraph (1);

"(3) establishing a statute of limitations for airport revenue diversion actions;

"(4) clarifying limitations on revenue diversion that are permitted under chapter 471 of title 49, United States Code; and

"(5) establishing clear penalties and enforcement mechanisms for identifying and prosecuting airport revenue diversion."

## DEFINITIONS

Pub. L. 104–264, title VIII, §803, Oct. 9, 1996, 110 Stat. 3270, provided that: "For purposes of this title [see Short Title of 1996 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) AIRPORT.—The term 'airport' has the meaning provided that term in section 47102(2) of title 49, United States Code.

"(3) PROJECT GRANT.—The term 'project grant' has the meaning provided that term in section 47102(14) [now section 47102(19)] of title 49, United States Code.

"(4) SECRETARY.—The term 'Secretary' means the Secretary of Transportation.

"(5) SPONSOR.—The term 'sponsor' has the meaning provided that term in section 47102(19) [now section 47102(26)] of title 49, United States Code."

## REVISION OF POLICIES AND PROCEDURES; DEADLINES

Pub. L. 104–264, title VIII, §805(b)(1), Oct. 9, 1996, 110 Stat. 3273, provided that: "Not later than 90 days after the date of the enactment of this Act [Oct. 9, 1996], the Secretary, acting through the Administrator, shall revise the policies and procedures established under section 47107(l) [now 47107(k)] of title 49, United States Code, to take into account the amendments made to that section by this title."

## FORMAT FOR REPORTING

Pub. L. 103–305, title I, §111(b), Aug. 23, 1994, 108 Stat. 1574, provided that, within 180 days after Aug. 23, 1994, the Secretary of Transportation was to prescribe a uniform simplified format readily comprehensible to the public for reporting applicable to airports.

### §47108. Project grant agreements

(a) OFFER AND ACCEPTANCE.—On approving a project grant application under this subchapter, the Secretary of Transportation shall offer the sponsor a grant to pay the United States Government's share of the project costs allowable under section 47110 of this title. The Secretary may impose terms on the offer that the Secretary considers necessary to carry out this subchapter and regulations prescribed under this subchapter. An offer shall state the obligations to be assumed by the sponsor and the maximum amount the Government will pay for the project from the amounts authorized under chapter 481 of this title (except sections 48102(e), 48106, 48107, and 48110). At the request of the sponsor, an offer of a grant for a project that will not be completed in one fiscal year shall provide for the obligation of amounts apportioned or to be apportioned to a sponsor under section 47114(c) or 47114(d)(3)(A) of this title for the fiscal years necessary to pay the Government's share of the cost of the project. An offer that is accepted in writing by the sponsor is an agreement binding on the Government and the sponsor. The Government may pay or be obligated to pay a project cost only after a grant agreement for the project is signed.

(b) INCREASING GOVERNMENT'S SHARE UNDER THIS SUBCHAPTER OR CHAPTER 475.—(1) When an offer has been accepted in writing, the amount stated in the offer as the maximum amount the Government will pay may be increased only as provided in paragraphs (2) and (3) of this subsection.

(2)(A) For a project receiving assistance under a grant approved under the Airport and Airway Improvement Act of 1982 before October 1, 1987, the amount may be increased by not more than—

(i) 10 percent for an airport development project, except a project for acquiring an interest in land; and

(ii) 50 percent of the total increase in allowable project costs attributable to acquiring an interest in land, based on current creditable appraisals.

(B) An increase under subparagraph (A) of this paragraph may be paid only from amounts the Government recovers from other grants made under this subchapter.

(3) For a project receiving assistance under a grant approved under the Act, this subchapter, or chapter 475 of this title after September 30, 1987, the amount may be increased—

(A) for an airport development project, by not more than 15 percent; and

(B) for a grant after September 30, 1992, to acquire an interest in land for an airport (except a primary airport), by not more than the greater of the following, based on current creditable appraisals or a court award in a condemnation proceeding:

(i) 15 percent; or

(ii) 25 percent of the total increase in allowable project costs attributable to acquiring an interest in land.

(c) INCREASING GOVERNMENT'S SHARE UNDER AIRPORT AND AIRWAY DEVELOPMENT ACT OF 1970.—For a project receiving assistance under a grant made under the Airport and Airway Development Act of 1970, the maximum amount the Government will pay may be increased by not more than 10 percent. An increase under this subsection may be paid only from amounts the Government recovers from other grants made under the Act.

(d) CHANGING WORKSCOPE.—With the consent of the sponsor, the Secretary may amend a grant agreement made under this subchapter to change the workscope of a project financed under the grant if the amendment does not result in an increase in the maximum amount the Government may pay under subsection (b) of this section.

(e) CHANGE IN AIRPORT STATUS.—

(1) CHANGES TO NONPRIMARY AIRPORT STATUS.—If the status of a primary airport changes to a nonprimary airport at a time when a development project under a multiyear agreement under subsection (a) is not yet completed, the project shall remain eligible for funding from discretionary funds under section 47115 at the funding level and under the terms provided by the agreement, subject to the availability of funds.

(2) CHANGES TO NONCOMMERCIAL SERVICE AIRPORT STATUS.—If the status of a commercial service airport changes to a noncommercial service airport at a time when a terminal development project under a phased-funding arrangement is not yet completed, the project shall remain eligible for funding from discretionary funds under section 47115 at the funding level and under the terms provided by the arrangement subject to the availability of funds.

(3) CHANGES TO NONHUB PRIMARY STATUS.—If the status of a nonhub primary airport changes to a small hub primary airport at a time when the airport has received discretionary funds under this chapter for a terminal development project in accordance with section 47119(a), and the project is not yet completed, the project shall remain eligible for funding from the discretionary fund and the small airport fund to pay costs allowable under section 47119(a). Such project shall remain eligible for such funds for three fiscal years after the start of construction of the project, or if the Secretary determines that a further extension of eligibility is justified, until the project is completed.

(Pub. L. 103–272, §1(e), July 5, 1994, 108 Stat. 1262; Pub. L. 106–181, title I, §135(c), Apr. 5, 2000, 114 Stat. 84; Pub. L. 108–176, title I, §149(a), Dec. 12, 2003, 117 Stat. 2505; Pub. L. 109–115, div. A, title I, §176(a), Nov. 30, 2005, 119 Stat. 2427; Pub. L. 112–95, title I, §152(e)(2), Feb. 14, 2012, 126 Stat. 34.)

#### HISTORICAL AND REVISION NOTES

<i>Revised Section</i>	<i>Source (U.S. Code)</i>	<i>Source (Statutes at Large)</i>
47108(a)	49 App.:2211(a).	Sept. 3, 1982, Pub. L. 97–248, §512(a), 96 Stat. 688; Dec. 30, 1987, Pub. L. 100–223, §§106(b)(4), 110(c), 101 Stat. 1498, 1502.
47108(b)	49 App.:2211(b).	Sept. 3, 1982, Pub. L. 97–248, §512(b), 96 Stat. 688; restated Dec. 30, 1987, Pub. L. 100–223, §110(a), 101 Stat. 1502; Oct. 31, 1992, Pub. L. 102–581, §109, 106 Stat. 4879.
47108(c)	49 App.:2211(c).	
47108(d)	49 App.:2211(d).	Sept. 3, 1982, Pub. L. 97–248, 96 Stat. 324, §512(d); added Dec. 30, 1987, Pub. L. 100–223, §110(b), 101 Stat. 1502.

In subsection (a), the words "on behalf of the United States" are omitted as surplus. The words "or sponsors" are omitted because of 1:1. The words "of the application" are omitted as surplus. The words "under section 47110 of this title" are added for clarity. The words "and conditions" are omitted as being included in "terms". The words "for the project" are added for clarity. The words "an offer of a grant for a project" are substituted for "In any case where the Secretary approves a project grant application for a project . . . the offer" to eliminate unnecessary words. The words "(including future fiscal years)" are omitted as surplus. The words "An offer that is accepted in writing by the sponsor is an agreement binding on the Government and the sponsor" are substituted for "If and when an offer is accepted in writing by the sponsor, the offer and acceptance shall comprise an agreement constituting an obligation



of the United States and of the sponsor" to eliminate unnecessary words. The words "which have been or may be incurred" are omitted as surplus.

In subsection (b)(1), the words "by a sponsor" are omitted as surplus. The words "amount the Government will pay" are substituted for "obligation of the United States" for clarity and consistency in this section.

In subsection (b)(2), the text of 49 App.:2211(b)(2) (last sentence) is restated to apply only to 49 App.:2211(b)(2) (1st sentence) to carry out the probable intent of Congress.

In subsection (b)(3)(B), the words "for fiscal year 1993 and thereafter" are omitted as unnecessary.

In subsection (c), the words "Notwithstanding any other provision of law" are omitted as surplus. The words "a project receiving assistance under" are added for consistency.

In subsection (d), the word "sponsor" is substituted for "grant recipient" for clarity. The words "amount the Government may pay" are substituted for "obligation of the United States authorized" for clarity and consistency in this section.

## EDITORIAL NOTES

### REFERENCES IN TEXT

The Airport and Airway Improvement Act of 1982, referred to in subsec. (b)(2)(A), (3), is title V of Pub. L. 97–248, [Sept. 3, 1982](#), 96 Stat. 671, which was classified principally to chapter 31 (§2201 et seq.) of former Title 49, Transportation, and was substantially repealed by Pub. L. 103–272, [§7\(b\), July 5, 1994](#), 108 Stat. 1379, and reenacted by the first section thereof as this subchapter.

The Airport and Airway Development Act of 1970, referred to in subsec. (c), is title I of Pub. L. 91–258, [May 21, 1970](#), 84 Stat. 219, which was classified principally to chapter 25 (§1701 et seq.) of former Title 49. Sections 1 through 30 of title I of Pub. L. 91–258, which enacted sections 1701 to 1703, 1711 to 1713, and 1714 to 1730 of former Title 49, and a provision set out as a note under section 1701 of former Title 49, were repealed by Pub. L. 97–248, [title V, §523\(a\), Sept. 3, 1982](#), 96 Stat. 695. Sections 31, 51, 52(a), (b)(4), (6), (c), (d), and 53 of title I of Pub. L. 91–258 were repealed by Pub. L. 103–272, [§7\(b\), July 5, 1994](#), 108 Stat. 1379, the first section of which enacted subtitles II, III, and V to X of Title 49, Transportation. For complete classification of this Act to the Code, see Tables. For disposition of sections of former Title 49, see table at the beginning of Title 49.

### AMENDMENTS

**2012**—Subsec. (e)(3). Pub. L. 112–95 substituted "accordance with section 47119(a)" for "accordance with section 47110(d)(2)" and "allowable under section 47119(a)" for "allowable under section 47110(d)".

**2005**—Subsec. (e)(3). Pub. L. 109–115 added par. (3).

**2003**—Subsec. (a). Pub. L. 108–176 inserted "or 47114(d)(3)(A)" after "under section 47114(c)".

**2000**—Subsec. (e). Pub. L. 106–181 added subsec. (e).

## 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 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.

### LAND ACQUISITION COSTS

Pub. L. 107–71, [title I, §143, Nov. 19, 2001](#), 115 Stat. 644, provided that: "In the case of a grant for land acquisition issued to an airport under chapter 471 of title 49, United States Code, prior to January 1, 1995, the Secretary of Transportation may waive the provisions of section 47108 of such title and provide an upward adjustment in the maximum obligation of the United States under that chapter to assist the airport in funding land acquisition costs (and associated eligible costs) that increased as a result of a judicial order."

[For definitions of "airport" and "United States" used in section 143 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.]

## §47109. United States Government's share of project costs

(a) GENERAL.—Except as otherwise provided in this section, the United States Government's share of allowable project costs is—

- (1) 75 percent for a project at a medium or large hub airport;
- (2) not more than 90 percent for a project funded by a grant issued to and administered by a State under section 47128, relating to the State block grant program;
- (3) 90 percent for a project at any other airport;
- (4) 70 percent for a project funded by the Administrator from the discretionary fund under section 47115 at an airport receiving an exemption under section 47134; and
- (5) 95 percent for a project that—
  - (A) the Administrator determines is a successive phase of a multiphase construction project for which the sponsor received a grant in fiscal year 2011; and
  - (B) for which the United States Government's share of allowable project costs would otherwise be capped at 90 percent under paragraph (2) or (3).

(b) INCREASED GOVERNMENT SHARE.—If, under subsection (a) of this section, the Government's share of allowable costs of a project in a State containing unappropriated and unreserved public lands and nontaxable Indian lands (individual and tribal) of more than 5 percent of the total area of all lands in the State, is less than the share applied on June 30, 1975, under section 17(b) of the Airport and Airway Development Act of 1970, the Government's share under subsection (a) of this section shall be increased by the lesser of—

- (1) 25 percent;
- (2) one-half of the percentage that the area of unappropriated and unreserved public lands and nontaxable Indian lands in the State is of the total area of the State; or
- (3) the percentage necessary to increase the Government's share to the percentage that applied on June 30, 1975, under section 17(b) of the Act.

(c) GRANDFATHER RULE.—

(1) IN GENERAL.—In the case of any project approved after September 30, 2003, at a small hub airport or nonhub airport that is located in a State containing unappropriated and unreserved public lands and nontaxable Indian lands (individual and tribal) of more than 5 percent of the total area of all lands in the State, the Government's share of allowable costs of the project shall be increased by the same ratio as the basic share of allowable costs of a project divided into the increased (Public Lands States) share of allowable costs of a project as shown on documents of the Federal Aviation Administration dated August 3, 1979, at airports for which the general share was 80 percent on August 3, 1979. This subsection shall apply only if—

- (A) the State contained unappropriated and unreserved public lands and nontaxable Indian lands of more than 5 percent of the total area of all lands in the State on August 3, 1979; and
- (B) the application under subsection (b), does not increase the Government's share of allowable costs of the project.

(2) The Government's share of allowable project costs determined under this subsection shall not exceed the lesser of 93.75 percent or the highest percentage Government share applicable to any project in any State under subsection (b), except that at a primary non-hub and non-primary commercial service airport located in a State as set forth in paragraph (1) of this subsection that is within 15 miles of another State as set forth in paragraph (1) of this subsection, the Government's share shall be an average of the Government share applicable to any project in each of the States.

(d) SPECIAL RULE FOR PRIVATELY OWNED RELIEVER AIRPORTS.—If a privately owned reliever airport contributes any lands, easements, or rights-of-way to carry out a project under this subchapter, the current fair market value of such lands, easements, or rights-of-way shall be credited toward the non-Federal share of allowable project costs.

(e) SPECIAL RULE FOR TRANSITION FROM SMALL HUB TO MEDIUM HUB STATUS.—If the status of a small hub airport changes to a medium hub airport, the Government's share of allowable project costs for the airport may not exceed 90 percent for the first 2 fiscal years after such change in hub status.

(f) SPECIAL RULE FOR ECONOMICALLY DISTRESSED COMMUNITIES.—The Government's share of allowable project costs shall be 95 percent for a project at an airport that—

- (1) is receiving essential air service for which compensation was provided to an air carrier under subchapter II of chapter 417; and
- (2) is located in an area that meets one or more of the criteria established in section 301(a) of the Public Works and Economic Development Act of 1965 (42 U.S.C. 3161(a)), as determined by the Secretary of Commerce.

(g) SPECIAL RULE FOR COVERED EQUIPMENT.—

(1) IN GENERAL.—The Government's share of allowable project costs for covered equipment and its installation shall be 100 percent.

(2) **DEFINITION OF COVERED EQUIPMENT.**—For purposes of this subsection, the term "covered equipment" means aqueous film forming foam input-based testing equipment that is eligible for Airport Improvement Program funding based on Federal Aviation Administration PGL 21–01, titled "Extension of Eligibility for stand-alone acquisition of input-based testing equipment and truck modification", dated October 5, 2021 (or any other successor program guidance letter).

(3) **SUNSET.**—The higher cost share authority established in this subsection shall terminate on the earlier of—

(A) 180 days after the date on which the eligibility of covered equipment for Airport Improvement Program funding under the authority described in paragraph (2) terminates or is discontinued by the Administrator; or

(B) 5 years after the date of enactment of this subsection.

(Pub. L. 103–272, §1(e), July 5, 1994, 108 Stat. 1264; Pub. L. 103–305, title I, §114, Aug. 23, 1994, 108 Stat. 1579; Pub. L. 104–264, title I, §149(c), title XII, §1211, Oct. 9, 1996, 110 Stat. 3227, 3282; Pub. L. 106–181, title I, §126, Apr. 5, 2000, 114 Stat. 76; Pub. L. 107–71, title I, §119(a)(4), Nov. 19, 2001, 115 Stat. 629; Pub. L. 108–176, title I, §§162, 163, Dec. 12, 2003, 117 Stat. 2513; Pub. L. 112–95, title I, §137, Feb. 14, 2012, 126 Stat. 24; Pub. L. 113–235, div. K, title I, §119F, Dec. 16, 2014, 128 Stat. 2704; Pub. L. 115–31, div. K, title I, §119E, May 5, 2017, 131 Stat. 734; Pub. L. 115–254, div. B, title I, §134, Oct. 5, 2018, 132 Stat. 3209; Pub. L. 117–254, §2(a), Dec. 20, 2022, 136 Stat. 2361.)

#### HISTORICAL AND REVISION NOTES

<i>Revised Section</i>	<i>Source (U.S. Code)</i>	<i>Source (Statutes at Large)</i>
47109(a)	49 App.:2209(a), (b).	Sept. 3, 1982, Pub. L. 97–248, §510, 96 Stat. 685.
47109(b)	49 App.:2209(c).	
47109(c)	49 App.:2212(b)(5).	Sept. 3, 1982, Pub. L. 97–248, §513(b)(5), 96 Stat. 691; Dec. 30, 1987, Pub. L. 100–223, §111(a)(2), 101 Stat. 1503; Oct. 31, 1992, Pub. L. 102–581, §110(b), 106 Stat. 4880.

In subsection (a), before clause (1), the words "Except as provided in subsections (b) and (c) of this section" are substituted for "Except as otherwise provided in this chapter" because subsections (b) and (c) restate the only parts of the chapter that provide exceptions to the general rule stated in subsection (a). In clauses (1) and (2), the words "for a project" are substituted for "payable on account of any project contained in an approved project grant application submitted in accordance with this chapter" in 49 App.:2209(a) and "payable on account of any project contained in an approved project grant application" in 49 App.:2209(b) for consistency in this chapter and to eliminate unnecessary words. A project cost is allowable only if it is incurred under a grant agreement made under the chapter, and a grant agreement may be made only if the project grant application is approved. In clause (1), the words "number of passenger boardings" are substituted for "enplaning . . . of the . . . passengers enplaned" because of the definition of "passenger boardings" in section 47102 of the revised title.

In subsection (b), the words "If, under subsection (a) of this section, the Government's share of allowable costs . . . is less than the share applied on June 30, 1975, under section 17(b) of the Airport and Airway Development Act of 1970" and "(3) the percentage necessary to increase the Government's share to the percentage that applied on June 30, 1975, under section 17(b) of the Act" are substituted for 49 App.:2209(c) (last sentence) for clarity. The words "of the total of all lands therein" are omitted as surplus.

In subsection (c), the words "Notwithstanding subsections (a) and (b) of this section" are substituted for "Notwithstanding any other provision of this chapter" because subsections (a) and (b) are the only other parts of the chapter that specify the United States Government's share of allowable project costs.

#### EDITORIAL NOTES

#### REFERENCES IN TEXT

Section 17(b) of the Airport and Airway Development Act of 1970, referred to in subsec. (b), is section 17(b) of Pub. L. 91–258, which was classified to section 1717(b) of former Title 49, Transportation, prior to repeal by Pub. L. 97–248, title V, §523(a), Sept. 3, 1982, 96 Stat. 695.

The date of enactment of this subsection, referred to in subsec. (g)(3)(B), is the date of enactment of Pub. L. 117–254, which was approved Dec. 20, 2022.

#### AMENDMENTS

**2022**—Subsec. (g). Pub. L. 117–254 added subsec. (g).

**2018**—Subsec. (a)(1). Pub. L. 115–254, §134(1), substituted "medium or large hub airport;" for "primary airport having at least .25 percent of the total number of passenger boardings each year at all commercial

service airports;"

Subsec. (a)(5). Pub. L. 115–254, §134(2), added par. (5) and struck out former par. (5) which read as follows: "for fiscal year 2002, 100 percent for a project described in section 47102(3)(J), 47102(3)(K), or 47102(3)(L)."

**2017**—Subsec. (c)(2). Pub. L. 115–31 amended par. (2) generally. Prior to amendment, text read as follows: "The Government's share of allowable project costs determined under this subsection shall not exceed the lesser of 93.75 percent or the highest percentage Government share applicable to any project in any State under subsection (b), except that at a primary non-hub airport located in a State as set forth in paragraph (1) of this subsection that is within 15 miles of another State as set forth in paragraph (1) of this subsection, the Government's share shall be an average of the Government share applicable to any project in each of the States."

**2014**—Subsec. (c)(2). Pub. L. 113–235 inserted before period at end ", except that at a primary non-hub airport located in a State as set forth in paragraph (1) of this subsection that is within 15 miles of another State as set forth in paragraph (1) of this subsection, the Government's share shall be an average of the Government share applicable to any project in each of the States".

**2012**—Subsec. (a). Pub. L. 112–95, §137(1), substituted "otherwise provided in this section" for "provided in subsection (b) or subsection (c) of this section" in introductory provisions.

Subsecs. (e), (f). Pub. L. 112–95, §137(2), added subsecs. (e) and (f).

**2003**—Subsec. (a). Pub. L. 108–176, §162(b), substituted "Except as provided in subsection (b) or subsection (c)" for "Except as provided in subsection (b)" in introductory provisions.

Subsec. (a)(4). Pub. L. 108–176, §163, substituted "70 percent" for "40 percent".

Subsecs. (c), (d). Pub. L. 108–176, §162(a), added subsec. (c) and redesignated former subsec. (c) as (d).

**2001**—Subsec. (a)(5). Pub. L. 107–71 added par. (5).

**2000**—Subsec. (a)(2) to (4). Pub. L. 106–181 added par. (2) and redesignated former pars. (2) and (3) as (3) and (4), respectively.

**1996**—Subsec. (a)(3). Pub. L. 104–264, §149(c), added par. (3).

Subsec. (c). Pub. L. 104–264, §1211, added subsec. (c).

**1994**—Subsec. (a). Pub. L. 103–305, §114(1), substituted "subsection (b)" for "subsections (b) and (c)".

Subsec. (c). Pub. L. 103–305, §114(2), struck out subsec. (c) which read as follows: "(c) LIMITATION.— Notwithstanding subsections (a) and (b) of this section, the Government's share of project costs allowable under section 47110(d) of this title may not be more than 75 percent, except that the Government's share shall be 85 percent for a project at a commercial service airport that does not have more than .05 percent of the total annual passenger boardings in the United States."

## 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 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.

## OUTREACH EFFORTS

Pub. L. 117–254, §2(b), Dec. 20, 2022, 136 Stat. 2361, provided that: "Not later than 90 days after the date of enactment of this Act [Dec. 20, 2022], the Administrator of the Federal Aviation Administration shall conduct an outreach effort to make airports aware of the higher cost share authority established in section 47109(g) of title 49, United States Code, as added by subsection (a)."

## AUTHORIZATION OF APPROPRIATIONS

Pub. L. 117–254, §2(d), Dec. 20, 2022, 136 Stat. 2362, provided that: "The amendments made by this Act [amending this section] shall apply to amounts that first become available in fiscal year 2023 or thereafter."

### TEMPORARY INCREASE IN GOVERNMENT SHARE OF CERTAIN AIP PROJECT COSTS

Pub. L. 108–176, title I, §161, Dec. 12, 2003, 117 Stat. 2513, as amended by Pub. L. 110–190, §4(c), Feb. 28, 2008, 122 Stat. 644; Pub. L. 110–253, §3(c)(3), June 30, 2008, 122 Stat. 2418; Pub. L. 110–330, §5(i), Sept. 30, 2008, 122 Stat. 3718; Pub. L. 111–12, §5(h), Mar. 30, 2009, 123 Stat. 1458; Pub. L. 111–69, §5(i), Oct. 1, 2009, 123 Stat. 2055; Pub. L. 111–116, §5(h), Dec. 16, 2009, 123 Stat. 3032; Pub. L. 111–153, §5(h), Mar. 31, 2010, 124 Stat. 1085; Pub. L. 111–161, §5(h), Apr. 30, 2010, 124 Stat. 1127; Pub. L. 111–197, §5(h), July 2, 2010, 124 Stat. 1354; Pub. L. 111–216, title I, §104(h), Aug. 1, 2010, 124 Stat. 2350; Pub. L. 111–249, §5(i), Sept. 30, 2010, 124 Stat. 2628; Pub. L. 111–329, §5(h), Dec. 22, 2010, 124 Stat. 3567; Pub. L. 112–7, §5(h), Mar. 31, 2011, 125 Stat. 32; Pub. L. 112–16, §5(h), May 31, 2011, 125 Stat. 219; Pub. L. 112–21, §5(h), June 29, 2011, 125 Stat. 234; Pub. L. 112–27, §5(h), Aug. 5, 2011, 125 Stat. 271; Pub. L. 112–30, title II, §205(i), Sept. 16, 2011, 125 Stat. 358; Pub. L. 112–91, §5(i), Jan. 31, 2012, 126 Stat. 4, provided that:

"Notwithstanding section 47109(a) of title 49, United States Code, the Government's share of allowable project costs for a grant made in any of fiscal years 2009 through 2011, or in the portion of fiscal year 2012 ending before February 18, 2012, under chapter 471 of that title for a project described in paragraph (2) or (3) of that section shall be 95 percent."

[Pub. L. 110–253, §3(c)(3), which directed amendment of section 161 of Pub. L. 108–176, set out above, by substituting "fiscal year 2008." for "fiscal year 2008 before July 1, 2008.", was executed by substituting "fiscal year 2008," for "fiscal year 2008 before July 1, 2008," to reflect the probable intent of Congress.]

### §47110. Allowable project costs

(a) GENERAL AUTHORITY.—Except as provided in section 47111 of this title, the United States Government may pay or be obligated to pay, from amounts appropriated to carry out this subchapter, a cost incurred in carrying out a project under this subchapter only if the Secretary of Transportation decides the cost is allowable.

(b) ALLOWABLE COST STANDARDS.—A project cost is allowable—

(1)(A) if the cost necessarily is incurred in carrying out the project in compliance with the grant agreement made for the project under this subchapter, including any cost a sponsor incurs related to an audit the Secretary requires under section 47121(b) or (d) of this title and any cost of moving a Federal facility impeding the project if the rebuilt facility is of an equivalent size and type; or

(B) if the cost is an incentive payment incurred in carrying out the project described in subparagraph (A) that is to be provided to a contractor upon early completion of a project, if—

(i) such payment does not exceed the lesser of 5 percent of the initial construction contract amount or \$1,000,000;

(ii) the level of contractor's control of, or access to, the worksite necessary to shorten the duration of the project does not negatively impact the operation of the airport;

(iii) the contract specifies application of the incentive structure in the event of unforeseeable, non-weather delays beyond the control of the contractor;

(iv) nothing in any agreement with the contractor prevents the airport operator from retaining responsibility for the safety, efficiency, and capacity of the airport during the execution of the grant agreement; and

(v) the Secretary determines that the use of an incentive payment is likely to increase airport capacity or efficiency or result in cost savings as a result of shortening the project's duration;

(2)(A) if the cost is incurred after the grant agreement is executed and is for airport development or airport planning carried out after the grant agreement is executed;

(B) if the cost is incurred after June 1, 1989, by the airport operator (regardless of when the grant agreement is executed) as part of a Government-approved noise compatibility program (including project formulation costs) and is consistent with all applicable statutory and administrative requirements;

(C) if the Government's share is paid only with amounts apportioned under paragraphs (1) and (2) of section 47114(c) or section 47114(d)(3)(A) and if the cost is incurred—

(i) after September 30, 1996;

(ii) before a grant agreement is executed for the project; and

(iii) in accordance with an airport layout plan approved by the Secretary and with all statutory and administrative requirements that would have been applicable to the project if the project had been carried out after the grant agreement had been executed; or

(D) if the cost is for airport development and is incurred before execution of the grant agreement, but in the same fiscal year as execution of the grant agreement, and if—

(i) the cost was incurred before execution of the grant agreement because the airport has a shortened construction season due to climatic conditions in the vicinity of the airport;

(ii) the cost is in accordance with an airport layout plan approved by the Secretary and with all statutory and administrative requirements that would have been applicable to the project if the project had been carried out after execution of the grant agreement, including submission of a complete grant application to the appropriate regional or district office of the Federal Aviation Administration;

(iii) the sponsor notifies the Secretary before authorizing work to commence on the project;

(iv) the sponsor has an alternative funding source available to fund the project; and

(v) the sponsor's decision to proceed with the project in advance of execution of the grant agreement does not affect the priority assigned to the project by the Secretary for the allocation of discretionary funds;

(3) to the extent the cost is reasonable in amount;

(4) if the cost is not incurred in a project for airport development or airport planning for which other Government assistance has been granted;

(5) if the total costs allowed for the project are not more than the amount stated in the grant agreement as the maximum the Government will pay (except as provided in section 47108(b) of this title);

(6) if the cost is for a project not described in section 47102(3) for acquiring for use at a commercial service airport vehicles and ground support equipment owned by an airport that include low-emission technology, but only to the extent of the incremental cost of equipping such vehicles or equipment with low-emission technology, as determined by the Secretary; and

(7) if the cost is incurred on a measure to improve the efficiency of an airport building (such as a measure designed to meet one or more of the criteria for being considered a high-performance green building as set forth under section 401(13) of the Energy Independence and Security Act of 2007 (42 U.S.C. 17061(13))) and—

(A) the measure is for a project for airport development;

(B) the measure is for an airport building that is otherwise eligible for construction assistance under this subchapter; and

(C) if the measure results in an increase in initial project costs, the increase is justified by expected savings over the life cycle of the project.

(c) **CERTAIN PRIOR COSTS AS ALLOWABLE COSTS.**—The Secretary may decide that a project cost under subsection (b)(2)(A) of this section incurred after May 13, 1946, and before the date the grant agreement is executed is allowable if it is—

(1) necessarily incurred in formulating an airport development project, including costs incurred for field surveys, plans and specifications, property interests in land or airspace, and administration or other incidental items that would not have been incurred except for the project; or

(2) necessarily and directly incurred in developing the work scope of an airport planning project.

(d) **RELOCATION OF AIRPORT-OWNED FACILITIES.**—The Secretary may determine that the costs of relocating or replacing an airport-owned facility are allowable for an airport development project at an airport only if—

(1) the Government's share of such costs will be paid with funds apportioned to the airport sponsor under section 47114(c)(1) or 47114(d);

(2) the Secretary determines that the relocation or replacement is required due to a change in the Secretary's design standards; and

(3) the Secretary determines that the change is beyond the control of the airport sponsor.

(e) **LETTERS OF INTENT.**—(1) The Secretary may issue a letter of intent to the sponsor stating an intention to obligate from future budget authority an amount, not more than the Government's share of allowable project costs, for an airport development project (including costs of formulating the project) at a primary or reliever airport. The letter shall establish a schedule under which the Secretary will reimburse the sponsor for the Government's share of allowable project costs, as amounts become available, if the sponsor, after the Secretary issues the letter, carries out the project without receiving amounts under this subchapter.

(2) Paragraph (1) of this subsection applies to a project—

(A) about which the sponsor notifies the Secretary, before the project begins, of the sponsor's intent to carry out the project;

(B) that will comply with all statutory and administrative requirements that would apply to the project if it were carried out with amounts made available under this subchapter; and

(C) that meets the criteria of section 47115(d) and, if for a project at a commercial service airport having at least 0.25 percent of the boardings each year at all such airports, the Secretary decides will enhance system-wide airport capacity significantly.

(3) A letter of intent issued under paragraph (1) of this subsection is not an obligation of the Government under section 1501 of title 31, and the letter is not deemed to be an administrative commitment for financing. An obligation or administrative commitment may be made only as amounts are provided in authorization and appropriation laws.

(4) The total estimated amount of future Government obligations covered by all outstanding letters of intent under paragraph (1) of this subsection may not be more than the amount authorized to carry out section 48103 of this title, less an amount reasonably estimated by the Secretary to be needed for grants under section 48103 that are not covered by a letter.

(5) **LETTERS OF INTENT.**—The Secretary may not require an eligible agency to impose a passenger facility charge under section 40117 in order to obtain a letter of intent under this section.

(6) **LIMITATION ON STATUTORY CONSTRUCTION.**—Nothing in this section shall be construed to prohibit the obligation of amounts pursuant to a letter of intent under this subsection in the same fiscal year as the letter of intent is issued.

(7) **PARTNERSHIP PROGRAM AIRPORTS.**—The Secretary may issue a letter of intent under this section to an airport sponsor with an approved application under section 47134(b) if—

- (A) the application was approved in fiscal year 2019; and
- (B) the project meets all other requirements set forth in this chapter.

(f) **NONALLOWABLE COSTS.**—Except as provided in subsection (d) of this section and section 47118(f) of this title, a cost is not an allowable airport development project cost if it is for—

- (1) constructing a public parking facility for passenger automobiles;
- (2) constructing, altering, or repairing part of an airport building, except to the extent the building will be used for facilities or activities directly related to the safety of individuals at the airport;
- (3) decorative landscaping; or
- (4) providing or installing sculpture or art works.

(g) **USE OF DISCRETIONARY FUNDS.**—A project for which cost reimbursement is provided under subsection (b)(2)(C) shall not receive priority consideration with respect to the use of discretionary funds made available under section 47115 of this title even if the amounts made available under paragraphs (1) and (2) of section 47114(c) or section 47114(d)(3)(A) are not sufficient to cover the Government's share of the cost of the project.

(h) **NONPRIMARY AIRPORTS.**—The Secretary may decide that the construction costs of revenue producing aeronautical support facilities are allowable for an airport development project at a nonprimary airport if the Government's share of such costs is paid only with funds apportioned to the airport sponsor under section 47114(d)(3)(A) and if the Secretary determines that the sponsor has made adequate provision for financing airside needs of the airport.

(i) **BIRD-DETECTING RADAR SYSTEMS.**—The Administrator of the Federal Aviation Administration, upon the conclusion of all planned research by the Administration regarding avian radar systems, shall—

- (1) update Advisory Circular No. 150/5220–25 to specify which systems have been studied; and
- (2) within 180 days after such research is concluded, issue a final report on the use of avian radar systems in the national airspace system.

(Pub. L. 103–272, §1(e), July 5, 1994, 108 Stat. 1264; Pub. L. 103–305, title I, §115, Aug. 23, 1994, 108 Stat. 1579; Pub. L. 103–429, §6(64), Oct. 31, 1994, 108 Stat. 4385; Pub. L. 104–264, title I, §144, Oct. 9, 1996, 110 Stat. 3222; Pub. L. 106–181, title I, §127, Apr. 5, 2000, 114 Stat. 76; Pub. L. 107–71, title I, §119(a)(2), Nov. 19, 2001, 115 Stat. 628; Pub. L. 108–176, title I, §§145, 149(b), 159(c), Dec. 12, 2003, 117 Stat. 2504, 2505, 2511; Pub. L. 109–115, div. A, title I, §176(b), Nov. 30, 2005, 119 Stat. 2427; Pub. L. 112–95, title I, §§111(c)(2)(A)(ii), 138, Feb. 14, 2012, 126 Stat. 18, 25; Pub. L. 115–254, div. B, title I, §184(b), title V, §539(n), Oct. 5, 2018, 132 Stat. 3234, 3371; Pub. L. 117–186, §2, Oct. 10, 2022, 136 Stat. 2199.)

HISTORICAL AND REVISION NOTES  
PUB. L. 103–272

<i>Revised Section</i>	<i>Source (U.S. Code)</i>	<i>Source (Statutes at Large)</i>
47110(a)	49 App.:2212(a) (1st, last sentences).	Sept. 3, 1982, Pub. L. 97–248, §513(a), 96 Stat. 689; Aug. 4, 1989, Pub. L. 101–71, §3, 103 Stat. 181.
47110(b)	49 App.:2212(a) (2d sentence cls. (1), (2) (words before period), (3), (4)).	
47110(c)	49 App.:2212(a) (2d sentence cl. (2) (words after period)).	
47110(d)	49 App.:2212(b)(1), (6).	Sept. 3, 1982, Pub. L. 97–248, §513(b)(1), (6), 96 Stat. 691; Oct. 31, 1992, Pub. L. 102–581, §110(a), 106 Stat. 4879.
47110(e)	49 App.:2212(d).	Sept. 3, 1982, Pub. L. 97–248, 96 Stat. 324, §513(d); added Dec. 30, 1987, Pub. L. 100–223, §111(c), 101 Stat. 1503; Oct. 31, 1992, Pub. L. 102–581, §111, 106 Stat. 4880.

47110(f)	49 App.:2212(c).	Sept. 3, 1982, Pub. L. 97–248, §513(c), 96 Stat. 691; Dec. 30, 1987, Pub. L. 100–223, §111(b), 101 Stat. 1503; Oct. 31, 1992, Pub. L. 102–581, §107(c)(2), 106 Stat. 4879.
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In subsection (a), the words "for airport development or airport planning" are omitted because of the definition of "project" in section 47102 of the revised title. The text of 49 App.:2212(a) (last sentence) is omitted as surplus because of 49:322(a).

In subsection (b)(1), the word "approved" is omitted as surplus because a project that was not approved could not be carried out in compliance with a grant agreement. The words "in compliance with the grant agreement made for the project under this subchapter" are substituted for "in conformity with the terms and conditions of the grant agreement entered into in connection with the project" to eliminate unnecessary words. The word "sponsor" is substituted for "recipient" for clarity.

In subsection (b)(2)(A), the words "with respect to the project" are omitted as unnecessary because "the grant agreement" means "the grant agreement made for the project" referred to in clause (1) of this subsection. The words "under the project" are omitted as surplus.

Subsection (b)(3) is substituted for "in the opinion of the Secretary it is reasonable in amount, and if the Secretary determines that a project cost is unreasonable in amount, the Secretary may allow as an allowable project cost only so much of such project cost as the Secretary determines to be reasonable" to eliminate unnecessary words.

Subsection (b)(5) is substituted for "except that in no event may the Secretary allow project costs in excess of the definite amount stated in the grant agreement except to the extent authorized by section 2211(b) of this Appendix" for consistency in this section.

In subsection (c), before clause (1), the words "The Secretary may decide that a project cost . . . is allowable" are substituted for "However, the allowable costs of a project . . . may include . . . and the allowable costs of a project . . . may include" for clarity and consistency in the revised title. The words "incurred after May 13, 1946, and before the date the grant agreement is executed" are substituted for "which were incurred prior to the execution of the grant agreement and subsequent to May 13, 1946" and "which were incurred subsequent to May 13, 1946" to eliminate unnecessary words. In clause (1), the words "preparation of", "acquisition of", "by the sponsor specifically in connection with the accomplishment of the project for airport development" are omitted as surplus. The words "property interests in land or airspace" are substituted for "land or interests therein or easements through or other interests in airspace" to eliminate unnecessary words.

In subsection (d)(1), before clause (A), the words "The Secretary may decide that the cost . . . is allowable" are substituted for "the Secretary may approve, as allowable project costs" and "The Secretary shall approve project costs allowable under paragraph (1) of this subsection" for clarity and consistency in this section. In clause (B), the words "the boundaries of" are omitted as surplus. In clause (C), the words "and conditions" are omitted as being included in "terms".

In subsection (d)(2), the words "In making a decision under paragraph (1) of this subsection, the Secretary may approve as allowable costs" are substituted for "In the case of a commercial service airport . . . the Secretary may approve, under the preceding sentence as allowable project costs" for consistency in this subsection.

In subsection (e)(1), the word "sponsor" is substituted for "applicant" for consistency. The words "stipulated as" and "Subject to the provisions of this paragraph" are omitted as surplus. The word "reimburse" is substituted for "make payments under paragraph (2) of this subsection" and "pay" for clarity. The words "payable on account of such project in accordance with such letter of intent" are omitted as surplus.

In subsection (e)(2), before clause (A), the text of 49 App.:2212(d)(1)(C) (last sentence) is omitted as obsolete.

In subsection (e)(3), the words "A letter of intent issued" are substituted for "action" for clarity. The word "deemed" before "an obligation" is omitted as surplus.

In subsection (f)(2), the words "of a hangar or" are omitted as being included in "airport building".

#### **PUB. L. 103–429**

The source credits for all of subsection (b) are included for clarity though only subsection (b)(2) is affected by the amendment. The source credits for 49:47110(c) are included to correct a mistake on p. 405 of H. R. Rept. 103–180 (103d Cong., 1st Sess., July 15, 1993).



<i>Revised Section</i>	<i>Source (U.S. Code)</i>	<i>Source (Statutes at Large)</i>
47110(b)	49 App.:2212(a) (2d sentence cls. (1), (2)(A) (words before period), (B), (3), (4)).	Sept. 3, 1982, Pub. L. 97–248, §513(a) (2d sentence), as amended May 26, 1994, Pub. L. 103–260, §106, 108 Stat. 699.
47110(c)	49 App.:2212(a) (2d sentence cl. (2) (A) (words after period)).	

In subsection (b)(2)(C)(ii), the words "before the cost is incurred" are added for clarity.

#### EDITORIAL NOTES

#### AMENDMENTS

**2022**—Subsec. (b)(1). Pub. L. 117–186, §2(a), designated existing provisions as subpar. (A) and added subpar. (B).

Subsec. (e)(7). Pub. L. 117–186, §2(b), substituted "PARTNERSHIP PROGRAM AIRPORTS" for "PARTNERSHIP PROGRAM AIRPORTS" in heading.

**2018**—Subsec. (b)(2)(B). Pub. L. 115–254, §539(n)(1), substituted "compatibility" for "compatability".

Subsec. (b)(2)(D)(i). Pub. L. 115–254, §539(n)(2), substituted "climatic" for "climactic".

Subsec. (e)(7). Pub. L. 115–254, §184(b), added par. (7).

**2012**—Subsec. (b)(2)(D). Pub. L. 112–95, §138(a), amended subpar. (D) generally. Prior to amendment, subpar. (D) read as follows: "if the cost is incurred after September 11, 2001, for a project described in section 47102(3)(J), 47102(3)(K), or 47102(3)(L) and shall not depend upon the date of execution of a grant agreement made under this subchapter;"

Subsec. (b)(7). Pub. L. 112–95, §138(b), added par. (7).

Subsec. (d). Pub. L. 112–95, §138(c), amended subsec. (d) generally. Prior to amendment, subsec. (d) related to terminal development costs.

Subsec. (e)(5). Pub. L. 112–95, §111(c)(2)(A)(ii), substituted "charge" for "fee".

Subsec. (h). Pub. L. 112–95, §138(d), inserted "construction" before "costs of revenue producing" and struck out ", including fuel farms and hangars," before "are allowable".

Subsec. (i). Pub. L. 112–95, §138(e), added subsec. (i).

**2005**—Subsec. (d)(2)(A). Pub. L. 109–115, which directed amendment of section 47110(d)(2)(A), without specifying the title to be amended, by substituting "(A) except as provided in section 47108(e)(3), the" for "(A) the", was executed to this section, to reflect the probable intent of Congress.

**2003**—Subsec. (b)(1). Pub. L. 108–176, §145, inserted "and any cost of moving a Federal facility impeding the project if the rebuilt facility is of an equivalent size and type" before semicolon at end.

Subsec. (b)(2)(C). Pub. L. 108–176, §149(b)(1), substituted "or section 47114(d)(3)(A)" for "of this title" in introductory provisions.

Subsec. (b)(6). Pub. L. 108–176, §159(c), added par. (6).

Subsec. (g). Pub. L. 108–176, §149(b)(2), inserted "or section 47114(d)(3)(A)" after "of section 47114(c)" and substituted "of the project" for "of project".

Subsec. (h). Pub. L. 108–176, §149(b)(3), added subsec. (h).

**2001**—Subsec. (b)(2)(D). Pub. L. 107–71 added subpar. (D).

**2000**—Subsec. (e)(2)(C). Pub. L. 106–181, §127(1), added subpar. (C) and struck out former subpar. (C) which read as follows: "the Secretary decides will enhance system-wide airport capacity significantly and meets the criteria of section 47115(d) of this title."

Subsec. (e)(5). Pub. L. 106–181, §127(2), added par. (5) and struck out former par. (5) which read as follows: "A letter of intent issued under paragraph (1) of this subsection may not condition the obligation of amounts on the imposition of a passenger facility fee."

**1996**—Subsec. (b)(2)(C). Pub. L. 104–264, §144(a), amended subpar. (C) generally. Prior to amendment, subpar. (C) read as follows: "if the Government's share is paid only with amounts apportioned under section 47114(c)(1)(A) and (2) of this title and if the cost is incurred—

"(i) during the fiscal year ending September 30, 1994;

"(ii) before a grant agreement is executed for the project but according to an airport layout plan the Secretary approves before the cost is incurred and all applicable statutory and administrative requirements that would apply to the project if the agreement had been executed; and

"(iii) for work related to a project for which a grant agreement previously was executed during the fiscal year ending September 30, 1994;"

Subsec. (g). Pub. L. 104–264, §144(b), added subsec. (g).

**1994**—Subsec. (b)(2). Pub. L. 103–429 amended par. (2) generally. Prior to amendment, par. (2) read as follows: "if the cost is incurred—

"(A) after the grant agreement is executed and is for airport development or airport planning carried out after the grant agreement is executed; or

"(B) after June 1, 1989, by the airport operator (regardless of when the grant agreement is executed) as part of a Government-approved noise compatibility program (including project formulation costs) and is consistent with all applicable statutory and administrative requirements;"

Subsec. (e)(6). Pub. L. 103–305 added par. (6).

#### **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 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.

#### **LETTERS OF INTENT FOR AIRPORT SECURITY IMPROVEMENT PROJECTS**

Pub. L. 108–7, div. I, title III, §367, Feb. 20, 2003, 117 Stat. 423, provided that:

"(a) The Under Secretary of Transportation for Security [now Administrator of the Transportation Security Administration] may issue a letter of intent to an airport committing to obligate from future budget authority an amount, not more than the Federal Government's share of the project's cost, for an airport security improvement project (including interest costs and costs of formulating the project) at the airport. The letter shall establish a schedule under which the Under Secretary will reimburse the airport for the Government's share of the project's costs, as amounts become available, if the airport, after the Under Secretary issues the letter, carries out the project without receiving amounts under Chapter 471 of title 49 [United States Code].

"(b) The airport shall notify the Under Secretary of the airport's intent to carry out the airport security improvement project before the project begins.

"(c) A letter of intent may be issued under this section only if—

"(1) The airport security improvement project to which the letter applies involves the replacement of baggage conveyer systems or the reconfiguration of terminal baggage areas in order to install explosive detection systems; and

"(2) The Under Secretary determines that the project will improve security or will improve the efficiency of the airport without lessening security.

"(d) A letter of intent issued under this section is not an obligation of the Government under section 1501 of title 31 [United States Code], and the letter is not deemed to be an administrative commitment for financing. An obligation or administrative commitment may be made only as amounts are provided in authorization and appropriations laws.

"(e) The Government's share of the project's cost shall be 75 percent for a project at an airport having at least 0.25 percent of the total number of passenger boardings each year at all airports and 90 percent for a project at any other airport.

"(f) Nothing in this section shall be construed to prohibit the obligation of amounts pursuant to a letter of intent under this section in the same fiscal year as the letter of intent is issued.

"(g) The Under Secretary shall notify the House and Senate Committees on Appropriations, the House Transportation and Infrastructure Committee, and the Senate Commerce, Science, and Transportation Committee at least 3 days prior to the issuance of a letter of intent under this section.

"(h) There is authorized to be appropriated to carry out this section \$500,000,000 in each of fiscal years 2003, 2004, 2005, 2006, and 2007."

#### **LETTERS OF INTENT; DURATION OF AUTHORITY AND APPROVAL BY CONGRESS**

Pub. L. 102–388, [title III, §320, Oct. 6, 1992](#), 106 Stat. 1546, provided that: "The authority conferred by section 513(d) of the Airport and Airway Improvement Act of 1982, as amended [see subsec. (e) of this section], to issue letters of intent shall remain in effect subsequent to September 30, 1992. Letters of intent may be issued under such subsection to applicants determined to be qualified under such Act [substantially repealed by Pub. L. 103–272, [§7\(b\), July 5, 1994](#), 108 Stat. 1379, and reenacted by first section thereof as this subchapter]: *Provided*, That, notwithstanding any other provision of law, all such letters of intent in excess of \$10,000,000 shall be submitted for approval 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 Public Works and Transportation [now Committee on Transportation and Infrastructure] of the House of Representatives." Similar provisions were contained in the following prior appropriation acts:

- Pub. L. 102–143, [title III, §320, Oct. 28, 1991](#), 105 Stat. 942.
- Pub. L. 101–516, [title III, §320, Nov. 5, 1990](#), 104 Stat. 2181.
- Pub. L. 101–164 [title III, §326, Nov. 21, 1989](#), 103 Stat. 1096.
- Pub. L. 100–457, [title III, §334, Sept. 30, 1988](#), 102 Stat. 2153.

## §47111. Payments under project grant agreements

(a) GENERAL AUTHORITY.—After making a project grant agreement under this subchapter and consulting with the sponsor, the Secretary of Transportation may decide when and in what amounts payments under the agreement will be made. Payments totaling not more than 90 percent of the United States Government's share of the project's estimated allowable costs may be made before the project is completed if the sponsor certifies to the Secretary that the total amount expended from the advance payments at any time will not be more than the cost of the airport development work completed on the project at that time.

(b) RECOVERING PAYMENTS.—If the Secretary determines that the total amount of payments made under a grant agreement under this subchapter is more than the Government's share of the total allowable project costs, the Government may recover the excess amount. If the Secretary finds that a project for which an advance payment was made has not been completed within a reasonable time, the Government may recover any part of the advance payment for which the Government received no benefit.

(c) PAYMENT DEPOSITS.—A payment under a project grant agreement under this subchapter may be made only to an official or depository designated by the sponsor and authorized by law to receive public money.

(d) WITHHOLDING PAYMENTS.—(1) The Secretary may withhold a payment under a grant agreement under this subchapter for more than 180 days after the payment is due only if the Secretary—

- (A) notifies the sponsor and provides an opportunity for a hearing; and
- (B) finds that the sponsor has violated the agreement.

(2) The 180-day period may be extended by—

- (A) agreement of the Secretary and the sponsor; or
- (B) the hearing officer if the officer decides an extension is necessary because the sponsor did not follow the schedule the officer established.

(3) A person adversely affected by an order of the Secretary withholding a payment may apply for review of the order by filing a petition in the United States Court of Appeals for the District of Columbia Circuit or in the court of appeals of the United States for the circuit in which the project is located. The petition must be filed not later than 60 days after the order is served on the petitioner.

(e) ACTION ON GRANT ASSURANCES CONCERNING AIRPORT REVENUES.—If, after notice and opportunity for a hearing, the Secretary finds a violation of section 47107(b) of this title, as further defined by the Secretary under section 47107(k) of this title, or a violation of an assurance made under section 47107(b) of this title, and the Secretary has provided an opportunity for the airport sponsor to take corrective action to cure such violation, and such corrective action has not been taken within the period of time set by the Secretary, the Secretary shall withhold approval of any new grant application for funds under this chapter, or any proposed modification to an existing grant that would increase the amount of funds made available under this chapter to the airport sponsor, and withhold approval of any new application to impose a fee <sup>1</sup> under section 40117 of this title. Such applications may thereafter be approved only upon a finding by the Secretary that such corrective action as the Secretary requires has been taken to address the violation and that the violation no longer exists.

(f) JUDICIAL ENFORCEMENT.—For any violation of this chapter or any grant assurance made under this chapter, the Secretary may apply to the district court of the United States for any district in which the violation occurred for enforcement. Such court shall have jurisdiction to enforce obedience thereto by a writ of injunction or other process, mandatory or otherwise, restraining any person from further violation.

(Pub. L. 103–272, [§1\(e\), July 5, 1994](#), 108 Stat. 1266; Pub. L. 103–305, [title I, §112\(b\), Aug. 23, 1994](#), 108 Stat. 1575; Pub. L. 113–188, [title XV, §1501\(b\)\(2\)\(C\), Nov. 26, 2014](#), 128 Stat. 2024.)

## HISTORICAL AND REVISION NOTES

<i>Revised Section</i>	<i>Source (U.S. Code)</i>	<i>Source (Statutes at Large)</i>
47111(a)	49 App.:2213 (1st, 2d sentences).	Sept. 3, 1982, Pub. L. 97–248, §514, 96 Stat. 691.
47111(b)	49 App.:2213 (3d, 4th sentences).	
47111(c)	49 App.:2213 (last sentence).	
47111(d)	49 App.:2218(b) (related to payment).	Sept. 3, 1982, Pub. L. 97–248, 96 Stat. 324, §519(b) (related to payment); added Dec. 30, 1987, Pub. L. 100–223, §112(2), 101 Stat. 1504.

In subsection (a), the words "the terms of" are omitted as surplus. The words "totaling" and "total" are substituted for "in an aggregate amount" and "aggregate" for consistency in the revised title. The words "from time to time" are omitted as surplus. The words "before the project is completed" are substituted for "in advance of accomplishment of the airport project to which the payments relate" for consistency in this chapter and to eliminate unnecessary words.

In subsection (b), the words "at any time" are omitted as surplus. The words "project for which an advance payment was made has not been completed within a reasonable time" are substituted for "any airport development to which the advance payments relate has not been accomplished within a reasonable time or the project is not completed" for clarity, for consistency in this chapter, and to eliminate unnecessary words.

In subsection (d)(1) and (2), the word "sponsor" is substituted for "recipient" and "grant recipient" for clarity.

In subsection (d)(2)(A), the word "mutual" is omitted as surplus.

In subsection (d)(3), the words "adversely affected" are substituted for "aggrieved" for consistency in the revised title and with other titles of the United States Code. The words "the date on which" are omitted as surplus.

**EDITORIAL NOTES****AMENDMENTS**

**2014**—Subsec. (e). Pub. L. 113–188 substituted "section 47107(k)" for "section 47107(l)".

**1994**—Subsecs. (e), (f). Pub. L. 103–305 added subsecs. (e) and (f).

<sup>1</sup> *So in original. Probably should be "charge".*

**§47112. Carrying out airport development projects**

(a) **CONSTRUCTION WORK.**—The Secretary of Transportation may inspect and approve construction work for an airport development project carried out under a grant agreement under this subchapter. The construction work must be carried out in compliance with regulations the Secretary prescribes. The regulations shall require the sponsor to make necessary cost and progress reports on the project. The regulations may amend or modify a contract related to the project only if the contract was made with actual notice of the regulations.

(b) **PREVAILING WAGES.**—A contract for more than \$2,000 involving labor for an airport development project carried out under a grant agreement under this subchapter must require contractors to pay labor minimum wage rates as determined by the Secretary of Labor under sections 3141–3144, 3146, and 3147 of title 40. The minimum rates must be included in the bids for the work and in the invitation for those bids.

(c) **VETERANS' PREFERENCE.**—(1) In this subsection—

(A) "disabled veteran" has the same meaning given that term in section 2108 of title 5.

(B) "Vietnam-era veteran" means an individual who served on active duty (as defined in section 101 of title 38) in the armed forces for more than 180 consecutive days, any part of which occurred after August 4, 1964, and before May 8, 1975, and who was discharged or released from active duty in the armed forces under honorable conditions.

(C) "Afghanistan-Iraq war veteran" means an individual who served on active duty (as defined in section 101 of title 38) in the armed forces in support of Operation Enduring Freedom, Operation Iraqi Freedom, Operation New Dawn, Operation Inherent Resolve, Operation Freedom's Sentinel, or any successor contingency operation to such operations for more than 180 consecutive days, any part of which occurred after September 11, 2001, and before the date prescribed by presidential proclamation or by law as the last day of Operation Enduring Freedom, Operation Iraqi Freedom, Operation New Dawn, Operation Inherent Resolve, Operation Freedom's Sentinel, or any successor

contingency operation to such operations (whichever is later), and who was discharged or released from active duty in the armed forces under honorable conditions.

(D) "Persian Gulf veteran" means an individual who served on active duty in the armed forces in the Southwest Asia theater of operations during the Persian Gulf War for more than 180 consecutive days, any part of which occurred after August 2, 1990, and before the date prescribed by presidential proclamation or by law, and who was discharged or released from active duty in the armed forces under honorable conditions.

(2) A contract involving labor for carrying out an airport development project under a grant agreement under this subchapter must require that preference in the employment of labor (except in executive, administrative, and supervisory positions) be given to Vietnam-era veterans, Persian Gulf veterans, Afghanistan-Iraq war veterans, disabled veterans, and small business concerns (as defined in section 3 of the Small Business Act (15 U.S.C. 632)) owned and controlled by disabled veterans when they are available and qualified for the employment.

(Pub. L. 103–272, §1(e), July 5, 1994, 108 Stat. 1267; Pub. L. 107–217, §3(n)(8), Aug. 21, 2002, 116 Stat. 1303; Pub. L. 112–95, title I, §139, Feb. 14, 2012, 126 Stat. 26; Pub. L. 115–254, div. B, title I, §135, Oct. 5, 2018, 132 Stat. 3209.)

#### HISTORICAL AND REVISION NOTES

<i>Revised Section</i>	<i>Source (U.S. Code)</i>	<i>Source (Statutes at Large)</i>
47112(a)	49 App.:2214(a).	Sept. 3, 1982, Pub. L. 97–248, §515, 96 Stat. 691.
47112(b)	49 App.:2214(b).	
47112(c)	49 App.:2214(c).	

In this section, the words "for an airport development project carried out under a grant agreement under this subchapter" are substituted for "on any project for airport development contained in an approved project grant application submitted in accordance with this chapter" in 49 App.:2214(a), "on projects for airport development approved under this chapter" in 49 App.:2214(b), and "under project grants for airport development approved under this chapter" in 49 App.:2214(c) for clarity and consistency in this section. See H.R. Rept. No. 97–760, 97th Cong., 2d Sess., p. 715 (1982).

In subsection (a), the words "or sponsors" are omitted because of 1:1.

In subsection (b), the words "must require contractors to pay labor minimum wage rates" are substituted for "shall contain provisions establishing minimum rates of wages . . . which contractors shall pay to skilled and unskilled labor" to eliminate unnecessary words. The word "proposals" is omitted as included in "bids".

Subsection (c)(1)(A) is substituted for "a disabled veteran is an individual described in section 2108(2) of title 5" for consistency in the revised title and with other titles of the Code.

In subsection (c)(1)(B), the words "after August 4, 1964, and before May 8, 1975" are substituted for "during the period beginning August 5, 1964, and ending May 7, 1975" for consistency in the revised title and with other titles of the United States Code and to eliminate unnecessary words.

In subsection (c)(2), the words "must require that" are substituted for "shall contain such provisions as are necessary to insure that", and the words "when they are available and qualified for the employment" are substituted for "However, this preference shall apply only where the individuals are available and qualified to perform the work to which the employment relates", to eliminate unnecessary words.

#### EDITORIAL NOTES

#### AMENDMENTS

**2018**—Subsec. (c)(1)(C). Pub. L. 115–254 substituted "Operation New Dawn, Operation Inherent Resolve, Operation Freedom's Sentinel, or any successor contingency operation to such operations for more" for "or Operation New Dawn for more" and "Operation New Dawn, Operation Inherent Resolve, Operation Freedom's Sentinel, or any successor contingency operation to such operations (whichever is later)" for "or Operation New Dawn (whichever is later)".

**2012**—Subsec. (c)(1)(B). Pub. L. 112–95, §139(1)(A), substituted "discharged or released from active duty in" for "separated from".

Subsec. (c)(1)(C), (D). Pub. L. 112–95, §139(1)(B), added subpars. (C) and (D).

Subsec. (c)(2). Pub. L. 112–95, §139(2), substituted "Vietnam-era veterans, Persian Gulf veterans, Afghanistan-Iraq war veterans, disabled veterans, and small business concerns (as defined in section 3 of the Small Business Act (15 U.S.C. 632)) owned and controlled by disabled veterans" for "Vietnam-era veterans and disabled veterans".

**2002**—Subsec. (b). Pub. L. 107–217 substituted "sections 3141–3144, 3146, and 3147 of title 40" for "the Act of March 3, 1931 (known as the Davis-Bacon Act) (40 U.S.C. 276a—276a–5)".

## STATUTORY NOTES AND RELATED SUBSIDIARIES

### PRIORITY REVIEW OF CONSTRUCTION PROJECTS IN COLD WEATHER STATES

Pub. L. 115–254, div. B, title I, §156(a), (b), Oct. 5, 2018, 132 Stat. 3217, 3218, provided that:

"(a) **IN GENERAL.**—The Administrator of the Federal Aviation Administration, to the extent practicable, shall schedule the Administrator's review of construction projects so that projects to be carried out in the States in which the weather during a typical calendar year prevents major construction projects from being carried out before May 1 are reviewed as early as possible.

"(b) **BRIEFING.**—The Administrator shall provide a briefing 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] annually on the effectiveness of the review and prioritization."

Pub. L. 112–95, title I, §154, Feb. 14, 2012, 126 Stat. 35, which provided that the Administrator of the Federal Aviation Administration review as early as possible construction projects in States in which the weather prevents major projects from being carried out before May 1, was repealed by Pub. L. 115–254, div. B, title I, §156(c), Oct. 5, 2018, 132 Stat. 3218.

### §47113. Minority and disadvantaged business participation

(a) **DEFINITIONS.**—In this section—

(1) "small business concern"—

(A) has the meaning given the term in section 3 of the Small Business Act (15 U.S.C. 632); but

(B) in the case of a concern in the construction industry, a concern shall be considered a small business concern if the concern meets the size standard for the North American Industry Classification System Code 237310, as adjusted by the Small Business Administration;

(2) "socially and economically disadvantaged individual" has the same meaning given that term in section 8(d) of the Act (15 U.S.C. 637(d)) and relevant subcontracting regulations prescribed under section 8(d), except that women are presumed to be socially and economically disadvantaged; and

(3) the term "qualified HUBZone small business concern" has the meaning given that term in section 31(b) of the Small Business Act.

(b) **GENERAL REQUIREMENT.**—Except to the extent the Secretary decides otherwise, at least 10 percent of amounts available in a fiscal year under section 48103 of this title shall be expended with small business concerns owned and controlled by socially and economically disadvantaged individuals or qualified HUBZone small business concerns.

(c) **UNIFORM CRITERIA.**—The Secretary shall establish minimum uniform criteria for State governments and airport sponsors to use in certifying whether a small business concern qualifies under this section. The criteria shall include on-site visits, personal interviews, licenses, analyses of stock ownership and bonding capacity, listings of equipment and work completed, resumes of principal owners, financial capacity, and type of work preferred.

(d) **SURVEYS AND LISTS.**—Each State or airport sponsor annually shall survey and compile a list of small business concerns referred to in subsection (b) of this section and the location of each concern in the State.

(e) **MANDATORY TRAINING PROGRAM.**—

(1) **IN GENERAL.**—Not later than 1 year after the date of enactment of this subsection, the Secretary shall establish a mandatory training program for persons described in paragraph (3) to provide streamlined training on certifying whether a small business concern qualifies as a small business concern owned and controlled by socially and economically disadvantaged individuals under this section and section 47107(e).

(2) **IMPLEMENTATION.**—The training program may be implemented by one or more private entities approved by the Secretary.

(3) **PARTICIPANTS.**—A person referred to in paragraph (1) is an official or agent of an airport sponsor—

(A) who is required to provide a written assurance under this section or section 47107(e) that the airport owner or operator will meet the percentage goal of subsection (b) of this section or section 47107(e)(1), as the case may be; or

(B) who is responsible for determining whether or not a small business concern qualifies as a small business concern owned and controlled by socially and economically disadvantaged individuals under this section or section 47107(e).

(Pub. L. 103–272, §1(e), July 5, 1994, 108 Stat. 1268; Pub. L. 103–429, §6(65), Oct. 31, 1994, 108 Stat. 4386; Pub. L. 105–135, title VI, §604(h)(2), Dec. 2, 1997, 111 Stat. 2635; Pub. L. 112–95, title I, §140(b), Feb. 14, 2012, 126 Stat. 27;

Pub. L. 115–91, div. A, title XVII, §1701(a)(4)(G)(ii), Dec. 12, 2017, 131 Stat. 1796; Pub. L. 115–254, div. B, title I, §150, title V, §539(o), Oct. 5, 2018, 132 Stat. 3215, 3371.)

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<i>Revised Section</i>	<i>Source (U.S. Code)</i>	<i>Source (Statutes at Large)</i>
47113(a)	49 App.:2204(d)(2).	Sept. 3, 1982, Pub. L. 97–248, 96 Stat. 324, §505(d); added Dec. 30, 1987, Pub. L. 100–223, §105(f), 101 Stat. 1493; Oct. 31, 1992, Pub. L. 102–581, §117(c), 106 Stat. 4883.
47113(b)	49 App.:2204(d)(1).	
47113(c)	49 App.:2204(d)(4).	
47113(d)	49 App.:2204(d)(3).	

In subsection (a)(1)(B), the words "or individuals" are omitted because of 1:1.

In subsection (a)(2), the reference is to section 8(c) of the Act because 15:637(d) was redesignated as 15:637(c) by section 3 of the Women's Business Development Act of 1991 (Public Law 102–191, 105 Stat. 1591).

In subsection (b), the words "beginning after September 30, 1987" are omitted as obsolete.

**PUB. L. 103–429**

This amends 49:47113(a)(2) to correct erroneous cross-references.

**EDITORIAL NOTES**

**REFERENCES IN TEXT**

Section 31(b) of the Small Business Act, referred to in subsec. (a)(3), is classified to section 657a(b) of Title 15, Commerce and Trade.

The date of enactment of this subsection, referred to in subsec. (e)(1), is the date of enactment of Pub. L. 112–95, which was approved Feb. 14, 2012.

**AMENDMENTS**

**2018**—Subsec. (a)(1). Pub. L. 115–254, §150, amended par. (1) generally. Prior to amendment, par. (1) read as follows: "'small business concern'—

"(A) has the same meaning given that term in section 3 of the Small Business Act (15 U.S.C. 632); but

"(B) does not include a concern, or group of concerns controlled by the same socially and economically disadvantaged individual, that has average annual gross receipts over the prior 3 fiscal years of more than \$16,015,000, as adjusted by the Secretary of Transportation for inflation;".

Subsec. (a)(3). Pub. L. 115–254, §539(o), substituted "(15 U.S.C. 632(p))" for "(15 U.S.C. 632(o))".

**2017**—Subsec. (a)(3). Pub. L. 115–91 substituted "section 31(b) of the Small Business Act" for "section 3(p) of the Small Business Act (15 U.S.C. 632(o))".

**2012**—Subsec. (e). Pub. L. 112–95 added subsec. (e).

**1997**—Subsec. (a). Pub. L. 105–135, §604(h)(2)(A), substituted semicolon for period at end of par. (1), substituted "; and" for period at end of par. (2), and added par. (3).

Subsec. (b). Pub. L. 105–135, §604(h)(2)(B), inserted "or qualified HUBZone small business concerns" before period at end.

**1994**—Subsec. (a)(2). Pub. L. 103–429 substituted "8(d)" for "8(c)" in two places and "637(d))" for "637(c))".

**STATUTORY NOTES AND RELATED SUBSIDIARIES**

**EFFECTIVE DATE OF 2017 AMENDMENT**

Amendment by Pub. L. 115–91 effective Jan. 1, 2020, see section 1701(j) of Pub. L. 115–91, set out as a note under section 657a of Title 15, Commerce and Trade.

**EFFECTIVE DATE OF 1997 AMENDMENT**

Amendment by Pub. L. 105–135 effective Oct. 1, 1997, see section 3 of Pub. L. 105–135, set out as a note under section 631 of Title 15, Commerce and Trade.

### **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, 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 program and the airport concessions disadvantaged business enterprise 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.

"(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 AIRPORTS.—

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

- (i) \$7.80 for each of the first 50,000 passenger boardings at the airport during the prior calendar year;
- (ii) \$5.20 for each of the next 50,000 passenger boardings at the airport during the prior calendar year;
- (iii) \$2.60 for each of the next 400,000 passenger boardings at the airport during the prior calendar year;
- (iv) \$.65 for each of the next 500,000 passenger boardings at the airport during the prior calendar year; and
- (v) \$.50 for each additional passenger boarding at the airport during the prior calendar year.

(B) MINIMUM AND MAXIMUM APPORTIONMENTS.—Not less than \$650,000 nor more than \$22,000,000 may be apportioned under subparagraph (A) of this paragraph to an airport sponsor for a primary airport for each fiscal year.

(C) SPECIAL RULE.—In any fiscal year in which the total amount made available under section 48103 is \$3,200,000,000 or more—

- (i) the amount to be apportioned to a sponsor under subparagraph (A) shall be increased by doubling the amount that would otherwise be apportioned;
- (ii) the minimum apportionment to a sponsor under subparagraph (B) shall be \$1,000,000 rather than \$650,000; and
- (iii) the maximum apportionment to a sponsor under subparagraph (B) shall be \$26,000,000 rather than \$22,000,000.

(D) NEW AIRPORTS.—Notwithstanding subparagraph (A), the Secretary shall apportion on the first day of the first fiscal year following the official opening of a new airport with scheduled passenger air transportation an amount equal to the minimum amount set forth in subparagraph (B) or (C), as appropriate, to the sponsor of such airport.

(E) USE OF PREVIOUS FISCAL YEAR'S APPORTIONMENT.—Notwithstanding subparagraph (A), the Secretary may apportion to an airport sponsor in a fiscal year an amount equal to the amount apportioned to that sponsor in the previous fiscal year if the Secretary finds that—

- (i) passenger boardings at the airport fell below 10,000 in the calendar year used to calculate the apportionment;
- (ii) the airport had at least 10,000 passenger boardings in the calendar year prior to the calendar year used to calculate apportionments to airport sponsors in a fiscal year; and
- (iii) the cause of the shortfall in passenger boardings was a temporary but significant interruption in service by an air carrier to that airport due to an employment action, natural disaster, or other event unrelated to the demand for air transportation at the affected airport.

(F) SPECIAL RULE FOR FISCAL YEARS 2018 THROUGH 2020.—Notwithstanding subparagraph (A) and subject to subparagraph (G), the Secretary shall apportion to a sponsor of an airport under that subparagraph <sup>1</sup> for each of fiscal years 2018 through 2020 an amount based on the number of passenger boardings at the airport during calendar year 2012 if the airport—

- (i) had 10,000 or more passenger boardings during calendar year 2012;
- (ii) had fewer than 10,000 passenger boardings during the calendar year used to calculate the apportionment for fiscal year 2018, 2019, or 2020, as applicable, under subparagraph (A); and
- (iii) had scheduled air service at any point in the calendar year used to calculate the apportionment.

(G) LIMITATIONS AND WAIVERS.—The authority to make apportionments in the manner prescribed in subparagraph (F) may be utilized no more than 3 years in a row. The Secretary may waive this limitation if the Secretary determines that an airport's enplanements are substantially close to 10,000 enplanements and the airport sponsor or affected communities are taking reasonable steps to restore enplanements above 10,000.

(H) MINIMUM APPORTIONMENT FOR COMMERCIAL SERVICE AIRPORTS WITH MORE THAN 8,000 PASSENGER BOARDINGS IN A CALENDAR YEAR.—Not less than \$600,000 may be apportioned under subparagraph (A) for each fiscal year to each sponsor of a commercial service airport that had fewer than 10,000 passenger boardings, but at least 8,000 passenger boardings, during the prior calendar year.

(I) SEASONAL AIRPORTS.—Notwithstanding section 47102, if the Secretary determines that a commercial service airport with at least 8,000 passenger boardings receives scheduled air carrier service for fewer than 6 months in the calendar year used to calculate apportionments to airport sponsors in a fiscal year, then the Secretary shall consider the airport to be a nonhub primary airport for purposes of this chapter.

(J) Special rule for fiscal years 2022 and 2023.—Notwithstanding subparagraph (A) and the absence of scheduled passenger aircraft service at an airport, the Secretary shall apportion in fiscal years 2022 and 2023 to the sponsor of the 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:

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

## (2) CARGO AIRPORTS.—

(A) APPORTIONMENT.—Subject to subparagraph (D), the Secretary shall apportion an amount equal to 3.5 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 100,000,000 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) LIMITATION.—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.

(D) 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.

(E) 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.—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.

(3) SPECIAL RULE.—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 20 percent of the amount subject to apportionment for each fiscal year as follows:

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

(i) \$150,000; or

(ii) 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 primary airports but including reliever and nonprimary commercial service 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 primary airports but including reliever and nonprimary commercial service 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) 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.

(4) AIRPORTS IN ALASKA, PUERTO RICO, AND HAWAII.—An amount apportioned under paragraph (2) or (3) 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.

(5) 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 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.

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

(7) 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 an airport having at least .25 percent of the total number of boardings each year in the United States and 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), 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; or

(ii) with respect to an airport in Hawaii, 50 percent of the projected revenues from the charge in the fiscal year but not by more than 50 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), 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; or

(ii) with respect to an airport in Hawaii, 75 percent of the projected revenues from the charge in the fiscal year but not by more than 75 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 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.

(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.)

HISTORICAL AND REVISION NOTES  
PUB. L. 103-272

<i>Revised Section</i>	<i>Source (U.S. Code)</i>	<i>Source (Statutes at Large)</i>
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 substituted 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.

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).

<i>Revised Section</i>	<i>Source (U.S. Code)</i>	<i>Source (Statutes at Large)</i>
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

**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 "\$650,000" 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 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.

<sup>1</sup> So in original. Probably means "subparagraph (A)".

### §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.

(c) MINIMUM PERCENTAGE FOR PRIMARY AND RELIEVER AIRPORTS.—At least 75 percent of the amount in the fund and distributed by the Secretary in a fiscal year shall be used for making grants—

- (1) to preserve and enhance capacity, safety, and security at primary and reliever airports; and
- (2) to carry out airport noise compatibility planning and programs at primary and reliever airports.

(d) CONSIDERATIONS.—

(1) FOR CAPACITY ENHANCEMENT PROJECTS.—In selecting a project for a grant to preserve and improve capacity funded in whole or in part from the fund, the Secretary shall consider—

- (A) the effect that the project will have on overall national transportation system capacity;
- (B) the benefit and cost of the project, including, in the case of a project at a reliever airport, the number of operations projected to be diverted from a primary airport to the reliever airport as a result of the project, as well as the cost savings projected to be realized by users of the local airport system;
- (C) the financial commitment from non-United States Government sources to preserve or improve airport capacity;
- (D) the airport improvement priorities of the States to the extent such priorities are not in conflict with subparagraphs (A) and (B);
- (E) the projected growth in the number of passengers or aircraft that will be using the airport at which the project will be carried out; and
- (F) the ability of the project to foster United States competitiveness in securing global air cargo activity at a United States airport.

(2) FOR ALL PROJECTS.—In selecting a project for a grant under this section, the Secretary shall consider among other factors whether—

- (A) funding has been provided for all other projects qualifying for funding during the fiscal year under this chapter that have attained a higher score under the numerical priority system employed by the Secretary in administering the fund; and
- (B) the sponsor will be able to commence the work identified in the project application in the fiscal year in which the grant is made or within 6 months after the grant is made, whichever is later.

(e) WAIVING PERCENTAGE REQUIREMENT.—If the Secretary decides the Secretary cannot comply with the percentage requirement of subsection (c) of this section in a fiscal year because there are insufficient qualified grant applications to meet that percentage, the amount the Secretary determines will not be distributed as required by subsection (c) is available for obligation during the fiscal year without regard to the requirement.

(f) CONSIDERATION OF DIVERSION OF REVENUES IN AWARDING DISCRETIONARY GRANTS.—

(1) GENERAL RULE.—Subject to paragraph (2), in deciding whether or not to distribute funds to an airport from the discretionary funds established by subsection (a) of this section and section 47116 of this title, the Secretary shall consider as a factor militating against the distribution of such funds to the airport the fact that the airport is using revenues generated by the airport or by local taxes on aviation fuel for purposes other than capital or operating costs of the airport or the local airports system or other local facilities which are owned or operated by the owner or operator of the airport and directly and substantially related to the actual air transportation of passengers or property.

(2) REQUIRED FINDING.—Paragraph (1) shall apply only when the Secretary finds that the amount of revenues used by the airport for purposes other than capital or operating costs in the airport's fiscal year preceding the date of the application for discretionary funds exceeds the amount of such revenues in the airport's first fiscal year ending after August 23, 1994, adjusted by the Secretary for changes in the Consumer Price Index of All Urban Consumers published by the Bureau of Labor Statistics of the Department of Labor.

**(g) MINIMUM AMOUNT TO BE CREDITED.—**

(1) **GENERAL RULE.**—In a fiscal year, there shall be credited to the fund, out of amounts made available under section 48103 of this title, an amount that is at least equal to the sum of—

(A) \$148,000,000; plus

(B) the total amount required from the fund to carry out in the fiscal year letters of intent issued before January 1, 1996, under section 47110(e) of this title or the Airport and Airway Improvement Act of 1982.

The amount credited is exclusive of amounts that have been apportioned in a prior fiscal year under section 47114 of this title and that remain available for obligation.

(2) **REDUCTION OF APPORTIONMENTS.**—In a fiscal year in which the amount credited under subsection (a) is less than the minimum amount to be credited under paragraph (1), the total amount calculated under paragraph (3) shall be reduced by an amount that, when credited to the fund, together with the amount credited under subsection (a), equals such minimum amount.

(3) **AMOUNT OF REDUCTION.**—For a fiscal year, the total amount available to make a reduction to carry out paragraph (2) is the total of the amounts determined under sections 47114(c)(1)(A), 47114(c)(2), 47114(d), and 47117(e) of this title. Each amount shall be reduced by an equal percentage to achieve the reduction.

(h) **PRIORITY FOR LETTERS OF INTENT.**—In making grants in a fiscal year with funds made available under this section, the Secretary shall fulfill intentions to obligate under section 47110(e).

(i) **MARSHALL ISLANDS, MICRONESIA, AND PALAU.**—For fiscal years 2018 through 2023, the sponsors of airports located in the Republic of the Marshall Islands, Federated States of Micronesia, and Republic of Palau shall be eligible for grants under this section and section 47116.

**(j) SUPPLEMENTAL DISCRETIONARY FUNDS.—**

(1) **IN GENERAL.**—The Secretary shall establish a program to provide grants, subject to the conditions of this subsection, for any purpose for which amounts are made available under section 48103 that the Secretary considers most appropriate to carry out this subchapter.

**(2) TREATMENT OF GRANTS.—**

(A) **IN GENERAL.**—A grant made under this subsection shall be treated as having been made pursuant to the Secretary's authority under section 47104(a) and from the Secretary's discretionary fund under subsection (a) of this section.

(B) **EXCEPTION.**—Except as otherwise provided in this subsection, grants made under this subsection shall not be subject to subsection (c), section 47117(e), or any other apportionment formula, special apportionment category, or minimum percentage set forth in this chapter.

**(3) ELIGIBILITY AND PRIORITIZATION.—**

(A) **ELIGIBILITY.**—The Secretary may provide grants under this subsection for an airport or terminal development project at any airport that is eligible to receive a grant from the discretionary fund under subsection (a) of this section.

(B) **PRIORITIZATION.**—Not less than 50 percent of the amounts available under this subsection shall <sup>1</sup> used to provide grants at—

- (i) airports that are eligible for apportionment under section 47114(d)(3); and
- (ii) nonhub and small hub airports.

**(4) AUTHORIZATION.—**

(A) **IN GENERAL.**—There is authorized to be appropriated to the Secretary to carry out this subsection the following amounts:

- (i) \$1,020,000,000 for fiscal year 2019.
- (ii) \$1,041,000,000 for fiscal year 2020.
- (iii) \$1,064,000,000 for fiscal year 2021.
- (iv) \$1,087,000,000 for fiscal year 2022.
- (v) \$1,110,000,000 for fiscal year 2023.

(B) **AVAILABILITY.**—Sums authorized to be appropriated under subparagraph (A) shall remain available for 2 fiscal years.

**(k) PARTNERSHIP PROGRAM AIRPORTS.—**

(1) **AUTHORITY.**—The Secretary may make grants with funds made available under this section for an airport participating in the program under section 47134 if—

- (A) the Secretary has approved the application of an airport sponsor under section 47134(b) in fiscal year 2019; and
- (B) the grant will—

- (i) satisfy an obligation incurred by an airport sponsor under section 47110(e) or funded by a nonpublic sponsor for an airport development project on the airport; or
- (ii) provide partial Federal reimbursement for airport development (as defined in section 47102) on the airport layout plan initiated in the fiscal year in which the application was approved, or later, for over a period of not more than 10 years.

(2) NONAPPLICABILITY OF CERTAIN SECTIONS.—Grants made under this subsection shall not be subject to—

- (A) subsection (c) of this section;
- (B) section 47117(e); or
- (C) any other apportionment formula, special apportionment category, or minimum percentage set forth in this chapter.

(Pub. L. 103–272, §1(e), July 5, 1994, 108 Stat. 1270; Pub. L. 103–305, title I, §112(d), Aug. 23, 1994, 108 Stat. 1576; Pub. L. 103–429, §6(67), Oct. 31, 1994, 108 Stat. 4386; Pub. L. 104–264, title I, §§122, 145, Oct. 9, 1996, 110 Stat. 3218, 3222; Pub. L. 104–287, §5(81), Oct. 11, 1996, 110 Stat. 3397; Pub. L. 106–6, §§5, 8(a), Mar. 31, 1999, 113 Stat. 10, 11; Pub. L. 107–71, title I, §119(a)(3), Nov. 19, 2001, 115 Stat. 628; Pub. L. 108–176, title I, §§148, 188, Dec. 12, 2003, 117 Stat. 2504, 2519; Pub. L. 110–253, §3(c)(5), June 30, 2008, 122 Stat. 2418; Pub. L. 110–330, §5(f), Sept. 30, 2008, 122 Stat. 3718; Pub. L. 111–12, §5(e), Mar. 30, 2009, 123 Stat. 1458; Pub. L. 111–69, §5(f), Oct. 1, 2009, 123 Stat. 2055; Pub. L. 111–116, §5(e), Dec. 16, 2009, 123 Stat. 3032; Pub. L. 111–153, §5(e), Mar. 31, 2010, 124 Stat. 1085; Pub. L. 111–161, §5(e), Apr. 30, 2010, 124 Stat. 1127; Pub. L. 111–197, §5(e), July 2, 2010, 124 Stat. 1354; Pub. L. 111–216, title I, §104(e), Aug. 1, 2010, 124 Stat. 2349; Pub. L. 111–249, §5(f), Sept. 30, 2010, 124 Stat. 2628; Pub. L. 111–329, §5(e), Dec. 22, 2010, 124 Stat. 3567; Pub. L. 112–7, §5(e), Mar. 31, 2011, 125 Stat. 32; Pub. L. 112–16, §5(e), May 31, 2011, 125 Stat. 219; Pub. L. 112–21, §5(e), June 29, 2011, 125 Stat. 234; Pub. L. 112–27, §5(e), Aug. 5, 2011, 125 Stat. 271; Pub. L. 112–30, title II, §205(f), Sept. 16, 2011, 125 Stat. 358; Pub. L. 112–91, §5(f), Jan. 31, 2012, 126 Stat. 4; Pub. L. 112–95, title I, §144, Feb. 14, 2012, 126 Stat. 29; Pub. L. 114–55, title I, §102(b), Sept. 30, 2015, 129 Stat. 523; Pub. L. 114–141, title I, §102(b), Mar. 30, 2016, 130 Stat. 323; Pub. L. 114–190, title I, §1102(b), July 15, 2016, 130 Stat. 617; Pub. L. 115–63, title I, §102(c), Sept. 29, 2017, 131 Stat. 1169; Pub. L. 115–141, div. M, title I, §102(b), Mar. 23, 2018, 132 Stat. 1046; Pub. L. 115–254, div. B, title I, §§117(a), 158, 184(a), Oct. 5, 2018, 132 Stat. 3201, 3219, 3234.)

HISTORICAL AND REVISION NOTES  
PUB. L. 103–272

<i>Revised Section</i>	<i>Source (U.S. Code)</i>	<i>Source (Statutes at Large)</i>
47115(a)	49 App.:2206(c)(1) (1st, 2d sentences).	Sept. 3, 1982, Pub. L. 97–248, §507(c), 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. 1496; Nov. 5, 1990, Pub. L. 101–508, §9112(a), 104 Stat. 1388–362.
47115(b)	49 App.:2206(c)(1) (3d, last sentences).	
47115(c)	49 App.:2206(c)(2).	
47115(d)	49 App.:2206(c)(3).	
47115(e)	49 App.:2206(c)(4).	

In subsection (a), before clause (1), the words "The Secretary of Transportation has a discretionary fund" are added for clarity. In clause (1), the words "subject to apportionment for a fiscal year" are substituted for "which are made available for a fiscal year under section 2204 of this Appendix" and "which have not been previously apportioned by the Secretary" for consistency with section 47114 of the revised title.

In subsection (c), before clause (1), the words "Subject to section 2207(d) of this Appendix and paragraph (4) of this subsection" and "pursuant to paragraph (1) and distributed by the Secretary under this subsection in a fiscal year beginning after September 30, 1987" are omitted as surplus.

In subsection (d), before clause (1), the words "at airports" are omitted as surplus. In clause (3), the words "airport operator or other" are omitted as surplus.

In subsection (e), the words "submitted in compliance with this chapter" and "portion of" are omitted as surplus.

PUB. L. 103–429

<i>Revised Section</i>	<i>Source (U.S. Code)</i>	<i>Source (Statutes at Large)</i>
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47115(f)	49 App.:2206(c)(5).  49 App.:2206 (note).	Sept. 3, 1982, Pub. L. 97–248, §507(c)(5), as added May 26, 1994, Pub. L. 103–260, §104(a), 108 Stat. 698. May 26, 1994, Pub. L. 103–260, §104(b), 108 Stat. 699.
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In subsection (f), the text of section 104(b) of the Airport Improvement Program Temporary Extension Act of 1994 (Public Law 103–260, 108 Stat. 699) is omitted as executed.

#### **PUB. L. 104–287, §5(81)(A)**

This sets out the date of enactment of 49:47115(f), as enacted by section 112(d) of the Federal Aviation Administration Authorization Act of 1994 (Public Law 103–305, 108 Stat. 1576).

#### **PUB. L. 104–287, §5(81)(B)**

This redesignates 49:47115(f), as enacted by section 6(67) of the Act of October 31, 1994 (Public Law 103–429, 108 Stat. 4386), as 49:47115(g).

### **EDITORIAL NOTES**

### **REFERENCES IN TEXT**

The Airport and Airway Improvement Act of 1982, referred to in subsec. (g)(1)(B), is title V of Pub. L. 97–248, [Sept. 3, 1982](#), 96 Stat. 671, which was classified principally to chapter 31 (§2201 et seq.) of former Title 49, Transportation, and was substantially repealed by Pub. L. 103–272, [§7\(b\), July 5, 1994](#), 108 Stat. 1379, and reenacted by the first section thereof as this subchapter.

### **AMENDMENTS**

**2018**—Subsec. (i). Pub. L. 115–254, §117(a)(3), substituted "fiscal years 2018 through 2023" for "fiscal years 2012 through 2018".

Pub. L. 115–254, §117(a)(1), (2), redesignated subsec. (j) as (i) and struck out former subsec. (i). Prior to amendment, text of subsec. (i) read as follows: "In order to assure that funding under this subchapter is provided to the greatest needs, the Secretary, in selecting a project described in section 47102(3)(J) for a grant, shall consider the non-federal resources available to sponsor, the use of such non-federal resources, and the degree to which the sponsor is providing increased funding for the project."

Subsec. (j). Pub. L. 115–254, §158, added subsec. (j).

Pub. L. 115–254, §117(a)(2), redesignated subsec. (j) as (i).

Pub. L. 115–141 substituted "2018" for "2017 and for the period beginning on October 1, 2017, and ending on March 31, 2018".

Subsec. (k). Pub. L. 115–254, §184(a), added subsec. (k).

**2017**—Subsec. (j). Pub. L. 115–63 inserted "and for the period beginning on October 1, 2017, and ending on March 31, 2018" after "fiscal years 2012 through 2017".

**2016**—Subsec. (j). Pub. L. 114–190 substituted "fiscal years 2012 through 2017," for "fiscal years 2012 through 2015 and for the period beginning on October 1, 2015, and ending on July 15, 2016,".

Pub. L. 114–141 substituted "July 15, 2016" for "March 31, 2016".

**2015**—Subsec. (j). Pub. L. 114–55 inserted "and for the period beginning on October 1, 2015, and ending on March 31, 2016" after "fiscal years 2012 through 2015".

**2012**—Subsec. (j). Pub. L. 112–95 substituted "For fiscal years 2012 through 2015," for "For fiscal years 2004 through 2011, and for the portion of fiscal year 2012 ending before February 18, 2012,".

Pub. L. 112–91 substituted "February 18, 2012," for "February 1, 2012,".

**2011**—Subsec. (j). Pub. L. 112–30 substituted "fiscal years 2004 through 2011, and for the portion of fiscal year 2012 ending before February 1, 2012," for "fiscal years 2004 through 2010, and for the portion of fiscal year 2011 ending before 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. (j). Pub. L. 111–329 substituted "April 1, 2011," for "January 1, 2011,".

Pub. L. 111–249 inserted "and for the portion of fiscal year 2011 ending before January 1, 2011," after "2010,".

Pub. L. 111–216 substituted "fiscal years 2004 through 2010," for "fiscal years 2004 through 2009, and for the portion of fiscal year 2010 ending before 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. (j). Pub. L. 111–116 substituted "April 1, 2010," for "January 1, 2010,".

Pub. L. 111–69 inserted "and for the portion of fiscal year 2010 ending before January 1, 2010," after "2009,".

Pub. L. 111–12 substituted "2009," for "2008, and for the portion of fiscal year 2009 ending before April 1, 2009,".

**2008**—Subsec. (j). Pub. L. 110–330 inserted "and for the portion of fiscal year 2009 ending before April 1, 2009," after "2008,".

Pub. L. 110–253 substituted "fiscal years 2004 through 2008," for "fiscal years 2004 through 2007,".

**2003**—Subsec. (d). Pub. L. 108–176, §148, amended subsec. (d) generally. Prior to amendment, subsec. (d) listed six things the Secretary was required to consider in selecting a project for a grant to preserve and enhance capacity as described in subsection (c)(1) of this section.

Subsec. (j). Pub. L. 108–176, §188, added subsec. (j).

**2001**—Subsec. (i). Pub. L. 107–71 added subsec. (i).

**1999**—Subsec. (a)(2). Pub. L. 106–6, §8(a)(1), substituted "12.5" for "25".

Subsec. (b). Pub. L. 106–6, §8(a)(2), struck out at end "However, 50 percent of amounts not apportioned under section 47114 of this title because of section 47114(f) and added to the fund is available for making grants for projects at small hub airports (as defined in section 41731 of this title)."

Subsec. (g)(4). Pub. L. 106–6, §5, which directed the amendment of section 47115(g) by striking paragraph (4), without specifying the Code title to be amended, was executed by striking heading and text of par. (4) of subsec. (g) of this section, to reflect the probable intent of Congress. Text read as follows: "For a fiscal year in which the amount credited to the fund under this subsection exceeds \$300,000,000, the Secretary shall allocate the amount of such excess as follows:

"(A) 1/3 shall be made available to airports for which apportionments are made under section 47114(d) of this title.

"(B) 1/3 shall be made available for airport noise compatibility planning under section 47505(a)(2) of this title and for carrying out noise compatibility programs under section 47504(c)(1) of this title.

"(C) 1/3 shall be made available to current or former military airports for which grants may be made under section 47117(e)(1)(B) of this title."

**1996**—Subsec. (d)(2). Pub. L. 104–264, §145(a)(1), substituted ", including, in the case of a project at a reliever airport, the number of operations projected to be diverted from a primary airport to the reliever airport as a result of the project, as well as the cost savings projected to be realized by users of the local airport system;" for "; and".

Subsec. (d)(4) to (6). Pub. L. 104–264, §145(a)(2), (3), added pars. (4) to (6).

Subsec. (f). Pub. L. 104–287, §5(81)(B), which directed that subsec. (f), as enacted by Pub. L. 103–429, be redesignated (g), could not be executed because of amendment by Pub. L. 104–264, §122, which struck out that subsec. See below.

Pub. L. 104–264, §122, struck out subsec. (f), relating to minimum amount to be credited, which read as follows:

"(f) MINIMUM AMOUNT TO BE CREDITED.—(1) In a fiscal year, at least \$325,000,000 of the amount made available under section 48103 of this title shall be credited to the fund. The amount credited is exclusive of amounts that have been apportioned in a prior fiscal year under section 47114 of this title and that remain available for obligation.

"(2) In a fiscal year in which the amount credited under subsection (a) of this section is less than \$325,000,000, the total amount calculated under paragraph (3) of this subsection shall be reduced by an amount that, when credited to the fund, together with the amount credited under subsection (a), equals \$325,000,000.

"(3) For a fiscal year, the total amount available to reduce to carry out paragraph (2) of this subsection is the total of the amounts determined under sections 47114(c)(1)(A) and (2) and (d) and 47117(e) of this title. Each amount shall be reduced by an equal percentage to achieve the reduction."

Subsec. (f)(2). Pub. L. 104–287, §5(81)(A), substituted "August 23, 1994" for "the date of the enactment of this subsection".

Subsec. (g). Pub. L. 104–264, §122, added subsec. (g).

Subsec. (h). Pub. L. 104–264, §145(b), added subsec. (h).

**1994**—Subsec. (f). Pub. L. 103–429 added subsec. (f) relating to minimum amount to be credited.

Pub. L. 103–305 added subsec. (f) relating to consideration of diversion of revenues in awarding discretionary grants.

**STATUTORY NOTES AND RELATED SUBSIDIARIES****EFFECTIVE DATE OF 2011 AMENDMENT**

Amendment by Pub. L. 112–27 effective July 23, 2011, see section 5(j) of Pub. L. 112–27, set out as a note under section 40117 of this title.

Amendment by Pub. L. 112–21 effective July 1, 2011, see section 5(j) of Pub. L. 112–21, set out as a note under section 40117 of this title.

Amendment by Pub. L. 112–16 effective June 1, 2011, see section 5(j) of Pub. L. 112–16, set out as a note under section 40117 of this title.

Amendment by Pub. L. 112–7 effective Apr. 1, 2011, see section 5(j) of Pub. L. 112–7, set out as a note under section 40117 of this title.

**EFFECTIVE DATE OF 2010 AMENDMENT**

Amendment by Pub. L. 111–329 effective Jan. 1, 2011, see section 5(j) of Pub. L. 111–329, set out as a note under section 40117 of this title.

Amendment by Pub. L. 111–249 effective Oct. 1, 2010, see section 5(l) of Pub. L. 111–249, set out as a note under section 40117 of this title.

Amendment by Pub. L. 111–216 effective Aug. 2, 2010, see section 104(j) of Pub. L. 111–216, set out as a note under section 40117 of this title.

Amendment by Pub. L. 111–197 effective July 4, 2010, see section 5(j) of Pub. L. 111–197, set out as a note under section 40117 of this title.

Amendment by Pub. L. 111–161 effective May 1, 2010, see section 5(j) of Pub. L. 111–161, set out as a note under section 40117 of this title.

Amendment by Pub. L. 111–153 effective Apr. 1, 2010, see section 5(j) of Pub. L. 111–153, set out as a note under section 40117 of this title.

**EFFECTIVE DATE OF 2009 AMENDMENT**

Amendment by Pub. L. 111–116 effective Jan. 1, 2010, see section 5(j) of Pub. L. 111–116, set out as a note under section 40117 of this title.

Amendment by Pub. L. 111–12 effective Apr. 1, 2009, see section 5(j) of Pub. L. 111–12, set out as a note under section 40117 of this title.

**EFFECTIVE DATE OF 2008 AMENDMENT**

Amendment by Pub. L. 110–330 effective Oct. 1, 2008, see section 5(l) of Pub. L. 110–330, set out as a note under section 40117 of this title.

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 1996 AMENDMENTS**

Amendment by section 5(81)(B) of Pub. L. 104–287 effective Sept. 30, 1998, see section 8(2) of Pub. L. 104–287, set out as a note under section 47117 of this title.

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.

<sup>1</sup> So in original. The word "be" probably should appear.

**§47116. Small airport fund**

(a) **EXISTENCE AND AMOUNTS IN FUND.**—The Secretary of Transportation has a small airport fund. The fund consists of 87.5 percent of amounts not apportioned under section 47114 of this title because of section 47114(f).

(b) **DISTRIBUTION OF AMOUNTS.**—The Secretary may distribute amounts in the fund in each fiscal year for any purpose for which amounts are made available under section 48103 of this title as follows:

(1) one-seventh for grants for projects at small hub airports; and

(2) the remaining amounts based on the following:

- (A) one-third for grants to sponsors of public-use airports (except commercial service airports).
- (B) two-thirds for grants to sponsors of each commercial service airport that each year has less than .05 percent of the total boardings in the United States in that year.

(c) **AUTHORITY TO RECEIVE GRANT NOT DEPENDENT ON PARTICIPATION IN BLOCK GRANT PILOT PROGRAM.**—An airport in a State participating in the State block grant pilot program under section 47128 of this title may receive a grant under this section to the same extent the airport may receive a grant if the State were not participating in the program.

(d) **PRIORITY CONSIDERATION FOR CERTAIN PROJECTS.**—

(1) **CONSTRUCTION OF NEW RUNWAYS.**—In making grants to sponsors described in subsection (b)(2), the Secretary shall give priority consideration to multi-year projects for construction of new runways that the Secretary finds are cost beneficial and would increase capacity in a region of the United States.

(2) **AIRPORT DEVELOPMENT FOR ELIGIBLE MOUNTAINTOP AIRPORTS.**—In making grants to sponsors described in subsection (b), the Secretary shall give priority consideration to mass grading and associated structural support (including access road, duct banks, and other related infrastructure) at mountaintop airports, provided that the airport would not otherwise have sufficient surface area for—

- (A) eligible and justified airport development projects; or
- (B) additional hangar space.

(3) **CONTROL TOWER CONSTRUCTION.**—Notwithstanding section 47124(b)(4)(A), the Secretary may provide grants under this section to an airport sponsor participating in the contract tower program under section 47124 for the construction or improvement of a nonapproach control tower, as defined by the Secretary, and for the acquisition and installation of air traffic control, communications, and related equipment to be used in that tower. Such grants shall be subject to the distribution requirements of subsection (b) and the eligibility requirements of section 47124(b)(4) (B).

(e) **SET-ASIDE FOR MEETING SAFETY TERMS IN AIRPORT OPERATING CERTIFICATES.**—In the first fiscal year beginning after the effective date of regulations issued to carry out section 44706(b) with respect to airports described in section 44706(a)(2), and in each of the next 4 fiscal years, the lesser of \$15,000,000 or 20 percent of the amounts that would otherwise be distributed to sponsors of airports under subsection (b)(2) shall be used to assist the airports in meeting the terms established by the regulations. If the Secretary publishes in the Federal Register a finding that all the terms established by the regulations have been met, this subsection shall cease to be effective as of the date of such publication.

(f) **NOTIFICATION OF SOURCE OF GRANT.**—Whenever the Secretary makes a grant under this section, the Secretary shall notify the recipient of the grant, in writing, that the source of the grant is from the small airport fund.

(Pub. L. 103–272, §1(e), July 5, 1994, 108 Stat. 1271; Pub. L. 104–264, title I, §146, Oct. 9, 1996, 110 Stat. 3223; Pub. L. 106–6, §8(b), Mar. 31, 1999, 113 Stat. 11; Pub. L. 106–181, title I, §128, Apr. 5, 2000, 114 Stat. 76; Pub. L. 108–176, title VIII, §801(b), Dec. 12, 2003, 117 Stat. 2587; Pub. L. 115–254, div. B, title I, §§152, 154, Oct. 5, 2018, 132 Stat. 3216, 3217.)

#### HISTORICAL AND REVISION NOTES

<i>Revised Section</i>	<i>Source (U.S. Code)</i>	<i>Source (Statutes at Large)</i>
47116(a)	49 App.:2206(d)(1) (words before "to be distributed").	Sept. 3, 1982, Pub. L. 97–248, 96 Stat. 324, §507(d); added Nov. 5, 1990, Pub. L. 101–508, §9112(b), 104 Stat. 1388–362.
47116(b)	49 App.:2206(d)(1) (words after "small airport fund"), (2), (3).	
47116(c)	49 App.:2206(d)(4).	

In subsection (a), the words "The Secretary of Transportation has a small airport fund" are added for clarity.

In subsection (b), before clause (1), the words "under this subsection" are omitted as surplus. In clauses (1) and (2), the words "used" and "making" are omitted as surplus.

In subsection (c), the word "pilot" is added for consistency with section 47128 of the revised title.

#### EDITORIAL NOTES

#### AMENDMENTS

**2018**—Subsec. (d)(2). Pub. L. 115–254, §154, amended par. (2) generally. Prior to amendment, text read as follows: "In making grants to sponsors described in subsection (b)(1), the Secretary shall give priority

consideration to airport development projects to support operations by turbine powered aircraft if the non-Federal share of the project is at least 40 percent."

Subsec. (d)(3). Pub. L. 115–254, §152, added par. (3).

**2003**—Subsec. (b)(1). Pub. L. 108–176 struck out "(as defined in section 41731 of this title)" after "small hub airports".

**2000**—Subsec. (d). Pub. L. 106–181, §128(c), designated existing provisions as par. (1), inserted heading, realigned margins, and added par. (2).

Subsec. (e). Pub. L. 106–181, §128(a), added subsec. (e).

Subsec. (f). Pub. L. 106–181, §128(b), added subsec. (f).

**1999**—Subsec. (a). Pub. L. 106–6, §8(b)(1), substituted "87.5" for "75".

Subsec. (b). Pub. L. 106–6, §8(b)(2), added pars. (1) and (2) and redesignated former pars. (1) and (2) as subpars. (A) and (B), respectively, of par. (2).

**1996**—Subsec. (d). Pub. L. 104–264 added subsec. (d).

## 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 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.

## §47117. Use of apportioned amounts

(a) **GRANT PURPOSE.**—Except as provided in this section, an amount apportioned under section 47114(c)(1) or (d)(2) of this title is available for making grants for any purpose for which amounts are made available under section 48103 of this title.

(b) **PERIOD OF AVAILABILITY.**—

(1) **IN GENERAL.**—An amount apportioned under section 47114 of this title is available to be obligated for grants under the apportionment only during the fiscal year for which the amount was apportioned and the 2 fiscal years immediately after that year or the 3 fiscal years immediately following that year in the case of a nonhub airport or any airport that is not a commercial service airport. Except as provided in paragraph (2), if the amount is not obligated under the apportionment within that time, it shall be added to the discretionary fund.

(2) **EXPIRED AMOUNTS APPORTIONED FOR GENERAL AVIATION AIRPORTS.**—

(A) **IN GENERAL.**—Except as provided in subparagraph (B), if an amount apportioned under section 47114(d) is not obligated within the time specified in paragraph (1), that amount shall be added to the discretionary fund under section 47115 of this title, provided that—

(i) amounts made available under paragraph (2)(A) shall be used for grants for projects in accordance with section 47115(d)(2) at airports eligible to receive an apportionment under section 47114(d)(2) or (3)(A), whichever is applicable; and

(ii) amounts made available under paragraph (2)(A) that are not obligated by July 1 of the fiscal year in which the funds will expire shall be made available for all projects in accordance with section 47115(d)(2).

(B) **STATE BLOCK GRANT PROGRAM.**—If an amount apportioned to an airport under section 47114(d)(3)(A) is not obligated within the time specified in paragraph (1), and the airport is located in a State participating in the State block grant program under section 47128, the amount shall be made available to that State under the same conditions as if the State had been apportioned the amount under section 47114(d)(3)(B).

(c) **PRIMARY AIRPORTS.**—(1) An amount apportioned to a sponsor of a primary airport under section 47114(c)(1) of this title is available for grants for any public-use airport of the sponsor included in the national plan of integrated airport systems.



(2) **WAIVER.**—A sponsor of an airport may make an agreement with the Secretary of Transportation waiving the sponsor's claim to any part of the amount apportioned for the airport under sections 47114(c) and 47114(d)(3)(A) if the Secretary agrees to make the waived amount available for a grant for another public-use airport in the same State or geographical area as the airport, as determined by the Secretary.

(d) **STATE USE.**—An amount apportioned to a State under—

- (1) section 47114(d)(2)(A) of this title is available for grants for airports located in the State; and
- (2) section 47114(d)(2)(B) or (C) of this title is available for grants for airports described in section 47114(d)(2)(B) or (C) and located in the State.

(e) **SPECIAL APPORTIONMENT CATEGORIES.**—(1) The Secretary shall use amounts available to the discretionary fund under section 47115 of this title for each fiscal year as follows:

(A) At least 35 percent, but not more than \$300,000,000, for grants for airport noise compatibility planning under section 47505(a)(2), for carrying out noise compatibility programs under section 47504(c), for noise mitigation projects approved in an environmental record of decision for an airport development project under this title, for compatible land use planning and projects carried out by State and local governments under section 47141, for airport development described in section 47102(3)(Q), for airport development described in section 47102(3)(F), 47102(3)(K), or 47102(3)(L) to comply with the Clean Air Act (42 U.S.C. 7401 et seq.), and for water quality mitigation projects to comply with the Act of June 30, 1948 (33 U.S.C. 1251 et seq.), approved in an environmental record of decision for an airport development project under this title. The Secretary may count the amount of grants made for such planning and programs with funds apportioned under section 47114 in that fiscal year in determining whether or not the requirements of the preceding sentence are being met in that fiscal year.

(B) At least 4 percent to sponsors of current or former military airports designated by the Secretary under section 47118(a) of this title for grants for developing current and former military airports to improve the capacity of the national air transportation system and to sponsors of noncommercial service airports for grants for operational and maintenance expenses at any such airport if the amount of such grants to the sponsor of the airport does not exceed \$30,000 in that fiscal year, if the Secretary determines that the airport is adversely affected by the closure or realignment of a military base, and if the sponsor of the airport certifies that the airport would otherwise close if the airport does not receive the grant.

(C) In any fiscal year in which the total amount made available under section 48103 is \$3,200,000,000 or more, at least two-thirds of 1 percent for grants to sponsors of reliever airports which have—

- (i) more than 75,000 annual operations;
- (ii) a runway with a minimum usable landing distance of 5,000 feet;
- (iii) a precision instrument landing procedure;
- (iv) a minimum number of aircraft, to be determined by the Secretary, based at the airport; and
- (v) been designated by the Secretary as a reliever airport to an airport with 20,000 hours of annual delays in commercial passenger aircraft takeoffs and landings.

(2) If the Secretary decides that an amount required to be used for grants under paragraph (1) of this subsection cannot be used for a fiscal year because there are insufficient qualified grant applications, the amount the Secretary determines cannot be used is available during the fiscal year for grants for other airports or for other purposes for which amounts are authorized for grants under section 48103 of this title.

(3) **PRIORITY.**—The Secretary shall give priority in making grants under paragraph (1)(A) to applications for airport noise compatibility planning and programs at and around—

- (A) Chicago O'Hare International Airport;
- (B) LaGuardia Airport;
- (C) John F. Kennedy International Airport; and
- (D) Ronald Reagan Washington National Airport.

(f) **DISCRETIONARY USE OF APPORTIONMENTS.**—

(1) **IN GENERAL.**—Subject to paragraph (2), if the Secretary finds that all or part of an amount of an apportionment under section 47114 is not required during a fiscal year to fund a grant for which the apportionment may be used, the Secretary may use during such fiscal year the amount not so required to make grants for any purpose for which grants may be made under section 48103. The finding may be based on the notifications that the Secretary receives under section 47105(f) or on other information received from airport sponsors.

(2) **RESTORATION OF APPORTIONMENTS.**—

(A) **IN GENERAL.**—If the fiscal year for which a finding is made under paragraph (1) with respect to an apportionment is not the last fiscal year of availability of the apportionment under subsection (b), the Secretary shall restore to the apportionment an amount equal to the amount of the apportionment used under paragraph (1) for a discretionary grant whenever a sufficient amount is made available under section 48103.

(B) **PERIOD OF AVAILABILITY.**—If restoration under this paragraph is made in the fiscal year for which the finding is made or the succeeding fiscal year, the amount restored shall be subject to the original period of availability of the apportionment under subsection (b). If the restoration is made thereafter, the amount restored shall remain available in accordance with subsection (b) for the original period of availability of the apportionment plus the number of fiscal years during which a sufficient amount was not available for the restoration.

## (3) NEWLY AVAILABLE AMOUNTS.—

(A) RESTORED AMOUNTS TO BE UNAVAILABLE FOR DISCRETIONARY GRANTS.—Of an amount newly available under section 48103 of this title, an amount equal to the amounts restored under paragraph (2) shall not be available for discretionary grant obligations under section 47115.

(B) USE OF REMAINING AMOUNTS.—Subparagraph (A) does not impair the Secretary's authority under paragraph (1), after a restoration under paragraph (2), to apply all or part of a restored amount that is not required to fund a grant under an apportionment to fund discretionary grants.

(4) LIMITATIONS ON OBLIGATIONS APPLY.—Nothing in this subsection shall be construed to authorize the Secretary to incur grant obligations under section 47104 for a fiscal year in an amount greater than the amount made available under section 48103 for such obligations for such fiscal year.

(g) LIMITING AUTHORITY OF SECRETARY.—The authority of the Secretary to make grants during a fiscal year from amounts that were apportioned for a prior fiscal year and remain available for approved airport development project grants under subsection (b) of this section may be impaired only by a law enacted after September 3, 1982, that expressly limits that authority.

(Pub. L. 103–272, §1(e), July 5, 1994, 108 Stat. 1271; Pub. L. 103–305, title I, §116(a), Aug. 23, 1994, 108 Stat. 1579; Pub. L. 103–429, §6(68), Oct. 31, 1994, 108 Stat. 4387; Pub. L. 104–264, title I, §§123, 124(d), Oct. 9, 1996, 110 Stat. 3219, 3220; Pub. L. 104–287, §5(82), Oct. 11, 1996, 110 Stat. 3397; Pub. L. 105–102, §3(c)(1), (2), Nov. 20, 1997, 111 Stat. 2215; Pub. L. 106–6, §7, Mar. 31, 1999, 113 Stat. 10; Pub. L. 106–31, title VI, §6002(d), May 21, 1999, 113 Stat. 113; Pub. L. 106–181, title I, §§104(e)–(g), 129, title II, §231(f), Apr. 5, 2000, 114 Stat. 70, 77, 114; Pub. L. 108–176, title I, §§149(c), 150, 151, Dec. 12, 2003, 117 Stat. 2505, 2506; Pub. L. 112–95, title I, §145, Feb. 14, 2012, 126 Stat. 30; Pub. L. 115–254, div. B, title I, §§155, 192(b), title V, §539(p), Oct. 5, 2018, 132 Stat. 3217, 3241, 3371.)

HISTORICAL AND REVISION NOTES  
 PUB. L. 103–272

<i>Revised Section</i>	<i>Source (U.S. Code)</i>	<i>Source (Statutes at Large)</i>
47117(a)	49 App.:2207(b)(1) (related to purposes for which funds may be used).	Sept. 3, 1982, Pub. L. 97–248, §§506(e)(4), 508(b), 96 Stat. 679, 681.
	49 App.:2207(c) (1st sentence related to purposes for which funds are available).	Sept. 3, 1982, Pub. L. 97–248, §508(c), 96 Stat. 682; Dec. 30, 1987, Pub. L. 100–223, §106(b)(2)(C), 101 Stat. 1498.
47117(b)	49 App.:2207(a).	Sept. 3, 1982, Pub. L. 97–248, §508(a), 96 Stat. 681; Dec. 30, 1987, Pub. L. 100–223, §106(b)(2)(A), (B), 101 Stat. 1497.
47117(c)(1)	49 App.:2207(b)(1) (related to airports at which funds may be used).	
47117(c)(2)	49 App.:2207(b)(2).	
47117(d)	49 App.:2207(c) (1st sentence related to airports at which funds are available, last sentence).	
47117(e)	49 App.:2202(a)(11).	Sept. 3, 1982, Pub. L. 97–248, §503(a)(11), 96 Stat. 673; Dec. 30, 1987, Pub. L. 100–223, §103(c)(1), 101 Stat. 1488.
	49 App.:2207(d).	Sept. 3, 1982, Pub. L. 97–248, §508(d), 96 Stat. 682; Dec. 30, 1987, Pub. L. 100–223, §§106(b)(2)(D), 107, 101 Stat. 1498; Nov. 5, 1990, Pub. L. 101–508, §9109(b), 104 Stat. 1388–356; Oct. 31, 1992, Pub. L. 102–581, §§107(a), 108, 106 Stat. 4878, 4879.
47117(f)	49 App.:2206(b)(5)(D).	Sept. 3, 1982, Pub. L. 97–248, §507(b)(5)(D), 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. 1496.
47117(g)	49 App.:2207(e)(1).	Sept. 3, 1982, Pub. L. 97–248, 96 Stat. 324, §508(e)(1); added Oct. 2, 1982, Pub. L.

	49 App.:2207(e)(2).	97–276, §167, 96 Stat. 1204; Dec. 30, 1987, Pub. L. 100–223, §106(b)(2)(E), 101 Stat. 1498.
47117(h)	49 App.:2205(e)(4).	Sept. 3, 1982, Pub. L. 97–248, 96 Stat. 324, §508(e)(2); added Oct. 2, 1982, Pub. L. 97–276, §167, 96 Stat. 1205.

In subsection (b), the words "for grants" are added, and the word "apportioned" is substituted for "first authorized to be obligated", for clarity. The words "established by section 2206(c) of this Appendix" are omitted as surplus.

In subsection (c)(2), the word "if" is substituted for "on the condition that" to eliminate unnecessary words. The word "in" is substituted for "which is a part of" for clarity.

Subsection (d) is substituted for 49 App.:2207(c) (1st sentence related to airports at which funds are available) for clarity. The text of 49 App.:2207(c) (last sentence) is omitted as surplus because of section 47105(a) of the revised title.

In subsection (e)(1), the words "The Secretary shall use . . . (A) . . . for grants . . . (B) . . . for grants . . . (C) . . . for grants . . . (D) . . . for . . . grants . . . (E) . . . for grants" are substituted for "shall be distributed" and "shall be obligated" for clarity and consistency in the revised title. Clause (C)(ii) is substituted for 49 App.:2207(d)(3)(B) and (C) to eliminate unnecessary words. In clause (E), the references to fiscal years 1991 and 1992 are omitted as obsolete.

In subsection (e)(2), the words "for each fiscal year" are omitted as surplus.

In subsection (e)(3), the words "an amount required to be used for grants under paragraph (1) of this subsection cannot be used" are substituted for "he will not be able to distribute the amount of funds required to be distributed under paragraph (1), (2), (3), or (4) of this subsection" for consistency. The words "submitted in compliance with this chapter" are omitted as surplus. The words "cannot be used" are substituted for "will not be distributed" for consistency. The words "for which amounts are" are added for clarity and consistency in this chapter.

Subsection (f) is substituted for 49 App.:2206(b)(5)(D) for clarity and consistency in the revised title.

In subsection (g)(1), the words "and (3)" are omitted because 49 App.:2207(e)(3) has expired. The words "at his discretion" are omitted as surplus.

In subsection (g)(2)(A), the words "made available" are substituted for "authorized" for clarity.

In subsection (h), the words "to make grants" are substituted for "to obligate to an airport by grant agreement" for consistency in the revised title and to eliminate unnecessary words. The words "the unobligated balance of" are omitted as surplus. The words "limits that authority" are substituted for "limits the application of this paragraph" for clarity. The words "in addition to the amounts authorized for that fiscal year by section 2204 of this Appendix" are omitted as surplus.

PUB. L. 103–429

<i>Revised Section</i>	<i>Source (U.S. Code)</i>	<i>Source (Statutes at Large)</i>
47117(e)	49 App.:2207(d).	Sept. 3, 1982, Pub. L. 97–248, §508(d), as amended May 26, 1994, Pub. L. 103–260, §105, 108 Stat. 699.

**PUB. L. 104–287, §5(82)(A)**

This amends 49:47117(e)(1)(B) because of the redesignation of 49:47504(c)(1)(C) and (D) as 49:47504(c)(2)(C) and (D) by section 6(71)(C) of the Act of October 31, 1994 (Public Law 103–429, 108 Stat. 4387).

**PUB. L. 104–287, §5(82)(B)**

This amends 49:47117(g)(1) because of the redesignation of 49:47105(e) as 49:47105(f) by section 107(a)(1) of the Federal Aviation Administration Authorization Act of 1994 (Public Law 103–305, 108 Stat. 1572).

**EDITORIAL NOTES**

**REFERENCES IN TEXT**

The Clean Air Act, referred to in subsec. (e)(1)(A), is act [July 14, 1955, ch. 360](#), 69 Stat. 322, which is classified generally to chapter 85 (§7401 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 7401 of Title 42 and Tables.

The Act of June 30, 1948, referred to in subsec. (e)(1)(A), is act June 30, 1948, ch. 758, as amended generally by Pub. L. 92–500, §2, Oct. 18, 1972, 86 Stat. 816, known as the Federal Water Pollution Control Act, which is classified generally to chapter 26 (§1251 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 1251 of Title 33 and Tables.

## AMENDMENTS

**2018**—Subsec. (b). Pub. L. 115–254, §155, designated existing provisions as par. (1), inserted heading, substituted "Except as provided in paragraph (2), if the amount" for "If the amount", and added par. (2).

Subsec. (e)(1)(A). Pub. L. 115–254, §192(b), inserted "for airport development described in section 47102(3)(Q)," after "under section 47141,".

Subsec. (e)(1)(B). Pub. L. 115–254, §539(p), which directed substitution of "At least" for "at least" in section 47117(e)(1)(B), without specifying the Code title to be amended, was executed by making the substitution in subsec. (e)(1)(B) of this section, to reflect the probable intent of Congress.

**2012**—Subsec. (e)(1)(A). Pub. L. 112–95 substituted "At least 35 percent, but not more than \$300,000,000," for "At least 35 percent", "et seq.), and for water quality mitigation projects to comply with the Act of June 30, 1948 (33 U.S.C. 1251 et seq.), approved in an environmental record of decision for an airport development project under this title." for "et seq.)", and "the requirements of the preceding sentence are" for "such 35 percent requirement is" and struck out "and" after "47141,".

**2003**—Subsec. (b). Pub. L. 108–176, §150, substituted "nonhub airport or any airport that is not a commercial service airport" for "primary airport that had less than .05 percent of the total boardings in the United States in the preceding calendar year".

Subsec. (c)(2). Pub. L. 108–176, §149(c), amended par. (2) generally. Prior to amendment, par. (2) read as follows: "A sponsor of a primary airport may make an agreement with the Secretary of Transportation waiving any part of the amount apportioned for the airport under section 47114(c)(1) of this title if the Secretary makes the waived amount available for a grant for another public-use airport in the same State or geographical area as the primary airport."

Subsec. (e)(1)(A). Pub. L. 108–176, §151, substituted "At least 35 percent" for "At least 34 percent", "section 47505(a)(2)," for "section 47505(a)(2) of this title and", ", for noise mitigation projects approved in an environmental record of decision for an airport development project under this title, for compatible land use planning and projects carried out by State and local governments under section 47141, and for airport development described in section 47102(3)(F), 47102(3)(K), or 47102(3)(L) to comply with the Clean Air Act (42 U.S.C. 7401 et seq.)" for "of this title.", and "35 percent requirement" for "34 percent requirement".

**2000**—Subsec. (e)(1)(A). Pub. L. 106–181, §104(e), substituted "34 percent" for "31 percent" in two places.

Subsec. (e)(1)(C). Pub. L. 106–181, §104(f), added subpar. (C).

Subsec. (e)(3). Pub. L. 106–181, §231(f), added par. (3).

Subsec. (f). Pub. L. 106–181, §129, amended subsec. (f) generally. Prior to amendment, subsec. (f) read as follows:

"(f) DISCRETIONARY USE OF APPORTIONMENTS.—(1) Subject to paragraph (2) of this subsection, if the Secretary finds, based on the notices the Secretary receives under section 47105(f) of this title or otherwise, that an amount apportioned under section 47114 of this title will not be used for grants during a fiscal year, the Secretary may use an equal amount for grants during that fiscal year for any of the purposes for which amounts are authorized for grants under section 48103 of this title.

"(2) The Secretary may make a grant under paragraph (1) of this subsection only if the Secretary decides that—

"(A) the total amount used for grants for the fiscal year under section 48103 of this title will not be more than the amount made available under section 48103 for that fiscal year; and

"(B) the amounts authorized for grants under section 48103 of this title for later fiscal years are sufficient for grants of the apportioned amounts that were not used for grants under the apportionment during the fiscal year and that remain available under subsection (b) of this section."

Pub. L. 106–181, §104(g), redesignated subsec. (g) as (f) and struck out heading and text of former subsec. (f). Text read as follows: "The Secretary may not make a grant for a commercial service airport in Alaska of more than 110 percent of the amount apportioned for the airport for a fiscal year under section 47114(e) of this title."

Subsecs. (g), (h). Pub. L. 106–181, §104(g), redesignated subsecs. (g) and (h) as (f) and (g), respectively.

**1999**—Subsec. (e)(1)(B). Pub. L. 106–31 struck out "for each of fiscal years 1997 and 1998" after "4 percent".

Pub. L. 106–6 made amendment identical to that made by Pub. L. 105–102, §3(c)(2). See 1997 Amendment note below.

**1997**—Subsec. (e)(1)(A). Pub. L. 105–102, §3(c)(1)(B), added Pub. L. 104–264, §123(d). See 1996 Amendment note below.

Subsec. (e)(1)(B). Pub. L. 105–102, §3(c)(2), repealed Pub. L. 104–264, §124(d). See 1996 Amendment note below.

Pub. L. 105–102, §3(c)(1)(A), amended Pub. L. 104–264, §123(b)(6). See 1996 Amendment note below.

**1996**—Subsec. (b). Pub. L. 104–264, §123(a), inserted "or the 3 fiscal years immediately following that year in the case of a primary airport that had less than .05 percent of the total boardings in the United States in the preceding calendar year" before period at end of first sentence.

Subsec. (e)(1). Pub. L. 104–264, §123(b)(1), substituted "available to the discretionary fund under section 47115" for "made available under section 48103" in introductory provisions.

Subsec. (e)(1)(A). Pub. L. 104–264, §123(d), as added by Pub. L. 105–102, §3(c)(1)(B), substituted "47504(c)" for "47504(c)(1)".

Pub. L. 104–264, §123(b)(4), (5), substituted "At least 31" for "at least 12.5" and inserted at end "The Secretary may count the amount of grants made for such planning and programs with funds apportioned under section 47114 in that fiscal year in determining whether or not such 31 percent requirement is being met in that fiscal year."

Pub. L. 104–264, §123(b)(2), (3), redesignated subpar. (B) as (A) and struck out former subpar. (A) which read as follows: "at least 5 percent for grants for reliever airports."

Subsec. (e)(1)(B). Pub. L. 104–287, §5(82)(A), which directed the amendment of subpar. (B) by substituting "47504(c)" for "47504(c)(1)", could not be executed because "47504(c)(1)" did not appear in text of subpar. (B) subsequent to amendment by Pub. L. 104–264. See below.

Pub. L. 104–264, §124(d), which directed the amendment of subpar. (B) by substituting "1996, 1997, and 1998" for "and 1996," was repealed by Pub. L. 105–102, §3(c)(2).

Pub. L. 104–264, §123(b)(6), as amended by Pub. L. 105–102, §3(c)(1)(A), substituted "at least 4 percent for each of fiscal years 1997 and 1998" for "at least 2.25 percent for the fiscal year ending September 30, 1993, and at least 2.5 percent for each of the fiscal years ending September 30, 1994, 1995, and 1996,".

Pub. L. 104–264, §123(b)(3), (7), redesignated subpar. (E) as (B) and inserted before period at end "and to sponsors of noncommercial service airports for grants for operational and maintenance expenses at any such airport if the amount of such grants to the sponsor of the airport does not exceed \$30,000 in that fiscal year, if the Secretary determines that the airport is adversely affected by the closure or realignment of a military base, and if the sponsor of the airport certifies that the airport would otherwise close if the airport does not receive the grant". Former subpar. (B) redesignated (A).

Subsec. (e)(1)(C), (D). Pub. L. 104–264, §123(b)(2), struck out subpars. (C) and (D) which read as follows:

"(C) at least 1.5 percent for grants for—

"(i) nonprimary commercial service airports; and

"(ii) public airports (except commercial service airports) that were eligible for United States Government assistance from amounts apportioned under section 15(a)(3) of the Airport and Airway Development Act of 1970, and to which section 15(a)(3)(A)(I) or (II) of the Act applied during the fiscal year that ended September 30, 1981.

"(D) at least .75 percent for integrated airport system planning grants to planning agencies designated by the Secretary and authorized by the laws of a State or political subdivision of a State to do planning for an area of the State or subdivision in which a grant under this chapter is to be used."

Subsec. (e)(1)(E). Pub. L. 104–264, §123(b)(3), redesignated subpar. (E) as (B).

Subsec. (e)(2), (3). Pub. L. 104–264, §123(c), redesignated par. (3) as (2) and struck out former par. (2) which read as follows: "A grant from the amount apportioned under section 47114(e) of this title may not be included as part of the 1.5 percent required to be used for grants under paragraph (1)(C) of this subsection."

Subsec. (g)(1). Pub. L. 104–287, §5(82)(B), substituted "47105(f)" for "47105(e)".

**1994**—Subsec. (e)(1)(A). Pub. L. 103–429, §6(68)(A), substituted "5 percent" for "10 percent".

Subsec. (e)(1)(C). Pub. L. 103–429, §6(68)(B), substituted "1.5 percent" for "2.5 percent" in introductory provisions.

Subsec. (e)(1)(D). Pub. L. 103–429, §6(68)(C), substituted ".75 percent" for ".5 percent".

Subsec. (e)(1)(E). Pub. L. 103–305 substituted ", 1995, and 1996" for ", and 1995".

Subsec. (e)(2). Pub. L. 103–429, §6(68)(D), substituted "1.5 percent" for "2.5 percent".

## 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 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(c), Nov. 20, 1997, 111 Stat. 2215, provided that the amendment made by section 3(c)(1)(B) is effective Oct. 9, 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 AMENDMENTS**

Section 8(2) of Pub. L. 104–287, as amended by Pub. L. 105–102, §3(d)(2)(B), Nov. 20, 1997, 111 Stat. 2215, provided that: "The amendments made by section 5(81)(B), (82)(A), and (83)(A) [amending this section and sections 47115 and 47118 of this title] shall take effect on September 30, 1998."

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.

## **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.

### **§47118. Designating current and former military airports**

(a) GENERAL REQUIREMENTS.—The Secretary of Transportation shall designate current or former military airports for which grants may be made under section 47117(e)(1)(B) of this title. The maximum number of airports bearing such designation at any time is 15. The Secretary may only so designate an airport (other than an airport so designated before August 24, 1994) if—

- (1) the airport is a former military installation closed or realigned under—
  - (A) section 2687 of title 10;
  - (B) section 201 of the Defense Authorization Amendments and Base Closure and Realignment Act (10 U.S.C. 2687 note); or
  - (C) section 2905 of the Defense Base Closure and Realignment Act of 1990 (10 U.S.C. 2687 note);
- (2) the airport is a military installation with both military and civil aircraft operations; or
- (3) the airport is—
  - (A) a former military installation that, at any time after December 31, 1965, was owned and operated by the Department of Defense; and
  - (B) a nonhub primary airport.

(b) SURVEY.—Not later than September 30, 1991, the Secretary shall complete a survey of current and former military airports to identify which airports have the greatest potential to improve the capacity of the national air transportation system. The survey shall identify the capital development needs of those airports to make them part of the system and which of those qualify for grants under section 47104 of this title.

(c) CONSIDERATIONS.—In carrying out this section, the Secretary shall consider only current or former military airports for designation under this section if a grant under section 47117(e)(1)(B) would—

- (1) reduce delays at an airport with more than 20,000 hours of annual delays in commercial passenger aircraft takeoffs and landings;
- (2) enhance airport and air traffic control system capacity in a metropolitan area or reduce current and projected flight delays; or
- (3) preserve or enhance minimum airfield infrastructure facilities at former military airports to support emergency diversionary operations for transoceanic flights in locations—
  - (A) within United States jurisdiction or control; and
  - (B) where there is a demonstrable lack of diversionary airports within the distance or flight-time required by regulations governing transoceanic flights.

(d) GRANTS.—Grants under section 47117(e)(1)(B) of this title may be made for an airport designated under subsection (a) of this section for the 5 fiscal years following the designation, and for subsequent periods, each not to exceed 5 fiscal years, if the Secretary determines that the airport satisfies the designation criteria under subsection (a) at the beginning of each such subsequent period.

(e) TERMINAL BUILDING FACILITIES.—From amounts the Secretary distributes to an airport under section 47115, \$10,000,000 for each of fiscal years 2004 and 2005, and \$7,000,000 for each fiscal year thereafter, is available to the sponsor of a current or former military airport the Secretary designates under this section to construct, improve, or repair a terminal building facility, including terminal gates used for revenue passengers getting on or off aircraft. A gate constructed, improved, or repaired under this subsection—

- (1) may not be leased for more than 10 years; and
- (2) is not subject to majority in interest clauses.

(f) PARKING LOTS, FUEL FARMS, UTILITIES, HANGARS, AND AIR CARGO TERMINALS.—

(1) CONSTRUCTION.—From amounts the Secretary distributes to an airport under section 47115, \$10,000,000 for each of fiscal years 2004 and 2005, and \$7,000,000 for each fiscal year thereafter, is available to the sponsor of a current or former military airport the Secretary designates under this section to construct, improve, or repair airport surface parking lots, fuel farms, utilities, and hangars and air cargo terminals of an area that is 50,000 square feet or less.

(2) REIMBURSEMENT.—Upon approval of the Secretary, the sponsor of a current or former military airport the Secretary designates under this section may use an amount apportioned under section 47114, or made available under section 47115 or 47117(e)(1)(B), to the airport for reimbursement of costs incurred by the airport in fiscal years 2003 and 2004 for construction, improvement, or repair described in paragraph (1).

(g) DESIGNATION OF GENERAL AVIATION AIRPORTS.—Notwithstanding any other provision of this section, 3 of the airports bearing designations under subsection (a) may be general aviation airports that were former military installations closed or realigned under a section referred to in subsection (a)(1).

(h) SAFETY-CRITICAL AIRPORTS.—Notwithstanding any other provision of this chapter, a grant under section 47117(e)(1)(B) may be made for a federally owned airport designated under subsection (a) if the grant is for a project that is—

- (1) to preserve or enhance minimum airfield infrastructure facilities described in subsection (c)(3); and
- (2) necessary to meet the minimum safety and emergency operational requirements established under part 139 of title 14, Code of Federal Regulations.

(Pub. L. 103–272, §1(e), July 5, 1994, 108 Stat. 1273; Pub. L. 103–305, title I, §116(b)–(d), Aug. 23, 1994, 108 Stat. 1579; Pub. L. 104–264, title I, §124(a)–(c), Oct. 9, 1996, 110 Stat. 3219, 3220; Pub. L. 104–287, §5(83), Oct. 11, 1996, 110 Stat. 3397; Pub. L. 106–181, title I, §130, Apr. 5, 2000, 114 Stat. 78; Pub. L. 108–176, title I, §153, Dec. 12, 2003, 117 Stat. 2507; Pub. L. 112–95, title I, §146, Feb. 14, 2012, 126 Stat. 30; Pub. L. 115–254, div. B, title I, §137, 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>
47118(a)	49 App.:2207(f)(1).	Sept. 3, 1982, Pub. L. 97–248, 96 Stat. 324, §508(f)(1); added Nov. 5, 1990, Pub. L. 101–508, §9109(c), 104 Stat. 1388–356; Oct. 31, 1992, Pub. L. 102–581, §107(b), 106 Stat. 4878.
47118(b)	49 App.:2207(f)(2).	Sept. 3, 1982, Pub. L. 97–248, 96 Stat. 324, §508(f)(2)–(5); added Nov. 5, 1990, Pub. L. 101–508, §9109(c), 104 Stat. 1388–356.
47118(c)	49 App.:2207(f)(3).	
47118(d)	49 App.:2207(f)(4).	
47118(e)	49 App.:2207(f)(5).	
47118(f)	49 App.:2207(f)(6).	Sept. 3, 1982, Pub. L. 97–248, 96 Stat. 324, §508(f)(6); added Oct. 31, 1992, Pub. L. 102–581, §107(c)(1), 106 Stat. 4878.

In subsection (d), the word "Grants" is substituted for "to participate in the program", and the word "grants" is substituted for "participation in the program", for clarity and consistency and to eliminate unnecessary words.

In subsection (e), before clause (1), the words "at the discretion" and "with Federal funding" are omitted as surplus.

**PUB. L. 104-287, §5(83)(A)**

This sets out the date of enactment of 49:47118(a) (last sentence).

**PUB. L. 104-287, §5(83)(B)**

This makes a clarifying amendment to 49:47118(e) because 49:47109(c) was struck by section 114(b) of the Federal Aviation Administration Authorization Act of 1994 (Public Law 103-305, 108 Stat. 1579).

**EDITORIAL NOTES****REFERENCES IN TEXT**

Section 201 of the Defense Authorization Amendments and Base Closure and Realignment Act, referred to in subsec. (a)(1)(B), is section 201 of Pub. L. 100-526, which is set out in a note under section 2687 of Title 10, Armed Forces.

Section 2905 of the Defense Base Closure and Realignment Act of 1990, referred to in subsec. (a)(1)(C), is section 2905 of Pub. L. 101-510, which is set out in a note under section 2687 of Title 10.

**AMENDMENTS**

**2018**—Subsec. (a)(3). Pub. L. 115-254 added par. (3).

**2012**—Subsec. (c)(3). Pub. L. 112-95, §146(a), added par. (3).

Subsec. (g). Pub. L. 112-95, §146(b), substituted "Airports" for "Airport" in heading and "3 of the airports bearing designations under subsection (a) may be general aviation airports that were former military installations" for "one of the airports bearing a designation under subsection (a) may be a general aviation airport that was a former military installation" in text.

Subsec. (h). Pub. L. 112-95, §146(c), added subsec. (h).

**2003**—Subsec. (e). Pub. L. 108-176, §153(1), substituted "From amounts the Secretary distributes to an airport under section 47115, \$10,000,000 for each of fiscal years 2004 and 2005, and \$7,000,000 for each fiscal year thereafter, is available" for "Not more than \$7,000,000 for each airport from amounts the Secretary distributes under section 47115 of this title for a fiscal year is available" in introductory provisions.

Subsec. (f). Pub. L. 108-176, §153(2), (3), inserted par. (1) designation and heading, substituted "From amounts the Secretary distributes to an airport under section 47115, \$10,000,000 for each of fiscal years 2004 and 2005, and \$7,000,000 for each fiscal year thereafter, is available" for "Not more than a total of \$7,000,000 for each airport from amounts the Secretary distributes under section 47115 of this title for fiscal years beginning after September 30, 1992, is available", and added par. (2).

**2000**—Subsec. (a). Pub. L. 106-181, §130(a)(1)(A), substituted "15" for "12" in introductory provisions.

Subsec. (a)(2). Pub. L. 106-181, §130(a)(1)(B), added par. (2) and struck out former par. (2) which read as follows: "the Secretary finds that such grants would—

"(A) reduce delays at an airport with more than 20,000 hours of annual delays in commercial passenger aircraft takeoffs and landings; or

"(B) enhance airport and air traffic control system capacity in a metropolitan area or reduce current and projected flight delays."

Subsec. (c). Pub. L. 106-181, §130(a)(2), added subsec. (c) and struck out heading and text of former subsec. (c). Text read as follows: "In carrying out this section, the Secretary shall consider only current or former military airports that, when at least partly converted to civilian commercial or reliever airports as part of the national air transportation system, will enhance airport and air traffic control system capacity in major metropolitan areas and reduce current and projected flight delays."

Subsec. (d). Pub. L. 106-181, §130(a)(3), substituted "47117(e)(1)(B)" for "47117(e)(1)(E)", "periods, each not to exceed 5 fiscal years," for "5-fiscal-year periods", and "each such subsequent period" for "each such subsequent 5-fiscal-year period".

Subsec. (e). Pub. L. 106-181, §130(b), substituted "\$7,000,000" for "\$5,000,000".

Subsec. (f). Pub. L. 106-181, §130(c), in heading, substituted "Hangars, and Air Cargo Terminals" for "and Hangars" and, in text, substituted "\$7,000,000" for "\$4,000,000" and inserted "and air cargo terminals of an area that is 50,000 square feet or less" before period at end.

Subsec. (g). Pub. L. 106-181, §130(a)(4), added subsec. (g).

**1996**—Subsec. (a). Pub. L. 104-287, §5(83)(A), which directed amendment of subsec. (a) by substituting "before August 24, 1994" for "on or before the date of the enactment of this sentence", could not be executed because the phrase to be amended did not appear subsequent to amendment by Pub. L. 104-264, §124(a). See below.

Pub. L. 104-264, §124(a), amended subsec. (a) generally. Prior to amendment, subsec. (a) read as follows:



"(a) GENERAL REQUIREMENTS.—The Secretary of Transportation shall designate not more than 15 current or former military airports for which grants may be made under section 47117(e)(1)(E) of this title. The Secretary may only designate an airport for such grants (other than an airport designated for such grants on or before the date of the enactment of this sentence) if the Secretary finds that grants under such section for projects at such airport would reduce delays at an airport with more than 20,000 hours of annual delays in commercial passenger aircraft takeoffs and landings."

Subsec. (d). Pub. L. 104–264, §124(b), substituted "designation, and for subsequent 5-fiscal-year periods if the Secretary determines that the airport satisfies the designation criteria under subsection (a) at the beginning of each such subsequent 5-fiscal-year period." for "designation."

Subsec. (e). Pub. L. 104–287, §5(83)(B), substituted "Not" for "Notwithstanding section 47109(c) of this title, not".

Subsec. (f). Pub. L. 104–264, §124(c), amended subsec. (f) by substituting "Utilities, and Hangars" for "and Utilities" in heading and "for fiscal years beginning after September 30, 1992," for "for the fiscal years ending September 30, 1993–1996," and "utilities, and hangars" for "and utilities" in text.

1994—Subsec. (a). Pub. L. 103–305, §116(b), substituted "15" for "12" and inserted at end "The Secretary may only designate an airport for such grants (other than an airport designated for such grants on or before the date of the enactment of this sentence) if the Secretary finds that grants under such section for projects at such airport would reduce delays at an airport with more than 20,000 hours of annual delays in commercial passenger aircraft takeoffs and landings."

Subsec. (d). Pub. L. 103–305, §116(c), struck out at end "If an airport does not have a level of passengers getting on aircraft during that 5-year period that qualifies the airport as a small hub airport (as defined on January 1, 1990) or reliever airport, the Secretary may redesignate the airport for grants for additional fiscal years that the Secretary decides."

Subsec. (f). Pub. L. 103–305, §116(d), substituted "September 30, 1993–1996" for "September 30, 1993–1995".

#### 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 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 AMENDMENTS

Amendment by section 5(83)(A) of Pub. L. 104–287 effective Sept. 30, 1998, see section 8(2) of Pub. L. 104–287, as amended, set out as a note under section 47117 of this title.

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.

### §47119. Terminal development costs

(a) TERMINAL DEVELOPMENT PROJECTS.—

(1) IN GENERAL.—The Secretary of Transportation may approve a project for terminal development (including multimodal terminal development) in a nonrevenue-producing public-use area of a commercial service airport—

- (A) if the sponsor certifies that the airport, on the date the grant application is submitted to the Secretary, has—
- (i) all the safety equipment required for certification of the airport under section 44706;
  - (ii) all the security equipment required by regulation; and
  - (iii) provided for access by passengers to the area of the airport for boarding or exiting aircraft that are not air carrier aircraft;

(B) if the cost is directly related to—

- (i) moving passengers and baggage in air commerce within the airport, including vehicles for moving passengers between terminal facilities and between terminal facilities and aircraft; or
- (ii) installing security cameras in the public area of the interior and exterior of the terminal; and

(C) under terms necessary to protect the interests of the Government.

(2) **PROJECT IN REVENUE-PRODUCING AREAS AND NONREVENUE-PRODUCING PARKING LOTS.**—In making a decision under paragraph (1), the Secretary may approve as allowable costs the expenses of terminal development in a revenue-producing area and construction, reconstruction, repair, and improvement in a nonrevenue-producing parking lot if—

(A) except as provided in section 47108(e)(3), the airport does not have more than .05 percent of the total annual passenger boardings in the United States; and

(B) the sponsor certifies that any needed airport development project affecting safety, security, or capacity will not be deferred because of the Secretary's approval.

(3) **LACTATION AREAS.**—In addition to the projects described in paragraph (1), the Secretary may approve a project for terminal development for the construction or installation of a lactation area (as defined in section 47107(w)) at a commercial service airport.

(b) **REPAYING BORROWED MONEY.**—

(1) **TERMINAL DEVELOPMENT COSTS INCURRED AFTER JUNE 30, 1970, AND BEFORE JULY 12, 1976.**—An amount apportioned under section 47114 and made available to the sponsor of a commercial service airport at which terminal development was carried out after June 30, 1970, and before July 12, 1976, is available to repay immediately money borrowed and used to pay the costs for such terminal development if those costs would be allowable project costs under section 47110(d) if they had been incurred after September 3, 1982.

(2) **TERMINAL DEVELOPMENT COSTS INCURRED BETWEEN JANUARY 1, 1992, AND OCTOBER 31, 1992.**—An amount apportioned under section 47114 and made available to the sponsor of a nonhub airport at which terminal development was carried out between January 1, 1992, and October 31, 1992, is available to repay immediately money borrowed and to pay the costs for such terminal development if those costs would be allowable project costs under section 47110(d).

(3) **TERMINAL DEVELOPMENT COSTS AT PRIMARY AIRPORTS.**—An amount apportioned under section 47114 or available under subsection (b)(3) to a primary airport—

(A) that was a nonhub airport in the most recent year used to calculate apportionments under section 47114;

(B) that is a designated airport under section 47118 in fiscal year 2003; and

(C) at which terminal development is carried out between January 2003 and August 2004,

is available to repay immediately money borrowed and used to pay the costs for such terminal development if those costs would be allowable project costs under subsection (a).

(4) **CONDITIONS FOR GRANT.**—An amount is available for a grant under this subsection only if—

(A) the sponsor submits the certification required under subsection (a);

(B) the Secretary decides that using the amount to repay the borrowed money will not defer an airport development project outside the terminal area at that airport; and

(C) amounts available for airport development under this subchapter will not be used for additional terminal development projects at the airport for at least 1 year beginning on the date the grant is used to repay the borrowed money.

(5) **APPLICABILITY OF CERTAIN LIMITATIONS.**—A grant under this subsection shall be subject to the limitations in subsections (c)(1) and (c)(2).

(c) **AVAILABILITY OF AMOUNTS.**—In a fiscal year, the Secretary may make available—

(1) to a sponsor of a primary airport, any part of amounts apportioned to the sponsor for the fiscal year under section 47114(c)(1) of this title to pay project costs allowable under subsection (a);

(2) on approval of the Secretary, not more than \$200,000 of the amount that may be distributed for the fiscal year from the discretionary fund established under section 47115 of this title—

(A) to a sponsor of a nonprimary commercial service airport to pay project costs allowable under subsection (a); and

(B) to a sponsor of a reliever airport for the types of project costs allowable under subsection (a), including project costs allowable for a commercial service airport that each year does not have more than .05 percent of the total boardings in the United States;

(3) for use by a primary airport that each year does not have more than .05 percent of the total boardings in the United States, any part of amounts that may be distributed for the fiscal year from the discretionary fund and small airport fund to pay project costs allowable under subsection (a);

(4) not more than \$25,000,000 to pay project costs allowable for the fiscal year under subsection (a) for projects at commercial service airports that were not eligible for assistance for terminal development during the fiscal year ending September 30, 1980, under section 20(b) of the Airport and Airway Development Act of 1970; or

(5) to a sponsor of a nonprimary airport, any part of amounts apportioned to the sponsor for the fiscal year under section 47114(d)(3)(A) for project costs allowable under subsection (a).

(d) **NONHUB AIRPORTS.**—With respect to a project at a commercial service airport which annually has less than 0.05 percent of the total enplanements in the United States, the Secretary may approve the use of the amounts described in subsection (a) notwithstanding the requirements of sections 47107(a)(17), 47112, and 47113.

(e) **DETERMINATION OF PASSENGER BOARDING AT COMMERCIAL SERVICE AIRPORTS.**—For the purpose of determining whether an amount may be distributed for a fiscal year from the discretionary fund in accordance with subsection (b)(2)(A) to a commercial service airport, the Secretary shall make the determination of whether or not a public airport is a commercial service airport on the basis of the number of passenger boardings and type of air service at the public airport in the calendar year that includes the first day of such fiscal year or the preceding calendar year, whichever is more beneficial to the airport.

(f) **Limitation on Discretionary Funds.**—The Secretary may distribute not more than \$20,000,000 from the discretionary fund established under section 47115 for terminal development projects at a nonhub airport or a small hub airport that is eligible to receive discretionary funds under section 47108(e)(3).

(Pub. L. 103–272, §1(e), July 5, 1994, 108 Stat. 1274; Pub. L. 103–305, title I, §117, Aug. 23, 1994, 108 Stat. 1579; Pub. L. 103–429, §6(69), Oct. 31, 1994, 108 Stat. 4387; Pub. L. 106–181, title I, §152(b), Apr. 5, 2000, 114 Stat. 87; Pub. L. 108–176, title I, §§149(d), 166, Dec. 12, 2003, 117 Stat. 2505, 2514; Pub. L. 112–95, title I, §152(b), Feb. 14, 2012, 126 Stat. 33; Pub. L. 115–254, div. B, title I, §§132(b), 138, Oct. 5, 2018, 132 Stat. 3206, 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>
47119(a)	49 App.:2212(b)(4).	Sept. 3, 1982, Pub. L. 97–248, §513(b)(4), 96 Stat. 690; Dec. 30, 1987, Pub. L. 100–223, §106(b)(5)(B), 101 Stat. 1498.
47119(b)	49 App.:2212(b)(2).	Sept. 3, 1982, Pub. L. 97–248, §513(b)(2), 96 Stat. 690; Dec. 30, 1987, Pub. L. 100–223, §§106(b)(5)(A), 111(a)(1), 101 Stat. 1498, 1503.
	49 App.:2212(b)(3).	Sept. 3, 1982, Pub. L. 97–248, §513(b)(3), 96 Stat. 690.

In subsection (a), before clause (1), the words "(within the meaning of section 11(1) of the Airport and Airway Development Act of 1970 [49 App. U.S.C. 1711(1)] as in effect immediately before September 3, 1982)" are omitted because of the definition of "air carrier airport" in section 47102 of the revised title. The words "after June 30, 1970" are substituted for "on or after July 1, 1970" for consistency in the revised title and with other titles of the United States Code and to eliminate unnecessary words. The words "to repay immediately money borrowed and used to pay the costs for terminal development at the airport, if those costs would be allowable project costs under section 47110(d) of this title" are substituted for "for the immediate retirement of the principal of bonds or other evidences of indebtedness the proceeds of which were used for that part of the terminal development at such airport the cost of which would be allowable under paragraph (1) of this subsection" for clarity and to eliminate unnecessary words.

In subsection (b), before clause (1), the words "In a fiscal year" are added for clarity. In clause (2), the words "from the discretionary fund" are substituted for "sums to be distributed at the discretion of the Secretary under section 2206(c) of this Appendix" for clarity and consistency in this chapter. In clause (3), the words "for projects" are added for clarity.

PUB. L. 103–429

<i>Revised Section</i>	<i>Source (U.S. Code)</i>	<i>Source (Statutes at Large)</i>
47119(b)	49 App.:2212(b)(2).	Sept. 3, 1982, Pub. L. 97–248, §513(b)(2), as amended May 26, 1994, Pub. L. 103–260, §107, 108 Stat. 700.

In subsection (b)(3), the words "from the discretionary fund and small airport fund" are substituted for "sums to be distributed at the discretion of the Secretary under section 2206(c) and 2206(d) of this Appendix" for clarity and consistency in this chapter.

EDITORIAL NOTES

## REFERENCES IN TEXT

Section 20(b) of the Airport and Airway Development Act of 1970, referred to in subsec. (c)(4), is section 20(b) of Pub. L. 91–258, which was classified to section 1720(b) of former Title 49, Transportation, prior to repeal by Pub. L. 97–248, title V, §523(a), Sept. 3, 1982, 96 Stat. 695.

## AMENDMENTS

**2018**—Subsec. (a)(1)(B). Pub. L. 115–254, §138, substituted "directly related to—" for "directly related to", inserted cl. (i) designation before "moving passengers and", substituted "; or" for "; and", and added cl. (ii). Amendments were executed to this section to reflect the probable intent of Congress, notwithstanding directory language amending section 47119(a)(1)(B), without specifying the Code title to be amended.

Subsec. (a)(3). Pub. L. 115–254, §132(b), added par. (3).

**2012**—Subsec. (a). Pub. L. 112–95, §152(b)(2), added subsec. (a). Former subsec. (a) redesignated (b).

Subsec. (b). Pub. L. 112–95, §152(b)(1), redesignated subsec. (a) as (b). Former subsec. (b) redesignated (c).

Subsec. (b)(3), (4)(A). Pub. L. 112–95, §152(b)(4), substituted "subsection (a)" for "section 47110(d)".

Subsec. (b)(4)(B). Pub. L. 112–95, §152(b)(3), substituted "Secretary" for "Secretary of Transportation".

Subsec. (b)(5). Pub. L. 112–95, §152(b)(5), substituted "subsections (c)(1) and (c)(2)" for "subsection (b)(1) and (2)".

Subsec. (c). Pub. L. 112–95, §152(b)(1), redesignated subsec. (b) as (c). Former subsec. (c) redesignated (d).

Subsec. (c)(1), (2)(A). Pub. L. 112–95, §152(b)(6), substituted "subsection (a)" for "section 47110(d) of this title".

Subsec. (c)(2)(B). Pub. L. 112–95, §152(b)(7), substituted "subsection (a)" for "section 47110(d)".

Subsec. (c)(3), (4). Pub. L. 112–95, §152(b)(6), substituted "subsection (a)" for "section 47110(d) of this title".

Subsec. (c)(5). Pub. L. 112–95, §152(b)(7), substituted "subsection (a)" for "section 47110(d)".

Subsecs. (d), (e). Pub. L. 112–95, §152(b)(1), redesignated subsecs. (c) and (d) as (d) and (e), respectively.

Subsec. (f). Pub. L. 112–95, §152(b)(8), added subsec. (f).

**2003**—Subsec. (a). Pub. L. 108–176, §166, amended heading and text of subsec. (a) generally. Prior to amendment, text read as follows: "An amount apportioned under section 47114 of this title and made available to the sponsor of an air carrier airport at which terminal development was carried out after June 30, 1970, and before July 12, 1976, or, in the case of a commercial service airport which annually had less than 0.05 percent of the total enplanements in the United States, between January 1, 1992, and October 31, 1992, is available to repay immediately money borrowed and used to pay the costs for terminal development at the airport, if those costs would be allowable project costs under section 47110(d) of this title if they had been incurred after September 3, 1982. An amount is available for a grant under this subsection—

"(1) only if—

"(A) the sponsor submits the certification required under section 47110(d) of this title;

"(B) the Secretary of Transportation decides that using the amount to repay the borrowed money will not defer an airport development project outside the terminal area at that airport; and

"(C) amounts available for airport development under this subchapter will not be used for additional terminal development projects at the airport for at least 3 years beginning on the date the grant is used to repay the borrowed money; and

"(2) subject to the limitations in subsection (b)(1) and (2) of this section."

Subsec. (b)(5). Pub. L. 108–176, §149(d), added par. (5).

**2000**—Subsec. (d). Pub. L. 106–181 added subsec. (d).

**1994**—Subsec. (a). Pub. L. 103–305, §117(1), inserted "or, in the case of a commercial service airport which annually had less than 0.05 percent of the total enplanements in the United States, between January 1, 1992, and October 31, 1992," after "July 12, 1976,".

Subsec. (b)(2). Pub. L. 103–429, §6(69)(B), added par. (2) and struck out former par. (2) which read as follows: "to a sponsor of a nonprimary commercial service airport, not more than \$200,000 of the amount that may be distributed for the fiscal year from the discretionary fund to pay project costs allowable under section 47110(d) of this title; or".

Subsec. (b)(3). Pub. L. 103–429, §6(69)(B), added par. (3). Former par. (3) redesignated (4).

Subsec. (b)(4). Pub. L. 103–429, §6(69)(A), redesignated par. (3) as (4).

Subsec. (c). Pub. L. 103–305, §117(2), added subsec. (c).

**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 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.

**§47120. Grant priority**

(a) IN GENERAL.—In making a grant under this subchapter, the Secretary of Transportation may give priority to a project that is consistent with an integrated airport system plan.

(b) DISCRETIONARY FUNDING TO BE USED FOR HIGHER PRIORITY PROJECTS.—The Administrator of the Federal Aviation Administration shall discourage airport sponsors and airports from using entitlement funds for lower priority projects by giving lower priority to discretionary projects submitted by airport sponsors and airports that have used entitlement funds for projects that have a lower priority than the projects for which discretionary funds are being requested.

(Pub. L. 103–272, §1(e), July 5, 1994, 108 Stat. 1274; Pub. L. 106–181, title I, §162, Apr. 5, 2000, 114 Stat. 91.)

## HISTORICAL AND REVISION NOTES

<i>Revised Section</i>	<i>Source (U.S. Code)</i>	<i>Source (Statutes at Large)</i>
47120	49 App.:2208(b)(9).	Sept. 3, 1982, Pub. L. 97–248, §509(b)(9), 96 Stat. 685.

The words "In making a grant under this subchapter" are substituted for "In establishing priorities for distribution of funds available pursuant to section 2206 of this Appendix" for consistency in this chapter and to eliminate unnecessary words.

**EDITORIAL NOTES****AMENDMENTS**

**2000**—Pub. L. 106–181 designated existing provisions as subsec. (a), inserted heading, and added subsec. (b).

**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.

**§47121. Records and audits**

(a) RECORDS.—A sponsor shall keep the records the Secretary of Transportation requires. The Secretary may require records—

(1) that disclose—

- (A) the amount and disposition by the sponsor of the proceeds of the grant;
- (B) the total cost of the plan or program for which the grant is given or used; and
- (C) the amounts and kinds of costs of the plan or program provided by other sources; and

(2) that make it easier to carry out an audit.

(b) AUDITS AND EXAMINATIONS.—The Secretary and the Comptroller General may audit and examine records of a sponsor that are related to a grant made under this subchapter.

(c) **AUTHORITY OF COMPTROLLER GENERAL.**—When an independent audit is made of the accounts of a sponsor under this subchapter related to the disposition of the proceeds of the grant or related to the plan or program for which the grant was given or used, the sponsor shall submit a certified copy of the audit to the Secretary not more than 6 months after the end of the fiscal year for which the audit was made. The Comptroller General may report to Congress describing the results of each audit conducted or reviewed by the Comptroller General under this section during the prior fiscal year.

(d) **AUDIT REQUIREMENT.**—The Secretary may require a sponsor to conduct an appropriate audit as a condition for receiving a grant under this subchapter.

(e) **ANNUAL REVIEW.**—The Secretary shall review annually the recordkeeping and reporting requirements under this subchapter to ensure that they are the minimum necessary to carry out this subchapter.

(f) **WITHHOLDING INFORMATION FROM CONGRESS.**—This section does not authorize the Secretary or the Comptroller General to withhold information from a committee of Congress authorized to have the information.

(Pub. L. 103–272, §1(e), July 5, 1994, 108 Stat. 1274; Pub. L. 104–316, title I, §127(f), Oct. 19, 1996, 110 Stat. 3840.)

#### HISTORICAL AND REVISION NOTES

<i>Revised Section</i>	<i>Source (U.S. Code)</i>	<i>Source (Statutes at Large)</i>
47121(a)	49 App.:2217(a) (1st sentence).	Sept. 3, 1982, Pub. L. 97–248, §518, 96 Stat. 693.
47121(b)	49 App.:2217(b) (1st sentence).	
47121(c)	49 App.:2217(c).	
47121(d)	49 App.:2217(b) (last sentence).	
47121(e)	49 App.:2217(a) (last sentence).	
47121(f)	49 App.:2217(d).	

In subsections (a)–(d), the word "sponsor" is substituted for "recipient of a grant under this chapter" and "recipient" for clarity.

In subsection (a), before clause (1), the words "The Secretary may require records" are substituted for "including records" for clarity. In clause (1), before subclause (A), the word "fully" is omitted as surplus.

In subsection (b), the words "or any of their duly authorized representatives" are omitted as surplus because of 49:322(b) and 31:711. The words "may audit and examine" are substituted for "shall have access for the purpose of audit and examination" to eliminate unnecessary words. The words "books, documents, papers" are omitted as being included in "records".

In subsection (e), the words "minimum necessary to carry out" are substituted for "that such requirements are kept to the minimum level necessary for the proper administration of" to eliminate unnecessary words.

In subsection (f), the words "or any officer or employee under the control of either of them" are omitted as surplus because of 49:322(b) and 31:711.

#### EDITORIAL NOTES

#### AMENDMENTS

**1996**—Subsec. (c). Pub. L. 104–316, in first sentence, substituted "Secretary" for "Comptroller General", in second sentence, substituted "The Comptroller General may" for "Not later than April 15 of each year, the Comptroller General shall", and struck out at end "The Comptroller General shall prescribe regulations necessary to carry out this subsection."

### §47122. Administrative

(a) **GENERAL.**—The Secretary of Transportation may take action the Secretary considers necessary to carry out this subchapter, including conducting investigations and public hearings, prescribing regulations and procedures, and issuing orders.

(b) **CONDUCTING INVESTIGATIONS AND PUBLIC HEARINGS.**—In conducting an investigation or public hearing under this subchapter, the Secretary has the same authority the Secretary has under section 46104 of this title. An action of the Secretary in exercising that authority is governed by the procedures specified in section 46104 and shall be enforced as provided in section 46104.

(Pub. L. 103–272, §1(e), July 5, 1994, 108 Stat. 1275.)

#### HISTORICAL AND REVISION NOTES

<i>Revised Section</i>	<i>Source (U.S. Code)</i>	<i>Source (Statutes at Large)</i>
47122(a)	49 App.:2218(a).	Sept. 3, 1982, Pub. L. 97–248, §519(a), 96 Stat. 694; Dec. 30, 1987, Pub. L. 100–223, §112(1), 101 Stat. 1504.
47122(b)	49 App.:1354(c) (related to Airport and Airway Improvement Act of 1982).	Aug. 23, 1958, Pub. L. 85–726, §313(c) (related to Airport and Airway Improvement Act of 1982), 72 Stat. 753; Sept. 3, 1982, Pub. L. 97–248, §524(a)(2), 96 Stat. 696.

Subsection (a) is substituted for 49 App.:2218(a) to eliminate unnecessary words.

## §47123. Nondiscrimination

(a) IN GENERAL.—The Secretary of Transportation shall take affirmative action to ensure that an individual is not excluded because of race, creed, color, national origin, or sex from participating in an activity carried out with money received under a grant under this subchapter. The Secretary shall prescribe regulations necessary to carry out this section. The regulations shall be similar to those in effect under title VI of the Civil Rights Act of 1964 (42 U.S.C. 2000d et seq.). This section is in addition to title VI of the Act.

(b) INDIAN EMPLOYMENT.—

(1) TRIBAL SPONSOR PREFERENCE.—Consistent with section 703(i) of the Civil Rights Act of 1964 (42 U.S.C. 2000e–2(i)), nothing in this section shall preclude the preferential employment of Indians living on or near a reservation on a project or contract at—

- (A) an airport sponsored by an Indian tribal government; or
- (B) an airport located on an Indian reservation.

(2) STATE PREFERENCE.—A State may implement a preference for employment of Indians on a project carried out under this subchapter near an Indian reservation.

(3) IMPLEMENTATION.—The Secretary shall consult with Indian tribal governments and cooperate with the States to implement this subsection.

(4) INDIAN TRIBAL GOVERNMENT DEFINED.—In this section, the term "Indian tribal government" has the same meaning given that term in section 102 of the Robert T. Stafford Disaster Relief and Emergency Assistance Act (42 U.S.C. 5122).

(Pub. L. 103–272, §1(e), July 5, 1994, 108 Stat. 1275; Pub. L. 115–254, div. B, title I, §153, Oct. 5, 2018, 132 Stat. 3216.)

### HISTORICAL AND REVISION NOTES

<i>Revised Section</i>	<i>Source (U.S. Code)</i>	<i>Source (Statutes at Large)</i>
47123	49 App.:2219.	Sept. 3, 1982, Pub. L. 97–248, §520, 96 Stat. 694.

The words "as the Secretary deems" and "the purposes of" are omitted as surplus. The words "The regulations shall be similar to those in effect under" are substituted for "and may enforce this section, and any rules promulgated under this section, through agency and department provisions and rules which shall be similar to those established and in effect under" for clarity and to eliminate unnecessary words and because "rules" and "regulations" are synonymous. The words "The provisions of . . . and not in lieu of the provisions of" are omitted as surplus. The word "is" is substituted for "shall be considered to be" to eliminate unnecessary words.

### EDITORIAL NOTES

### REFERENCES IN TEXT

The Civil Rights Act of 1964, referred to in subsec. (a), is Pub. L. 88–352, July 2, 1964, 78 Stat. 241. Title VI of the Act is classified generally to subchapter V (§2000d et seq.) of chapter 21 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 2000a of Title 42 and Tables.

### AMENDMENTS

**2018**—Pub. L. 115–254 designated existing provisions as subsec. (a), inserted heading, and added subsec. (b).

## §47124. Agreements for State and local operation of airport facilities

(a) **GOVERNMENT RELIEF FROM LIABILITY.**—The Secretary of Transportation shall ensure that an agreement under this subchapter with a qualified entity (as determined by the Secretary), State, or a political subdivision of a State to allow the entity, State, or subdivision to operate an airport facility relieves the United States Government from any liability arising out of, or related to, acts or omissions of employees of the entity, State, or subdivision in operating the airport facility.

(b) **AIR TRAFFIC CONTROL CONTRACT PROGRAM.**—

(1) **CONTRACT TOWER PROGRAM.**—

(A) **CONTINUATION.**—The Secretary shall continue the low activity (Visual Flight Rules) level I air traffic control tower contract program established under subsection (a) of this section for towers existing on December 30, 1987, and extend the program to other towers as practicable.

(B) **SPECIAL RULE.**—If the Secretary determines that a tower already operating under the Contract Tower Program has a benefit-to-cost ratio of less than 1.0, the airport sponsor or State or local government having jurisdiction over the airport shall not be required to pay the portion of the costs that exceeds the benefit—

(i) for the 1-year period after such determination is made; or

(ii) if an appeal of such determination is requested, for the 1-year period described in subsection (d)(4)(D)..<sup>1</sup>

(C) **USE OF EXCESS FUNDS.**—If the Secretary finds that all or part of an amount made available to carry out the program continued under this paragraph is not required during a fiscal year, the Secretary may use, during such fiscal year, the amount not so required to carry out the Cost-share Program.

(2) **GENERAL AUTHORITY.**—The Secretary may make a contract with a qualified entity (as determined by the Secretary) or, on a sole source basis, with a State or a political subdivision of a State to allow the entity, State, or subdivision to operate an airport traffic control tower classified as a level I (Visual Flight Rules) tower if the Secretary decides that the entity, State, or subdivision has the capability to comply with the requirements of this paragraph. The contract shall require that the entity, State, or subdivision comply with applicable safety regulations in operating the facility and with applicable competition requirements in making a subcontract to perform work to carry out the contract.

(3) **COST-SHARE PROGRAM.**—

(A) **IN GENERAL.**—The Secretary shall establish a program to contract for air traffic control services at nonapproach control towers, as defined by the Secretary, that do not qualify for the Contract Tower Program.

(B) **PROGRAM COMPONENTS.**—In carrying out the Cost-share Program, the Secretary shall—

(i) utilize for purposes of cost-benefit analyses, current, actual, site-specific data, forecast estimates, or airport master plan data provided by a facility owner or operator and verified by the Secretary; and

(ii) approve for participation only facilities willing to fund a pro rata share of the operating costs of the air traffic control tower to achieve a 1-to-1 benefit-to-cost ratio using actual site-specific contract tower operating costs in any case in which there is an operating air traffic control tower, as required for eligibility under the Contract Tower Program.

(C) **PRIORITY.**—In selecting facilities to participate in the Cost-share Program, the Secretary shall give priority to the following facilities:

(i) Air traffic control towers that are participating in the Contract Tower Program but have been notified that they will be terminated from such program because the Secretary has determined that the benefit-to-cost ratio for their continuation in such program is less than 1.0.

(ii) Air traffic control towers that the Secretary determines have a benefit-to-cost ratio of at least .50.

(iii) Air traffic control towers of the Federal Aviation Administration that are closed as a result of the air traffic controllers strike in 1981.

(iv) Air traffic control towers located at airports or points at which an air carrier is receiving compensation under the essential air service program under this chapter.

(v) Air traffic control towers located at airports that are prepared to assume partial responsibility for maintenance costs.

(vi) Air traffic control towers located at airports with safety or operational problems related to topography, weather, runway configuration, or mix of aircraft.

(vii) Air traffic control towers located at an airport at which the community has been operating the tower at its own expense.

(D) **COSTS EXCEEDING BENEFITS.**—If the costs of operating an air traffic tower under the Cost-share Program exceed the benefits, the airport sponsor or State or local government having jurisdiction over the airport shall pay the portion of the costs that exceed such benefit, with the maximum allowable local cost share capped at 20 percent. Airports with air service provided under part 121 of title 14, Code of Federal Regulations, and more than



25,000 passenger enplanements in calendar year 2014 shall be exempt from any cost-share requirement under this paragraph.

(E) FUNDING.—Of the amounts appropriated pursuant to section 106(k)(1), not more than \$10,350,000 for each of fiscal years 2012 through 2018 may be used to carry out this paragraph.

(F) USE OF EXCESS FUNDS.—If the Secretary finds that all or part of an amount made available under this paragraph is not required during a fiscal year, the Secretary may use, during such fiscal year, the amount not so required to carry out the Contract Tower Program.

(G) BENEFIT-TO-COST CALCULATION.—Not later than 90 days after receiving an application to the Contract Tower Program, the Secretary shall calculate a benefit-to-cost ratio (as described in subsection (d)) for the applicable air traffic control tower for purposes of selecting towers for participation in the Contract Tower Program.

(4) CONSTRUCTION OF AIR TRAFFIC CONTROL TOWERS.—

(A) GRANTS.—The Secretary may provide grants to a sponsor of—

(i) a primary airport—

(I) from amounts made available under sections 47114(c)(1) and 47114(c)(2) for the construction or improvement of a nonapproach control tower, as defined by the Secretary, and for the acquisition and installation of air traffic control, communications, and related equipment to be used in that tower;

(II) from amounts made available under sections 47114(c)(1) and 47114(c)(2) for reimbursement for the cost of construction or improvement of a nonapproach control tower, as defined by the Secretary, incurred after October 1, 1996, if the sponsor complied with the requirements of sections 47107(e), 47112(b), and 47112(c) in constructing or improving that tower; and

(III) from amounts made available under sections 47114(c)(1) and 47114(c)(2) for reimbursement for the cost of acquiring and installing in that tower air traffic control, communications, and related equipment that was acquired or installed after October 1, 1996, including remote air traffic control tower equipment certified by the Federal Aviation Administration; and

(ii) a public-use airport that is not a primary airport—

(I) from amounts made available under sections 47114(c)(2) and 47114(d) for the construction or improvement of a nonapproach control tower, as defined by the Secretary, and for the acquisition and installation of air traffic control, communications, and related equipment to be used in that tower;

(II) from amounts made available under sections 47114(c)(2) and 47114(d)(3)(A) for reimbursement for the cost of construction or improvement of a nonapproach control tower, as defined by the Secretary, incurred after October 1, 1996, if the sponsor complied with the requirements of sections 47107(e), 47112(b), and 47112(c) in constructing or improving that tower; and

(III) from amounts made available under sections 47114(c)(2) and 47114(d)(3)(A) for reimbursement for the cost of acquiring and installing in that tower air traffic control, communications, and related equipment that was acquired or installed after October 1, 1996, including remote air traffic control tower equipment certified by the Federal Aviation Administration.

(B) ELIGIBILITY.—An airport sponsor shall be eligible for a grant under this paragraph only if—

(i) (I) the sponsor is a participant in the Federal Aviation Administration Contract Tower Program or the Cost-share Program; or

(II) construction of a nonapproach control tower would qualify the sponsor to be eligible to participate in such program;

(ii) the sponsor certifies that it will pay not less than 10 percent of the cost of the activities for which the sponsor is receiving assistance under this paragraph;

(iii) the Secretary affirmatively accepts the proposed contract tower into a contract tower program under this section and certifies that the Secretary will seek future appropriations to pay the Federal Aviation Administration's cost of the contract to operate the tower to be constructed under this paragraph;

(iv) the sponsor certifies that it will pay its share of the cost of the contract to operate the tower to be constructed under this paragraph; and

(v) in the case of a tower to be constructed under this paragraph from amounts made available under section 47114(d)(2) or 47114(d)(3)(B), the Secretary certifies that—

(I) the Federal Aviation Administration has consulted the State within the borders of which the tower is to be constructed and the State supports the construction of the tower as part of its State airport capital plan; and

(II) the selection of the tower for funding is based on objective criteria.

(c) SAFETY AUDITS.—The Secretary shall establish uniform standards and requirements for regular safety assessments of air traffic control towers that receive funding under this section.

(d) CRITERIA TO EVALUATE PARTICIPANTS.—

(1) TIMING OF EVALUATIONS.—

(A) TOWERS PARTICIPATING IN COST-SHARE PROGRAM.—In the case of an air traffic control tower that is operated under the Cost-share Program, the Secretary shall annually calculate a benefit-to-cost ratio with respect to the tower.

(B) TOWERS PARTICIPATING IN CONTRACT TOWER PROGRAM.—In the case of an air traffic control tower that is operated under the Contract Tower Program, the Secretary shall not calculate a benefit-to-cost ratio after the date of enactment of this subsection with respect to the tower unless the Secretary determines that the annual aircraft traffic at the airport where the tower is located has decreased—

- (i) by more than 25 percent from the previous year; or
- (ii) by more than 55 percent cumulatively in the preceding 3-year period.

(2) COSTS TO BE CONSIDERED.—In establishing a benefit-to-cost ratio under this section with respect to an air traffic control tower, the Secretary shall consider only the following costs:

- (A) The Federal Aviation Administration's actual cost of wages and benefits of personnel working at the tower.
- (B) The Federal Aviation Administration's actual telecommunications costs directly associated with the tower.
- (C) The Federal Aviation Administration's costs of purchasing and installing any air traffic control equipment that would not have been purchased or installed except as a result of the operation of the tower.
- (D) The Federal Aviation Administration's actual travel costs associated with maintaining air traffic control equipment that is owned by the Administration and would not be maintained except as a result of the operation of the tower.
- (E) Other actual costs of the Federal Aviation Administration directly associated with the tower that would not be incurred except as a result of the operation of the tower (excluding costs for noncontract tower-related personnel and equipment, even if the personnel or equipment is located in the contract tower building).

(3) OTHER CRITERIA TO BE CONSIDERED.—In establishing a benefit-to-cost ratio under this section with respect to an air traffic control tower, the Secretary shall add a 10 percentage point margin of error to the benefit-to-cost ratio determination to acknowledge and account for the direct and indirect economic and other benefits that are not included in the criteria the Secretary used in calculating that ratio.

(4) REVIEW OF COST-BENEFIT DETERMINATIONS.—In issuing a benefit-to-cost ratio determination under this section with respect to an air traffic control tower located at an airport, the Secretary shall implement the following procedures:

(A) The Secretary shall provide the airport (or the State or local government having jurisdiction over the airport) at least 90 days following the date of receipt of the determination to submit to the Secretary a request for an appeal of the determination, together with updated or additional data in support of the appeal.

(B) Upon receipt of a request for an appeal submitted pursuant to subparagraph (A), the Secretary shall—

- (i) transmit to the Administrator of the Federal Aviation Administration any updated or additional data submitted in support of the appeal; and
- (ii) provide the Administrator not more than 90 days to review the data and provide a response to the Secretary based on the review.

(C) After receiving a response from the Administrator pursuant to subparagraph (B), the Secretary shall—

- (i) provide the airport, State, or local government that requested the appeal at least 30 days to review the response; and
- (ii) withhold from taking further action in connection with the appeal during that 30-day period.

(D) If, after completion of the appeal procedures with respect to the determination, the Secretary requires the tower to transition into the Cost-share Program, the Secretary shall not require a cost-share payment from the airport, State, or local government for 1 year following the last day of the 30-day period described in subparagraph (C).

(e) DEFINITIONS.—In this section:

(1) CONTRACT TOWER PROGRAM.—The term "Contract Tower Program" means the level I air traffic control tower contract program established under subsection (a) and continued under subsection (b)(1).

(2) COST-SHARE PROGRAM.—The term "Cost-share Program" means the cost-share program established under subsection (b)(3).

(Pub. L. 103–272, §1(e), July 5, 1994, 108 Stat. 1276; Pub. L. 106–181, title I, §131, Apr. 5, 2000, 114 Stat. 78; Pub. L. 108–7, div. I, title III, §370(b)(1), (2), Feb. 20, 2003, 117 Stat. 425, 426; Pub. L. 108–176, title I, §105, Dec. 12, 2003, 117 Stat. 2498; Pub. L. 112–55, div. C, title I, §119, Nov. 18, 2011, 125 Stat. 649; Pub. L. 112–95, title I, §147, Feb. 14, 2012, 126 Stat. 30; Pub. L. 113–76, div. L, title I, §118, Jan. 17, 2014, 128 Stat. 581; Pub. L. 113–235, div. K, title I, §118, Dec. 16, 2014, 128 Stat. 2704; Pub. L. 114–55, title I, §102(c), Sept. 30, 2015, 129 Stat. 523; Pub. L. 114–141, title I, §102(c), Mar. 30, 2016, 130 Stat. 323; Pub. L. 114–190, title I, §1102(c), July 15, 2016, 130 Stat. 617; Pub. L. 115–63, title I, §102(d), Sept. 29, 2017, 131 Stat. 1169; Pub. L. 115–141, div. M, title I, §102(c), Mar. 23, 2018, 132 Stat. 1046; Pub. L. 115–254, div. B, title I, §133(a)–(c), Oct. 5, 2018, 132 Stat. 3206–3208.)

#### HISTORICAL AND REVISION NOTES

<i>Revised Section</i>	<i>Source (U.S. Code)</i>	<i>Source (Statutes at Large)</i>
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47124(a)	49 App.:2222.	Sept. 3, 1982, Pub. L. 97–248, §526, 96 Stat. 698.
47124(b)(1)	49 App.:2222 (note).	Dec. 30, 1987, Pub. L. 100–223, §306, 101 Stat. 1526.
47124(b)(2)	49 App.:1344(h).	Aug. 23, 1958, Pub. L. 85–726, 72 Stat. 747, §303(h); added Oct. 31, 1992, Pub. L. 102–581, §201(a), 106 Stat. 4890.

In subsection (a), the words "In the powers granted under section 2218 of this Appendix" and "contract or other" are omitted as surplus. The word "relieves" is substituted for "contain, among others, a provision relieving", and the words "from any liability arising out of, or related to" are substituted for "of any and all liability for the payment of any claim or other obligation arising out of or in connection with", to eliminate unnecessary words.

In subsection (b)(1), the words "in effect" are omitted as surplus. The words "on December 30, 1987" are added for clarity.

In subsection (b)(2), the word "Secretary" is substituted for "Administrator" for consistency in the chapter.

#### EDITORIAL NOTES

#### REFERENCES IN TEXT

The date of enactment of this subsection, referred to in subsec. (d)(1)(B), is the date of enactment of Pub. L. 115–254, which was approved Oct. 5, 2018.

#### AMENDMENTS

**2018**—Subsec. (b)(1)(B). Pub. L. 115–254, §133(a)(1), substituted "under the Contract Tower Program" for "under the program continued under this paragraph" and "exceeds the benefit—" and cls. (i) and (ii) for "exceeds the benefit for a period of 18 months after such determination is made".

Subsec. (b)(1)(C). Pub. L. 115–254, §133(c)(1), substituted "the Cost-share Program" for "the program established under paragraph (3)".

Subsec. (b)(3). Pub. L. 115–254, §133(c)(2)(A), substituted "Cost-share program" for "Contract air traffic control tower program" in heading.

Subsec. (b)(3)(A). Pub. L. 115–254, §133(c)(2)(B), substituted "Contract Tower Program" for "contract tower program established under subsection (a) and continued under paragraph (1) (in this paragraph referred to as the 'Contract Tower Program')".

Subsec. (b)(3)(B). Pub. L. 115–254, §133(c)(2)(C), substituted "In carrying out the Cost-share Program" for "In carrying out the program" in introductory provisions.

Subsec. (b)(3)(C). Pub. L. 115–254, §133(c)(2)(D), substituted "participate in the Cost-share Program" for "participate in the program" in introductory provisions.

Subsec. (b)(3)(D). Pub. L. 115–254, §133(a)(2), substituted "under the Cost-share Program" for "under the program" and inserted at end "Airports with air service provided under part 121 of title 14, Code of Federal Regulations, and more than 25,000 passenger enplanements in calendar year 2014 shall be exempt from any cost-share requirement under this paragraph."

Subsec. (b)(3)(E). Pub. L. 115–141 substituted "2012 through 2018" for "2012 through 2017 and not more than \$5,160,822 for the period beginning on October 1, 2017, and ending on March 31, 2018,".

Subsec. (b)(3)(F). Pub. L. 115–254, §133(c)(2)(E), substituted "the Contract Tower Program" for "the program continued under paragraph (1)".

Subsec. (b)(3)(G). Pub. L. 115–254, §133(a)(4), added subpar. (G).

Subsec. (b)(4)(A)(i)(III), (ii)(III). Pub. L. 115–254, §133(a)(3)(A), inserted ", including remote air traffic control tower equipment certified by the Federal Aviation Administration" after "1996".

Subsec. (b)(4)(B)(i)(I). Pub. L. 115–254, §133(a)(3)(B), substituted "Contract Tower Program or the Cost-share Program" for "contract tower program established under subsection (a) and continued under paragraph (1) or the pilot program established under paragraph (3)".

Subsec. (b)(4)(C). Pub. L. 115–254, §133(a)(3)(C), struck out subpar. (C). Text read as follows: "The Federal share of the cost of construction of a nonapproach control tower under this paragraph may not exceed \$2,000,000."

Subsecs. (d), (e). Pub. L. 115–254, §133(b), added subsecs. (d) and (e).

**2017**—Subsec. (b)(3)(E). Pub. L. 115–63 inserted "and not more than \$5,160,822 for the period beginning on October 1, 2017, and ending on March 31, 2018," after "fiscal years 2012 through 2017".

**2016**—Subsec. (b)(3)(E). Pub. L. 114–190 substituted "fiscal years 2012 through 2017" for "fiscal years 2012 through 2015 and not more than \$8,193,750 for the period beginning on October 1, 2015, and ending on July 15, 2016,".

Pub. L. 114–141 substituted "\$8,193,750 for the period beginning on October 1, 2015, and ending on July 15, 2016," for "\$5,175,000 for the period beginning on October 1, 2015, and ending on March 31, 2016,".

**2015**—Subsec. (b)(3)(E). Pub. L. 114–55 inserted "and not more than \$5,175,000 for the period beginning on October 1, 2015, and ending on March 31, 2016," after "fiscal years 2012 through 2015".

**2014**—Subsec. (b)(3)(D). Pub. L. 113–76 and Pub. L. 113–235, which identically directed substitution of "benefit, with the maximum allowable local cost share capped at 20 percent." for "benefit.", could not be executed because of the prior amendment by Pub. L. 112–55. See 2011 Amendment note below.

**2012**—Subsec. (b)(1). Pub. L. 112–95, §147(a)(1), designated existing provisions as subpar. (A), inserted par. and subpar. headings, and added subpars. (B) and (C).

Subsec. (b)(2). Pub. L. 112–95, §147(a)(2), inserted heading.

Subsec. (b)(3)(E), (F). Pub. L. 112–95, §147(b), added subpars. (E) and (F) and struck out former subpar. (E). Prior to amendment, text of subpar. (E) read as follows: "Of the amounts appropriated pursuant to section 106(k), not more than \$6,500,000 for fiscal 2004, \$7,000,000 for fiscal year 2005, \$7,500,000 for fiscal year 2006, and \$8,000,000 for fiscal year 2007 may be used to carry out this paragraph."

Subsec. (b)(4)(C). Pub. L. 112–95, §147(c), substituted "\$2,000,000" for "\$1,500,000".

Subsec. (c). Pub. L. 112–95, §147(d), added subsec. (c).

**2011**—Subsec. (b)(3)(D). Pub. L. 112–55 substituted "benefit, with the maximum allowable local cost share capped at 20 percent." for "benefit."

**2003**—Subsec. (a). Pub. L. 108–176, §105(1), added subsec. (a) and struck out heading and text of former subsec. (a). Text read as follows: "The Secretary of Transportation shall ensure that an agreement under this subchapter with a State or a political subdivision of a State to allow the State or subdivision to operate an airport facility in the State or subdivision relieves the United States Government from any liability arising out of, or related to, acts or omissions of employees of the State or subdivision in operating the airport facility."

Subsec. (b)(2). Pub. L. 108–176, §105(2), added par. (2) and struck out former par. (2) which read as follows: "The Secretary may make a contract, on a sole source basis, with a State or a political subdivision of a State to allow the State or subdivision to operate an airport traffic control tower classified as a level I (Visual Flight Rules) tower if the Secretary decides that the State or subdivision has the capability to comply with the requirements of this paragraph. The contract shall require that the State or subdivision comply with applicable safety regulations in operating the facility and with applicable competition requirements in making a subcontract to perform work to carry out the contract."

Subsec. (b)(3). Pub. L. 108–176, §105(3)(A), (B), struck out "PILOT" before "PROGRAM" in par. heading, before "program to contract" in subpar. (A), before "program, the Secretary" in subpars. (B) and (C), and before "program exceed" in subpar. (D).

Subsec. (b)(3)(A). Pub. L. 108–7, §370(b)(2)(A), substituted "nonapproach control towers, as defined by the Secretary," for "Level I air traffic control towers, as defined by the Secretary,".

Subsec. (b)(3)(E). Pub. L. 108–176, §105(3)(C), substituted "\$6,500,000 for fiscal 2004, \$7,000,000 for fiscal year 2005, \$7,500,000 for fiscal year 2006, and \$8,000,000 for fiscal year 2007" for "\$6,000,000 per fiscal year".

Pub. L. 108–7, §370(b)(2)(B), substituted "Of" for "Subject to paragraph (4)(D), of".

Subsec. (b)(4). Pub. L. 108–7, §370(b)(1), reenacted heading without change and amended text generally. Prior to amendment, par. authorized the Secretary to provide grants under this subchapter to not more than two airport sponsors for the construction of a low-level activity visual flight rule (level 1) air traffic control tower.

Subsec. (b)(4)(C). Pub. L. 108–176, §105(4), substituted "\$1,500,000" for "\$1,100,000".

**2000**—Subsec. (b)(3), (4). Pub. L. 106–181 added pars. (3) and (4).

## 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 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.

### **SAVINGS PROVISION**

Pub. L. 108–7, div. I, title III, §370(b)(3), Feb. 20, 2003, 117 Stat. 426, provided that: "Notwithstanding the amendments made by this section [amending this section and section 47102 of this title], the towers for which assistance is being provided on the day before the date of enactment of this Act [Feb. 20, 2003] under section 47124(b)(4) of title 49, United States Code, as in effect on such day, may continue to be provided such assistance under the terms of such section."

### **APPROVAL OF CERTAIN APPLICATIONS FOR THE CONTRACT TOWER PROGRAM**

Pub. L. 115–254, div. B, title I, §133(d), Oct. 5, 2018, 132 Stat. 3209, provided that:

"(1) IN GENERAL.—If the Administrator of the Federal Aviation Administration has not implemented a revised cost-benefit methodology for purposes of determining eligibility for the Contract Tower Program before the date that is 30 days after the date of enactment of this Act [Oct. 5, 2018], any airport with an application for participation in the Contract Tower Program pending as of January 1, 2017, shall be approved for participation in the Contract Tower Program if the Administrator determines the tower is eligible under the criteria set forth in the Federal Aviation Administration report entitled 'Establishment and Discontinuance Criteria for Airport Traffic Control Towers', and dated August 1990 (FAA–APO–90–7).

"(2) REQUESTS FOR ADDITIONAL AUTHORITY.—The Administrator shall respond not later than 60 days after the date the Administrator receives a formal request from an airport and air traffic control contractor for additional authority to expand contract tower operational hours and staff to accommodate flight traffic outside of current tower operational hours.

"(3) DEFINITION OF CONTRACT TOWER PROGRAM.—In this section [probably means "subsection"], the term 'Contract Tower Program' has the meaning given the term in section 47124(e) of title 49, United States Code, as added by this Act."

### **NONAPPROACH CONTROL TOWERS**

Pub. L. 108–7, div. I, title III, §370(c), Feb. 20, 2003, 117 Stat. 426, provided that:

"(1) IN GENERAL.—The Administrator of the Federal Aviation Administration may enter into a lease agreement or contract agreement with a private entity to provide for construction and operation of a nonapproach control tower as defined by the Secretary of Transportation.

"(2) TERMS AND CONDITIONS.—An agreement entered into under this section—

"(A) shall be negotiated under such procedures as the Administrator considers necessary to ensure the integrity of the selection process, the safety of air travel, and to protect the interests of the United States;

"(B) may provide a lease option to the United States, to be exercised at the discretion of the Administrator, to occupy any general-purpose space in a facility covered by the agreement;

"(C) shall not require, unless specifically determined otherwise by the Administrator, Federal ownership of a facility covered under the agreement after the expiration of the agreement;

"(D) shall describe the consideration, duties, and responsibilities for which the United States and the private entity are responsible;

"(E) shall provide that the United States will not be liable for any action, debt, or liability of any entity created by the agreement;

"(F) shall provide that the private entity may not execute any instrument or document creating or evidencing any indebtedness with respect to a facility covered by the agreement unless such instrument or document specifically disclaims any liability of the United States under the instrument or document; and

"(G) shall include such other terms and conditions as the Administrator considers appropriate."

### **USE OF APPORTIONMENTS TO PAY NON-FEDERAL SHARE OF OPERATION COSTS**

Pub. L. 108–7, div. I, title III, §370(d), Feb. 20, 2003, 117 Stat. 427, provided that:

"(1) STUDY.—The Secretary of Transportation shall conduct a study of the feasibility, costs, and benefits of allowing the sponsor of an airport to use not to exceed 10 percent of amounts apportioned to the sponsor under section 47114 to pay the non-Federal share of the cost of operation of an air traffic control tower under section 47124(b) of title 49, United States Code.

"(2) REPORT.—Not later than 1 year after the date of enactment of this Act [Feb. 20, 2003], the Secretary shall transmit to Congress a report on the results of the study."

### **CONTRACT TOWER ASSISTANCE**

Pub. L. 103–305, title V, §508, Aug. 23, 1994, 108 Stat. 1596, provided that: "The Secretary shall take appropriate action to assist communities where the Secretary deems such assistance appropriate in obtaining the installation of a Level I Contract Tower for those communities."

<sup>1</sup> *So in original.*

## §47124a. Accessibility of certain flight data

(a) DEFINITIONS.—In this section:

(1) ADMINISTRATION.—The term "Administration" means the Federal Aviation Administration.

(2) ADMINISTRATOR.—The term "Administrator" means the Administrator of the Federal Aviation Administration.

(3) APPLICABLE INDIVIDUAL.—The term "applicable individual" means an individual who is the subject of an investigation initiated by the Administrator related to a covered flight record.

(4) CONTRACT TOWER.—The term "contract tower" means an air traffic control tower providing air traffic control services pursuant to a contract with the Administration under section 47124.

(5) COVERED FLIGHT RECORD.—The term "covered flight record" means any air traffic data (as defined in section 2(b)(4)(B) of the Pilot's Bill of Rights (49 U.S.C. 44703 note)), created, maintained, or controlled by any program of the Administration, including any program of the Administration carried out by employees or contractors of the Administration, such as contract towers, flight service stations, and controller training programs.

(b) PROVISION OF COVERED FLIGHT RECORD TO ADMINISTRATION.—

(1) REQUESTS.—Whenever the Administration receives a written request for a covered flight record from an applicable individual and the covered flight record is not in the possession of the Administration, the Administrator shall request the covered flight record from the contract tower or other contractor of the Administration in possession of the covered flight record.

(2) PROVISION OF RECORDS.—Any covered flight record created, maintained, or controlled by a contract tower or another contractor of the Administration that maintains covered flight records shall be provided to the Administration if the Administration requests the record pursuant to paragraph (1).

(3) NOTICE OF PROPOSED CERTIFICATE ACTION.—If the Administrator has issued, or subsequently issues, a Notice of Proposed Certificate Action relying on evidence contained in the covered flight record and the individual who is the subject of an investigation has requested the record, the Administrator shall promptly produce the record and extend the time the individual has to respond to the Notice of Proposed Certificate Action until the covered flight record is provided.

(c) IMPLEMENTATION.—

(1) IN GENERAL.—Not later than 180 days after the date of enactment of the Fairness for Pilots Act, the Administrator shall promulgate regulations or guidance to ensure compliance with this section.

(2) COMPLIANCE BY CONTRACTORS.—

(A) IN GENERAL.—Compliance with this section by a contract tower or other contractor of the Administration that maintains covered flight records shall be included as a material term in any contract between the Administration and the contract tower or contractor entered into or renewed on or after the date of enactment of the Fairness for Pilots Act.

(B) NONAPPLICABILITY.—Subparagraph (A) shall not apply to any contract or agreement in effect on the date of enactment of the Fairness for Pilots Act unless the contract or agreement is renegotiated, renewed, or modified after that date.

(d) PROTECTION OF CERTAIN DATA.—The Administrator of the Federal Aviation Administration may withhold information that would otherwise be required to be made available under section 1 only if—

(1) the Administrator determines, based on information in the possession of the Administrator, that the Administrator may withhold the information in accordance with section 552a of title 5, United States Code; or

(2) the information is submitted pursuant to a voluntary safety reporting program covered by section 40123 of title 49, United States Code.

(Added Pub. L. 115–254, div. B, title III, §395(a), Oct. 5, 2018, 132 Stat. 3326.)

### EDITORIAL NOTES

### REFERENCES IN TEXT

Section 2 of the Pilot's Bill of Rights, referred to in subsec. (a)(5), is section 2 of Pub. L. 112–153, which is set out as a note under section 44703 of this title.

The date of enactment of the Fairness for Pilots Act, referred to in subsec. (c), is the date of enactment of subtitle C of title III of div. B of Pub. L. 115–254, which was approved Oct. 5, 2018.

<sup>1</sup> So in original. Probably should be "this section".

## §47125. Conveyances of United States Government land

(a) **CONVEYANCES TO PUBLIC AGENCIES.**—Except as provided in subsection (b) of this section, the Secretary of Transportation shall request the head of the department, agency, or instrumentality of the United States Government owning or controlling land or airspace to convey a property interest in the land or airspace to the public agency sponsoring the project or owning or controlling the airport when necessary to carry out a project under this subchapter at a public airport, to operate a public airport, or for the future development of an airport under the national plan of integrated airport systems. The head of the department, agency, or instrumentality shall decide whether the requested conveyance is consistent with the needs of the department, agency, or instrumentality and shall notify the Secretary of that decision not later than 4 months after receiving the request. If the head of the department, agency, or instrumentality decides that the requested conveyance is consistent with its needs, the head of the department, agency, or instrumentality, with the approval of the Attorney General and without cost to the Government, shall make the conveyance. A conveyance may be made only on the condition that the property interest conveyed reverts to the Government, at the option of the Secretary, to the extent it is not developed for an airport purpose or used consistently with the conveyance. Before waiving a condition that property be used for an aeronautical purpose under the preceding sentence, the Secretary must provide notice to the public not less than 30 days before waiving such condition.

(b) **NONAPPLICATION.**—Except as specifically provided by law, subsection (a) of this section does not apply to land or airspace owned or controlled by the Government within—

- (1) a national park, national monument, national recreation area, or similar area under the administration of the National Park Service;
- (2) a unit of the National Wildlife Refuge System or similar area under the jurisdiction of the United States Fish and Wildlife Service; or
- (3) a national forest or Indian reservation.

(Pub. L. 103–272, §1(e), July 5, 1994, 108 Stat. 1276; Pub. L. 106–181, title I, §125(b), Apr. 5, 2000, 114 Stat. 75.)

### HISTORICAL AND REVISION NOTES

<i>Revised Section</i>	<i>Source (U.S. Code)</i>	<i>Source (Statutes at Large)</i>
47125(a)	49 App.:2215(a), (b).	Sept. 3, 1982, Pub. L. 97–248, §516, 96 Stat. 692.
47125(b)	49 App.:2215(c).	

In subsection (a), the text of 49 App.:2215(a) (last sentence) is omitted as surplus because a "property interest in land or airspace" necessarily includes "title to . . . land or any easement through . . . airspace". The words "when necessary" are substituted for "whenever the Secretary determines that use of any lands owned or controlled by the United States is reasonably necessary for", and the words "for the future development" are substituted for "including lands reasonably necessary to meet future development", to eliminate unnecessary words. The words "not later than 4 months after receiving the request" are substituted for "Upon receipt of a request from the Secretary under this section" and "within a period of four months after receipt of the Secretary's request" for clarity and to eliminate unnecessary words. The words "make the conveyance" are substituted for "perform any acts and to execute any instruments necessary to make the conveyance requested", and the words "that the property interest conveyed reverts to the Government . . . to the extent it is not" are substituted for "the property interest conveyed shall revert to the United States in the event that the lands in question are not" and "If only a part of the property interest conveyed is not developed for airport purposes, or used in a manner consistent with the terms of the conveyance, only that particular part shall, at the option of the Secretary, revert to the United States", to eliminate unnecessary words. The words "the terms of" are omitted as surplus.

### EDITORIAL NOTES

### AMENDMENTS

**2000**—Subsec. (a). Pub. L. 106–181 inserted at end "Before waiving a condition that property be used for an aeronautical purpose under the preceding sentence, the Secretary must provide notice to the public not less than 30 days before waiving such condition."

### 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.

## CONSTRUCTION OF 2000 AMENDMENT

Nothing in amendment by Pub. L. 106–181 to be construed to authorize Secretary of Transportation to issue waiver or make a modification referred to in such amendment, see section 125(e) of Pub. L. 106–181, set out as a note under section 47107 of this title.

## RELEASE FROM RESTRICTIONS

Pub. L. 112–95, title VIII, §817, Feb. 14, 2012, 126 Stat. 127, as amended by Pub. L. 115–254, div. B, title I, §141, Oct. 5, 2018, 132 Stat. 3211, provided that:

"(a) IN GENERAL.—Subject to subsection (b), the Secretary of Transportation is authorized to grant to an airport, city, or county a release from any of the terms, conditions, reservations, or restrictions contained in a deed under which the United States conveyed to the airport, city, or county an interest in real property for airport purposes pursuant to section 16 of the Federal Airport Act (60 Stat. 179), section 23 of the Airport and Airway Development Act of 1970 (84 Stat. 232), or section 47125 of title 49, United States Code.

"(b) CONDITION.—Any release granted by the Secretary pursuant to subsection (a) shall be subject to the following conditions:

"(1) The applicable airport, city, or county shall agree that in conveying any interest in the real property which the United States conveyed to the airport, city, or county, the airport, city, or county will receive consideration for such interest that is equal to its fair market value.

"(2) Any consideration received by the airport, city, or county under paragraph (1) shall be used exclusively for the development, improvement, operation, or maintenance of a public airport by the airport, city, or county.

"(3) Any other conditions required by the Secretary."

## §47126. Criminal penalties for false statements

A person (including an officer, agent, or employee of the United States Government or a public agency) shall be fined under title 18, imprisoned for not more than 5 years, or both, if the person, with intent to defraud the Government, knowingly makes—

(1) a false statement about the kind, quantity, quality, or cost of the material used or to be used, or the quantity, quality, or cost of work performed or to be performed, in connection with the submission of a plan, map, specification, contract, or estimate of project cost for a project included in a grant application submitted to the Secretary of Transportation for approval under this subchapter;

(2) a false statement or claim for work or material for a project included in a grant application approved by the Secretary under this subchapter; or

(3) a false statement in a report or certification required under this subchapter.

(Pub. L. 103–272, §1(e), July 5, 1994, 108 Stat. 1277.)

### HISTORICAL AND REVISION NOTES

<i>Revised Section</i>	<i>Source (U.S. Code)</i>	<i>Source (Statutes at Large)</i>
47126	49 App.:2216.	Sept. 3, 1982, Pub. L. 97–248, §517, 96 Stat. 693.

In this section, before clause (1), the words "association, firm, or corporation" are omitted because of 1:1. The words "fined under title 18" are substituted for "a fine of not to exceed \$10,000" for consistency with title 18. In clauses (1)–(3), the words "false representation" are omitted as surplus. In clauses (1) and (2), the words "false report" are omitted as surplus. The words "included in a grant application" are added for clarity and consistency in this chapter. In clause (3), the words "to be made" are omitted as surplus.

## §47127. Ground transportation demonstration projects

(a) GENERAL AUTHORITY.—To improve the airport and airway system of the United States consistent with regional airport system plans financed under section 13(b) of the Airport and Airway Development Act of 1970, the Secretary of Transportation may carry out ground transportation demonstration projects to improve ground access to air carrier



airport terminals. The Secretary may carry out a demonstration project independently or by grant or contract, including an agreement with another department, agency, or instrumentality of the United States Government.

(b) **PRIORITY.**—In carrying out this section, the Secretary shall give priority to a demonstration project that—

(1) affects an airport in an area with an operating regional rapid transit system with existing facilities reasonably near the airport;

(2) includes connection of the airport terminal to that system;

(3) is consistent with and supports a regional airport system plan adopted by the planning agency for the region and submitted to the Secretary; and

(4) improves access to air transportation for individuals residing or working in the region by encouraging the optimal balance of use of airports in the region.

(Pub. L. 103–272, §1(e), July 5, 1994, 108 Stat. 1277.)

#### HISTORICAL AND REVISION NOTES

<i>Revised Section</i>	<i>Source (U.S. Code)</i>	<i>Source (Statutes at Large)</i>
47127(a)	49 App.:1713a(1).	July 12, 1976, Pub. L. 94–353, §23(a), 90 Stat. 884.
47127(b)	49 App.:1713a(2).	

In subsection (a), the words "To improve" are substituted for "which he determines will assist the improvement of" to eliminate unnecessary words.

In subsection (b)(2), the word "facilities" is omitted as surplus.

#### EDITORIAL NOTES

#### REFERENCES IN TEXT

Section 13(b) of the Airport and Airway Development Act of 1970, referred to in subsec. (a), is section 13(b) of Pub. L. 91–258, which was classified to section 1713(b) of former Title 49, Transportation, prior to repeal by Pub. L. 97–248, title V, §523(a), Sept. 3, 1982, 96 Stat. 695.

### §47128. State block grant program

(a) **GENERAL REQUIREMENTS.**—The Secretary of Transportation shall issue guidance to carry out a State block grant program. The guidance shall provide that the Secretary may designate not more than 20 qualified States for each fiscal year to assume administrative responsibility for all airport grant amounts available under this subchapter, except for amounts designated for use at primary airports.

(b) **APPLICATIONS AND SELECTION.**—A State wishing to participate in the program must submit an application to the Secretary. The Secretary shall select a State on the basis of its application only after—

(1) deciding the State has an organization capable of effectively administering a block grant made under this section;

(2) deciding the State uses a satisfactory airport system planning process;

(3) deciding the State uses a programming process acceptable to the Secretary;

(4) finding that the State has agreed to comply with United States Government standard requirements for administering the block grant, 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; and

(5) finding that the State has agreed to provide the Secretary with program information the Secretary requires.

(c) **SAFETY AND SECURITY NEEDS AND NEEDS OF SYSTEM.**—Before deciding whether a planning process is satisfactory or a programming process is acceptable under subsection (b)(2) or (b)(3) of this section, the Secretary shall ensure that the process provides for meeting critical safety and security needs and that the programming process ensures that the needs of the national airport system will be addressed in deciding which projects will receive money from the Government. 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.

(d) **ENVIRONMENTAL ANALYSIS AND COORDINATION REQUIREMENTS.**—A Federal agency, other than the Federal Aviation Administration, that is responsible for issuing an approval, license, or permit to ensure compliance with a Federal environmental requirement applicable to a project or activity to be carried out by a State using amounts from a block grant made under this section shall—

(1) coordinate and consult with the State;

(2) use the environmental analysis prepared by the State for the project or activity if such analysis is adequate; and

(3) as necessary, consult with the State to describe the supplemental analysis the State must provide to meet applicable Federal requirements.

(Pub. L. 103–272, §1(e), July 5, 1994, 108 Stat. 1277; Pub. L. 103–429, §6(70), Oct. 31, 1994, 108 Stat. 4387; Pub. L. 104–264, title I, §147(a)–(c)(1), Oct. 9, 1996, 110 Stat. 3223; Pub. L. 104–287, §5(84), Oct. 11, 1996, 110 Stat. 3397; Pub. L. 105–102, §3(d)(1)(E), 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).

(Pub. L. 103–272, §1(e), July 5, 1994, 108 Stat. 1278, §47129; renumbered §47131, Pub. L. 103–305, title I, §113(a)(1), Aug. 23, 1994, 108 Stat. 1577; amended Pub. L. 106–181, title VII, §722, Apr. 5, 2000, 114 Stat. 165; Pub. L. 112–95, title I, §152(c), Feb. 14, 2012, 126 Stat. 34.)

**HISTORICAL AND REVISION NOTES**

<i>Revised Section</i>	<i>Source (U.S. Code)</i>	<i>Source (Statutes at Large)</i>
47129	49 App.:2220.	Sept. 3, 1982, Pub. L. 97–248, §521, 96 Stat. 694.

In this section, before clause (1), the words "on activities carried out" are substituted for "describing his operations" for clarity.

**EDITORIAL NOTES****AMENDMENTS**

**2012**—Subsec. (a). Pub. L. 112–95 substituted "June 1" for "April 1" in introductory provisions, added pars. (1) to (4), and struck out former pars. (1) to (4) which read as follows:

- "(1) a detailed statement of airport development completed;
- "(2) the status of each project undertaken;
- "(3) the allocation of appropriations;
- "(4) an itemized statement of expenditures and receipts; and"

**2000**—Pub. L. 106–181 designated existing provisions as subsec. (a), inserted heading, added par. (5) of subsec. (a), and added subsec. (b).

**1994**—Pub. L. 103–305 renumbered section 47129 of this title as this section.

**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.

### **[§47132. Repealed. Pub. L. 106–181, title I, §123(a)(1), Apr. 5, 2000, 114 Stat. 74]**

Section, added Pub. L. 104–264, title I, §142(a), Oct. 9, 1996, 110 Stat. 3221, temporarily directed the Administrator of the Federal Aviation Administration to issue guidelines to carry out not more than 10 pavement maintenance pilot projects.

## STATUTORY NOTES AND RELATED SUBSIDIARIES

### EFFECTIVE DATE OF REPEAL

Repeal 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.

### **§47133. Restriction on use of revenues**

(a) PROHIBITION.—Local taxes on aviation fuel (except taxes in effect on December 30, 1987) or the revenues generated by an airport that is the subject of Federal assistance may not be expended for any purpose other than the capital or operating costs of—

- (1) the airport;
- (2) the local airport system; or
- (3) any other local facility that is owned or operated by the person or entity that owns or operates the airport that is directly and substantially related to the air transportation of passengers or property.

(b) EXCEPTIONS.—

(1) PRIOR LAWS AND AGREEMENTS.—Subsection (a) shall not apply if a provision enacted not later than September 2, 1982, in a law controlling financing by the airport owner or operator, or a covenant or assurance in a debt obligation issued not later than September 2, 1982, by the owner or operator, provides that the revenues, including local taxes on aviation fuel at public airports, from any of the facilities of the owner or operator, including the airport, be used to support not only the airport but also the general debt obligations or other facilities of the owner or operator.

(2) SALE OF PRIVATE AIRPORT TO PUBLIC SPONSOR.—In the case of a privately owned airport, subsection (a) shall not apply to the proceeds from the sale of the airport to a public sponsor if—

- (A) the sale is approved by the Secretary;
- (B) funding is provided under this subchapter for any portion of the public sponsor's acquisition of airport land; and
- (C) an amount equal to the remaining unamortized portion of any airport improvement grant made to that airport for purposes other than land acquisition, amortized over a 20-year period, plus an amount equal to the Federal share of the current fair market value of any land acquired with an airport improvement grant made to that airport on or after October 1, 1996, is repaid to the Secretary by the private owner.

(3) TREATMENT OF REPAYMENTS.—Repayments referred to in paragraph (2)(C) shall be treated as a recovery of prior year obligations.

(c) RULE OF CONSTRUCTION.—Nothing in this section may be construed to prevent the use of a State tax on aviation fuel to support a State aviation program or the use of airport revenue on or off the airport for a noise mitigation purpose.

(Added Pub. L. 104–264, title VIII, §804(a), Oct. 9, 1996, 110 Stat. 3271; amended Pub. L. 112–95, title I, §149(a), Feb. 14, 2012, 126 Stat. 32.)

## EDITORIAL NOTES

### AMENDMENTS

**2012**—Subsec. (b). Pub. L. 112–95, designated existing provisions as par. (1), inserted heading, and added pars. (2) and (3).

**STATUTORY NOTES AND RELATED SUBSIDIARIES**

**EFFECTIVE DATE OF 2012 AMENDMENT**

Pub. L. 112–95, title I, §149(b), Feb. 14, 2012, 126 Stat. 32, provided that: "The amendments made by subsection (a) [amending this section] shall apply to grants issued on or after October 1, 1996."

**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.

**USE OF MINERAL REVENUE AT CERTAIN AIRPORTS**

Pub. L. 112–95, title VIII, §813, Feb. 14, 2012, 126 Stat. 124, provided that:

"(a) IN GENERAL.—Notwithstanding any other provision of law, the Administrator of the Federal Aviation Administration may declare certain revenue derived from or generated by mineral extraction, production, lease, or other means at a general aviation airport to be revenue greater than the amount needed to carry out the 5-year projected maintenance needs of the airport in order to comply with the applicable design and safety standards of the Administration.

"(b) USE OF REVENUE.—An airport sponsor that is in compliance with the conditions under subsection (c) may allocate revenue identified by the Administrator under subsection (a) for Federal, State, or local transportation infrastructure projects carried out by the airport sponsor or by a governing body within the geographical limits of the airport sponsor's jurisdiction.

"(c) CONDITIONS.—An airport sponsor may not allocate revenue identified by the Administrator under subsection (a) unless the airport sponsor—

"(1) enters into a written agreement with the Administrator that sets forth a 5-year capital improvement program for the airport, which—

"(A) includes the projected costs for the operation, maintenance, and capacity needs of the airport in order to comply with applicable design and safety standards of the Administration; and

"(B) appropriately adjusts such costs to account for inflation;

"(2) agrees in writing—

"(A) to waive all rights to receive entitlement funds or discretionary funds to be used at the airport under section 47114 or 47115 of title 49, United States Code, during the 5-year period of the capital improvement plan described in paragraph (1);

"(B) to perpetually comply with sections 47107(b) and 47133 of such title, unless granted specific exceptions by the Administrator in accordance with this section; and

"(C) to operate the airport as a public-use airport, unless the Administrator specifically grants a request to allow the airport to close; and

"(3) complies with all grant assurance obligations in effect as of the date of the enactment of this Act [Feb. 14, 2012] during the 20-year period beginning on the date of enactment of this Act.

"(d) COMPLETION OF DETERMINATION.—Not later than 90 days after receiving an airport sponsor's application and requisite supporting documentation to declare that certain mineral revenue is not needed to carry out the 5-year capital improvement program at such airport, the Administrator shall determine whether the airport sponsor's request should be granted. The Administrator may not unreasonably deny an application under this subsection.

"(e) RULEMAKING.—Not later than 90 days after the date of enactment of this Act, the Administrator shall promulgate regulations to carry out this section.

"(f) GENERAL AVIATION AIRPORT DEFINED.—In this section, the term 'general aviation airport' has the meaning given that term in section 47102 of title 49, United States Code, as amended by this Act."

**§47134. Airport investment partnership program**

(a) SUBMISSION OF APPLICATIONS.—If a sponsor intends to sell or lease a general aviation airport or lease any other type of airport for a long term to a person (other than a public agency), the sponsor and purchaser or lessee may apply to the Secretary of Transportation for exemptions under this section.

(b) APPROVAL OF APPLICATIONS.—The Secretary may approve applications submitted under subsection (a) granting exemptions from the following provisions:

(1) USE OF REVENUES.—

(A) IN GENERAL.—The Secretary may grant an exemption to a sponsor from the provisions of sections 47107(b) and 47133 of this title (and any other law, regulation, or grant assurance) to the extent necessary to permit the



sponsor to recover from the sale or lease of the airport such amount as may be approved—

(i) in the case of a primary airport, by at least 65 percent of the scheduled air carriers serving the airport and by scheduled and nonscheduled air carriers whose aircraft landing at the airport during the preceding calendar year, had a total landed weight during the preceding calendar year of at least 65 percent of the total landed weight of all aircraft landing at the airport during such year; or

(ii) in the case of a nonprimary airport, by the Secretary after the airport has consulted with at least 65 percent of the owners of aircraft based at that airport, as determined by the Secretary.

(B) OBJECTION TO EXEMPTION.—An air carrier shall be deemed to have approved a sponsor's application for an exemption under subparagraph (A) unless the air carrier has submitted an objection, in writing, to the sponsor within 60 days of the filing of the sponsor's application with the Secretary, or within 60 days of the service of the application upon that air carrier, whichever is later.

(C) LANDED WEIGHT DEFINED.—In this paragraph, the term "landed weight" means the weight of aircraft transporting passengers or cargo, or both, in intrastate, interstate, and foreign air transportation, as the Secretary determines under regulations the Secretary prescribes.

(2) REPAYMENT REQUIREMENTS.—If the Secretary grants an exemption to a sponsor pursuant to paragraph (1), the Secretary shall grant an exemption to the sponsor from the provisions of sections 47107 and 47152 of this title (and any other law, regulation, or grant assurance) to the extent necessary to waive any obligation of the sponsor to repay to the Federal Government any grants, or to return to the Federal Government any property, received by the airport under this title, the Airport and Airway Improvement Act of 1982, or any other law.

(3) COMPENSATION FROM AIRPORT OPERATIONS.—If the Secretary grants an exemption to a sponsor pursuant to paragraph (1), the Secretary shall grant an exemption to the corresponding purchaser or lessee from the provisions of sections 47107(b) and 47133 of this title (and any other law, regulation, or grant assurance) to the extent necessary to permit the purchaser or lessee to earn compensation from the operations of the airport.

(c) TERMS AND CONDITIONS.—The Secretary may approve an application under subsection (b) only if the Secretary finds that the sale or lease agreement includes provisions satisfactory to the Secretary to ensure the following:

(1) The airport will continue to be available for public use on reasonable terms and conditions and without unjust discrimination.

(2) The operation of the airport will not be interrupted in the event that the purchaser or lessee becomes insolvent or seeks or becomes subject to any State or Federal bankruptcy, reorganization, insolvency, liquidation, or dissolution proceeding or any petition or similar law seeking the dissolution or reorganization of the purchaser or lessee or the appointment of a receiver, trustee, custodian, or liquidator for the purchaser or lessee or a substantial part of the purchaser or lessee's property, assets, or business.

(3) The purchaser or lessee will maintain, improve, and modernize the facilities of the airport through capital investments and will submit to the Secretary a plan for carrying out such maintenance, improvements, and modernization.

(4) Every fee of the airport imposed on an air carrier on the day before the date of the lease of the airport will not increase faster than the rate of inflation unless a higher amount is approved—

(A) by at least 65 percent of the air carriers serving the airport; and

(B) by air carriers whose aircraft landing at the airport during the preceding calendar year had a total landed weight during the preceding calendar year of at least 65 percent of the total landed weight of all aircraft landing at the airport during such year.

(5) The percentage increase in fees imposed on general aviation aircraft at the airport will not exceed the percentage increase in fees imposed on air carriers at the airport.

(6) Safety and security at the airport will be maintained at the highest possible levels.

(7) The adverse effects of noise from operations at the airport will be mitigated to the same extent as at a public airport.

(8) Any adverse effects on the environment from airport operations will be mitigated to the same extent as at a public airport.

(9) Any collective bargaining agreement that covers employees of the airport and is in effect on the date of the sale or lease of the airport will not be abrogated by the sale or lease.

(d) PROGRAM PARTICIPATION.—

(1) MULTIPLE AIRPORTS.—The Secretary may consider applications under this section submitted by a public airport sponsor for multiple airports under the control of the sponsor if all airports under the control of the sponsor are located in the same State.

(2) PARTIAL PRIVATIZATION.—A purchaser or lessee may be an entity in which a sponsor has an interest.

(e) REQUIRED FINDING THAT APPROVAL WILL NOT RESULT IN UNFAIR METHODS OF COMPETITION.—The Secretary may approve an application under subsection (b) only if the Secretary finds that the approval will not result in unfair and deceptive practices or unfair methods of competition.

(f) INTERESTS OF GENERAL AVIATION USERS.—In approving an application of an airport under this section, the Secretary shall ensure that the interests of general aviation users of the airport are not adversely affected.

(g) PASSENGER FACILITY FEES; APPORTIONMENTS; SERVICE CHARGES.—Notwithstanding that the sponsor of an airport receiving an exemption under subsection (b) is not a public agency, the sponsor shall not be prohibited from—

(1) imposing a passenger facility charge under section 40117 of this title;

(2) receiving apportionments under section 47114 of this title; or

(3) collecting reasonable rental charges, landing fees, and other service charges from aircraft operators under section 40116(e)(2) of this title.

(h) EFFECTIVENESS OF EXEMPTIONS.—An exemption granted under subsection (b) shall continue in effect only so long as the facilities sold or leased continue to be used for airport purposes.

(i) REVOCATION OF EXEMPTIONS.—The Secretary may revoke an exemption issued to a purchaser or lessee of an airport under subsection (b)(3) if, after providing the purchaser or lessee with notice and an opportunity to be heard, the Secretary determines that the purchaser or lessee has knowingly violated any of the terms specified in subsection (c) for the sale or lease of the airport.

(j) NONAPPLICATION OF PROVISIONS TO AIRPORTS OWNED BY PUBLIC AGENCIES.—The provisions of this section requiring the approval of air carriers in determinations concerning the use of revenues, and imposition of fees, at an airport shall not be extended so as to apply to any airport owned by a public agency that is not participating in the program established by this section.

(k) AUDITS.—The Secretary may conduct periodic audits of the financial records and operations of an airport receiving an exemption under this section.

(l) PREDEVELOPMENT LIMITATION.—A grant to an airport sponsor under this subchapter for predevelopment planning costs relating to the preparation of an application or proposed application under this section may not exceed \$750,000 per application or proposed application.

(Added Pub. L. 104–264, title I, §149(a)(1), Oct. 9, 1996, 110 Stat. 3224; amended Pub. L. 108–176, title I, §155(a), Dec. 12, 2003, 117 Stat. 2508; Pub. L. 112–95, title I, §§111(c)(2)(A)(iv), 156, Feb. 14, 2012, 126 Stat. 18, 36; Pub. L. 115–254, div. B, title I, §160(a), Oct. 5, 2018, 132 Stat. 3220.)

#### EDITORIAL NOTES

#### REFERENCES IN TEXT

The Airport and Airway Improvement Act of 1982, referred to in subsec. (b)(2), is title V of Pub. L. 97–248, [Sept. 3, 1982](#), 96 Stat. 671, which was classified principally to chapter 31 (§2201 et seq.) of former Title 49, Transportation, and was substantially repealed by Pub. L. 103–272, [§7\(b\), July 5, 1994](#), 108 Stat. 1379, and reenacted by the first section thereof as this subchapter.

#### AMENDMENTS

**2018**—Pub. L. 115–254, §160(a)(1), substituted "Airport investment partnership program" for "Pilot program on private ownership of airports" in section catchline.

Subsec. (b). Pub. L. 115–254, §160(a)(2), struck out ", with respect to not more than 10 airports," after "approve" in introductory provisions.

Subsec. (b)(2). Pub. L. 115–254, §160(a)(3), substituted "If the Secretary grants an exemption to a sponsor pursuant to paragraph (1), the Secretary shall grant an exemption to the sponsor" for "The Secretary may grant an exemption to a sponsor".

Subsec. (b)(3). Pub. L. 115–254, §160(a)(4), substituted "If the Secretary grants an exemption to a sponsor pursuant to paragraph (1), the Secretary shall grant an exemption to the corresponding purchaser or lessee" for "The Secretary may grant an exemption to a purchaser or lessee".

Subsec. (d). Pub. L. 115–254, §160(a)(5), amended subsec. (d) generally. Prior to amendment, subsec. (d) related to participation of general aviation airports and large hub airports.

Subsecs. (l), (m). Pub. L. 115–254, §160(a)(6), added subsec. (l) and struck out former subsecs. (l) and (m) which related to report on implementation of the pilot program and defined "general aviation airport", respectively.

**2012**—Subsec. (b). Pub. L. 112–95, §156, substituted "10 airports" for "5 airports" in introductory provisions.

Subsec. (g)(1). Pub. L. 112–95, §111(c)(2)(A)(iv), substituted "charge" for "fee".

**2003**—Subsec. (b)(1)(A). Pub. L. 108–176, §155(a)(1), added cls. (i) and (ii) and struck out former cls. (i) and (ii) which read as follows:

"(i) by at least 65 percent of the air carriers serving the airport; and

"(ii) by air carriers whose aircraft landing at the airport during the preceding calendar year had a total landed weight during the preceding calendar year of at least 65 percent of the total landed weight of all aircraft landing at the airport during such year."

Subsec. (b)(1)(B), (C). Pub. L. 108–176, §155(a)(2), (3), added subpar. (B) and redesignated former subpar. (B) as (C).

## STATUTORY NOTES AND RELATED SUBSIDIARIES

### EFFECTIVE DATE OF 2003 AMENDMENT

Pub. L. 108–176, title I, §155(b), Dec. 12, 2003, 117 Stat. 2508, provided that: "The amendments made by subsection (a) [amending this section] shall not affect any application submitted before the date of enactment of this Act [Dec. 12, 2003]."

### 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.

### 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.

## §47135. Innovative financing techniques

(a) IN GENERAL.—The Secretary of Transportation may approve, after the date of enactment of the Vision 100—Century of Aviation Reauthorization Act, applications for not more than 20 airport development projects for which grants received under this subchapter may be used for innovative financing techniques. Such projects shall be located at airports that each year have less than .25 percent of the total number of passenger boardings each year at all commercial service airports in the most recent calendar year for which data is available.

(b) PURPOSE.—The purpose of grants made under this section shall be to provide information on the benefits and difficulties of using innovative financing techniques for airport development projects.

(c) LIMITATIONS.—

(1) NO GUARANTEES.—In no case shall the implementation of an innovative financing technique under this section be used in a manner giving rise to a direct or indirect guarantee of any airport debt instrument by the United States Government.

(2) TYPES OF TECHNIQUES.—In this section, innovative financing techniques are limited to—

(A) payment of interest;

(B) commercial bond insurance and other credit enhancement associated with airport bonds for eligible airport development;

(C) flexible non-Federal matching requirements; and

(D) use of funds apportioned under section 47114 for the payment of principal and interest of terminal development for costs incurred before the date of the enactment of this section.

(Added Pub. L. 106–181, title I, §132(a), Apr. 5, 2000, 114 Stat. 80; amended Pub. L. 108–176, title I, §156, Dec. 12, 2003, 117 Stat. 2508.)

## EDITORIAL NOTES

### REFERENCES IN TEXT

The date of enactment of the Vision 100—Century of Aviation Reauthorization Act, referred to in subsec. (a), is the date of enactment of Pub. L. 108–176, which was approved Dec. 12, 2003.

The date of the enactment of this section, referred to in subsec. (c)(2)(D), is the date of enactment of Pub. L. 106–181, which was approved Apr. 5, 2000.

### AMENDMENTS

**2003**—Subsec. (a). Pub. L. 108–176 inserted ", after the date of enactment of the Vision 100—Century of Aviation Reauthorization Act," after "approve" in first sentence.

## 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

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.

## §47136. Zero-emission airport vehicles and infrastructure

(a) **IN GENERAL.**—The Secretary of Transportation may establish a pilot program under which the sponsors of public-use airports may use funds made available under this chapter or section 48103 for use at such airports to carry out—

- (1) activities associated with the acquisition, by purchase or lease, and operation of eligible zero-emission vehicles and equipment, including removable power sources for such vehicles; and
- (2) the construction or modification of infrastructure to facilitate the delivery of fuel, power or services necessary for the use of such vehicles.

(b) **ELIGIBILITY.**—A public-use airport is eligible for participation in the program if the eligible vehicles or equipment are—

- (1) used exclusively on airport property; or
- (2) used exclusively to transport passengers and employees between the airport and—
  - (A) nearby facilities which are owned or controlled by the airport or which otherwise directly support the functions or services provided by the airport; or
  - (B) an intermodal surface transportation facility adjacent to the airport.

(c) **SELECTION CRITERIA.**—In selecting from among applicants for participation in the program, the Secretary shall give priority consideration to applicants that will achieve the greatest air quality benefits measured by the amount of emissions reduced per dollar of funds expended under the program.

(d) **FEDERAL SHARE.**—The Federal share of the cost of a project carried out under the program shall be the Federal share specified in section 47109.

(e) **TECHNICAL ASSISTANCE.**—

(1) **IN GENERAL.**—The sponsor of a public-use airport may use not more than 10 percent of the amounts made available to the sponsor under the program in any fiscal year for—

- (A) technical assistance; and
- (B) project management support to assist the airport with the solicitation, acquisition, and deployment of zero-emission vehicles, related equipment, and supporting infrastructure.

(2) **PROVIDERS OF TECHNICAL ASSISTANCE.**—To receive the technical assistance or project management support described in paragraph (1), participants in the program may use—

- (A) a nonprofit organization selected by the Secretary; or
- (B) a university transportation center receiving grants under section 5505 in the region of the airport.

(f) **MATERIALS IDENTIFYING BEST PRACTICES.**—The Secretary may create and make available materials identifying best practices for carrying out activities funded under the program based on previous related projects and other sources.

(g) **ALLOWABLE PROJECT COST.**—The allowable project cost for the acquisition of a zero-emission vehicle shall be the total cost of purchasing or leasing the vehicle, including the cost of technical assistance or project management support described in subsection (e).

(h) **FLEXIBLE PROCUREMENT.**—A sponsor of a public-use airport may use funds made available under the program to acquire, by purchase or lease, a zero-emission vehicle and a removable power source in separate transactions, including transactions by which the airport purchases the vehicle and leases the removable power source.

(i) **TESTING REQUIRED.**—

(1) **IN GENERAL.**—A sponsor of a public-use airport may not use funds made available under the program to acquire a zero-emission vehicle unless that make, model, or type of vehicle has been tested by a Federal vehicle testing facility acceptable to the Secretary.

(2) **PENALTIES FOR FALSE STATEMENTS.**—A certification of compliance under paragraph (1) shall be considered a certification required under this subchapter for purposes of section 47126.

(j) **DEFINITIONS.**—In this section, the following definitions apply:

(1) **ELIGIBLE ZERO-EMISSION VEHICLE AND EQUIPMENT.**—The term "eligible zero-emission vehicle and equipment" means a zero-emission vehicle, equipment related to such a vehicle, or ground support equipment that includes

zero-emission technology that is—

- (A) used exclusively on airport property; or
- (B) used exclusively to transport passengers and employees between the airport and—
  - (i) nearby facilities which are owned or controlled by the airport or which otherwise directly support the functions or services provided by the airport; or
  - (ii) an intermodal surface transportation facility adjacent to the airport.

(2) **REMOVABLE POWER SOURCE.**—The term "removable power source" means a power source that is separately installed in, and removable from, a zero-emission vehicle and may include a battery, a fuel cell, an ultra-capacitor, or other power source used in a zero-emission vehicle.

(3) **ZERO-EMISSION VEHICLE.**—The term "zero-emission vehicle" means—

- (A) a zero-emission vehicle as defined in section 88.102–94 of title 40, Code of Federal Regulations; or
- (B) a vehicle that produces zero exhaust emissions of any criteria pollutant (or precursor pollutant) under any possible operational modes and conditions.

(Added Pub. L. 112–95, title V, §511(a), Feb. 14, 2012, 126 Stat. 107, §47136a; renumbered §47136 and amended Pub. L. 115–254, div. B, title I, §§166(b)(1), 192(a), Oct. 5, 2018, 132 Stat. 3226, 3239.)

## EDITORIAL NOTES

### PRIOR PROVISIONS

A prior section 47136, added Pub. L. 106–181, title I, §133(a), Apr. 5, 2000, 114 Stat. 81; amended Pub. L. 112–95, title V, §511(d), Feb. 14, 2012, 126 Stat. 108, related to inherently low-emission airport vehicle pilot program, prior to repeal by Pub. L. 115–254, div. B, title I, §166(a), Oct. 5, 2018, 132 Stat. 3226.

### AMENDMENTS

**2018**—Pub. L. 115–254, §166(b)(1), renumbered section 47136a of this title as this section.

Subsecs. (a), (b). Pub. L. 115–254, §192(a)(1), added subsecs. (a) and (b) and struck out former subsecs. (a) and (b) which related to the establishment of a zero-emission vehicle pilot program and location in air quality nonattainment areas, respectively.

Subsecs. (d) to (j). Pub. L. 115–254, §192(a)(2), added subsecs. (d) to (j) and struck out former subsecs. (d) to (f) which related to Federal share of project costs, technical assistance, and materials identifying best practices, respectively.

## STATUTORY NOTES AND RELATED SUBSIDIARIES

### DEPLOYMENT OF ZERO EMISSION VEHICLE TECHNOLOGY

Pub. L. 115–254, div. B, title I, §192(c), Oct. 5, 2018, 132 Stat. 3241, provided that:

"(1) **ESTABLISHMENT.**—The Secretary of Transportation may establish a zero-emission airport technology program—

"(A) to facilitate the deployment of commercially viable zero-emission airport vehicles, technology, and related infrastructure; and

"(B) to minimize the risk of deploying such vehicles, technology, and infrastructure.

"(2) **GENERAL AUTHORITY.**—

"(A) **ASSISTANCE TO NONPROFIT ORGANIZATIONS.**—The Secretary may provide assistance under the program to not more than 3 geographically diverse, eligible organizations to conduct zero-emission airport technology and infrastructure projects.

"(B) **FORMS OF ASSISTANCE.**—The Secretary may provide assistance under the program in the form of grants, contracts, and cooperative agreements.

"(3) **SELECTION OF PARTICIPANTS.**—

"(A) **NATIONAL SOLICITATION.**—In selecting participants, the Secretary shall—

"(i) conduct a national solicitation for applications for assistance under the program; and

"(ii) select the recipients of assistance under the program on a competitive basis.

"(B) **CONSIDERATIONS.**—In selecting from among applicants for assistance under the program, the Secretary shall consider—

"(i) the ability of an applicant to contribute significantly to deploying zero-emission technology as the technology relates to airport operations;

"(ii) the financing plan and cost-share potential of the applicant; and

"(iii) other factors, as the Secretary determines appropriate.

"(C) **PRIORITY.**—In [sic] selecting from among applicants for assistance under the program, the Secretary shall give priority consideration to an applicant that has successfully managed advanced

transportation technology projects, including projects related to zero-emission transportation operations.

"(4) ELIGIBLE PROJECTS.—A recipient of assistance under the program shall use the assistance—

"(A) to review and conduct demonstrations of zero-emission technologies and related infrastructure at airports;

"(B) to evaluate the credibility of new, unproven vehicle and energy-efficient technologies in various aspects of airport operations prior to widespread investment in the technologies by airports and the aviation industry;

"(C) to collect data and make the recipient's findings available to airports, so that airports can evaluate the applicability of new technologies to their facilities; and

"(D) to report the recipient's findings to the Secretary.

"(5) ADMINISTRATIVE PROVISIONS.—

"(A) FEDERAL SHARE.—The Federal share of the cost of a project carried out under the program may not exceed 80 percent.

"(B) TERMS AND CONDITIONS.—A grant, contract, or cooperative agreement under this section shall be subject to such terms and conditions as the Secretary determines appropriate.

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

"(A) ELIGIBLE ORGANIZATION.—The term 'eligible organization' means an organization that has expertise in zero-emission technology.

"(B) ORGANIZATION.—The term 'organization' means—

"(i) described [sic] in section 501(c)(3) of the Internal Revenue Code of 1986 and exempt from tax under section 501(a) of the Internal Revenue Code of 1986;

"(ii) a university transportation center receiving grants under section 5505 of title 49, United States Code; or

"(iii) any other Federal or non-Federal entity as the Secretary considers appropriate."

## **[§47136a. Renumbered §47136]**

### **§47137. Airport security program**

(a) GENERAL AUTHORITY.—To improve security at public airports in the United States, the Secretary of Transportation shall carry out not less than one project to test and evaluate innovative aviation security systems and related technology.

(b) PRIORITY.—In carrying out this section, the Secretary shall give the highest priority to a request from an eligible sponsor for a grant to undertake a project that—

(1) evaluates and tests the benefits of innovative aviation security systems or related technology, including explosives detection systems, for the purpose of improving aviation and aircraft physical security, access control, and passenger and baggage screening; and

(2) provides testing and evaluation of airport security systems and technology in an operational, testbed environment.

(c) MATCHING SHARE.—Notwithstanding section 47109, the United States Government's share of allowable project costs for a project under this section shall be 100 percent.

(d) TERMS AND CONDITIONS.—The Secretary may establish such terms and conditions as the Secretary determines appropriate for carrying out a project under this section, including terms and conditions relating to the form and content of a proposal for a project, project assurances, and schedule of payments.

(e) ADMINISTRATION.—The Secretary, in cooperation with the Secretary of Homeland Security, shall administer the program authorized by this section.

(f) ELIGIBLE SPONSOR DEFINED.—In this section, the term "eligible sponsor" means a nonprofit corporation composed of a consortium of public and private persons, including a sponsor of a primary airport, with the necessary engineering and technical expertise to successfully conduct the testing and evaluation of airport and aircraft related security systems.

(g) AUTHORIZATION OF APPROPRIATIONS.—Of the amounts made available to the Secretary under section 47115 in a fiscal year, the Secretary shall make available not less than \$5,000,000 for the purpose of carrying out this section.

(Added Pub. L. 106–181, title I, §134(a), Apr. 5, 2000, 114 Stat. 83; amended Pub. L. 108–176, title I, §157, Dec. 12, 2003, 117 Stat. 2508.)

#### **EDITORIAL NOTES**

## AMENDMENTS

**2003**—Subsecs. (e) to (g). Pub. L. 108–176 added subsec. (e) and redesignated former subsecs. (e) and (f) as (f) and (g), respectively.

### 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

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.

### §47138. Pilot program for purchase of airport development rights

(a) **IN GENERAL.**—The Secretary of Transportation shall establish a pilot program to support the purchase, by a State or political subdivision of a State, of development rights associated with, or directly affecting the use of, privately owned public use airports located in that State. Under the program, the Secretary may make a grant to a State or political subdivision of a State from funds apportioned under section 47114 for the purchase of such rights.

(b) **GRANT REQUIREMENTS.**—

(1) **IN GENERAL.**—The Secretary may not make a grant under subsection (a) unless the grant is made—

(A) to enable the State or political subdivision to purchase development rights in order to ensure that the airport property will continue to be available for use as a public airport; and

(B) subject to a requirement that the State or political subdivision acquire an easement or other appropriate covenant requiring that the airport shall remain a public use airport in perpetuity.

(2) **MATCHING REQUIREMENT.**—The amount of a grant under the program may not exceed 90 percent of the costs of acquiring the development rights.

(c) **GRANT STANDARDS.**—The Secretary shall prescribe standards for grants under subsection (a), including—

(1) grant application and approval procedures; and

(2) requirements for the content of the instrument recording the purchase of the development rights.

(d) **RELEASE OF PURCHASED RIGHTS AND COVENANT.**—Any development rights purchased under the program shall remain the property of the State or political subdivision unless the Secretary approves the transfer or disposal of the development rights after making a determination that the transfer or disposal of that right is in the public interest.

(e) **LIMITATION.**—The Secretary may not make a grant under the pilot program for the purchase of development rights at more than 10 airports.

(Added Pub. L. 108–176, title I, §152(a), Dec. 12, 2003, 117 Stat. 2506.)

### 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.

### §47139. Emission credits for air quality projects

(a) **IN GENERAL.**—The Administrator of the Environmental Protection Agency, in consultation with the Secretary of Transportation, shall issue guidance on how to ensure that airport sponsors receive appropriate emission reduction credits for carrying out projects described in sections 40117(a)(3)(G), 47102(3)(K), and 47102(3)(L). Such guidance shall include, at a minimum, the following conditions:

(1) The provision of credits is consistent with the Clean Air Act (42 U.S.C. 7402 et seq.).

(2) Credits generated by the emissions reductions are kept by the airport sponsor and may only be used for purposes of any current or future general conformity determination under the Clean Air Act or as offsets under the

Environmental Protection Agency's new source review program for projects on the airport or associated with the airport.

(3) Credits are calculated and provided to airports on a consistent basis nationwide.

(4) Credits are provided to airport sponsors in a timely manner.

(5) The establishment of a method to assure the Secretary that, for any specific airport project for which funding is being requested, the appropriate credits will be granted.

(b) **ASSURANCE OF RECEIPT OF CREDITS.**—As a condition for making a grant for a project described in section 47102(3)(K), 47102(3)(L), or 47140 or as a condition for granting approval to collect or use a passenger facility charge for a project described in section 40117(a)(3)(G), 47102(3)(K), 47102(3)(L), or 47140, the Secretary must receive assurance from the State in which the project is located, or from the Administrator of the Environmental Protection Agency where there is a Federal implementation plan, that the airport sponsor will receive appropriate emission credits in accordance with the conditions of this section.

(c) **STATE AUTHORITY UNDER CAA.**—Nothing in this section shall be construed as overriding existing State law or regulation pursuant to section 116 of the Clean Air Act (42 U.S.C. 7416).

(Added Pub. L. 108–176, title I, §158(a), Dec. 12, 2003, 117 Stat. 2508; amended Pub. L. 112–95, title I, §§111(c)(2)(A)(v), 152(d), Feb. 14, 2012, 126 Stat. 18, 34; Pub. L. 115–254, div. B, title I, §166(b)(2), Oct. 5, 2018, 132 Stat. 3226.)

#### EDITORIAL NOTES

#### REFERENCES IN TEXT

The Clean Air Act, referred to in subsec. (a)(1), (2), is act [July 14, 1955, ch. 360](#), 69 Stat. 322, which is classified generally to chapter 85 (§7401 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 7401 of Title 42 and Tables.

#### AMENDMENTS

**2018**—Subsecs. (c), (d). Pub. L. 115–254 redesignated subsec. (d) as (c) and struck out former subsec. (c). Prior to amendment, text of subsec. (c) read as follows: "The Administrator of the Environmental Protection Agency, in consultation with the Secretary, shall determine how to provide appropriate emissions credits to airport projects previously approved under section 47136 consistent with the guidance and conditions specified in subsection (a)."

**2012**—Subsec. (a). Pub. L. 112–95, §152(d)(1), struck out "47102(3)(F)," after "40117(a)(3)(G)," in introductory provisions.

Subsec. (b). Pub. L. 112–95, §152(d)(2), struck out "47102(3)(F)," after "grant for a project described in section" and "47103(3)(F)," after "40117(a)(3)(G),".

Pub. L. 112–95, §111(c)(2)(A)(v), substituted "charge" for "fee".

#### 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.

### §47140. Increasing the energy efficiency of airport power sources

(a) **IN GENERAL.**—The Secretary of Transportation shall establish a program under which the Secretary shall encourage the sponsor of each public-use airport to assess the airport's energy requirements, including heating and cooling, base load, back-up power, and power for on-road airport vehicles and ground support equipment, in order to identify opportunities to increase energy efficiency at the airport, and to reimburse the airport sponsor for the costs incurred in conducting the assessment.

(b) **GRANTS.**—

(1) **IN GENERAL.**—The Secretary may make grants from amounts made available under section 48103 to assist airport sponsors that have completed the assessment described in subsection (a) to acquire or construct equipment, including hydrogen equipment and related infrastructure, that will increase energy efficiency at the airport.

(2) **APPLICATION.**—To be eligible for a grant under paragraph (1), the sponsor of a public-use airport shall submit an application, including a certification that no safety projects are being be <sup>1</sup> deferred by requesting a grant under this section, to the Secretary at such time, in such manner, and containing such information as the Secretary may require.



(Added Pub. L. 112–95, title V, §512(a), Feb. 14, 2012, 126 Stat. 109, §47140a; renumbered §47140 and amended Pub. L. 115–254, div. B, title I, §§166(b)(1), 171, Oct. 5, 2018, 132 Stat. 3226, 3227.)

## EDITORIAL NOTES

### PRIOR PROVISIONS

A prior section 47140, added Pub. L. 108–176, title I, §159(a)(1), Dec. 12, 2003, 117 Stat. 2509, related to airport ground support equipment emissions retrofit pilot program, prior to repeal by Pub. L. 115–254, div. B, title I, §166(a), Oct. 5, 2018, 132 Stat. 3226.

### AMENDMENTS

**2018**—Pub. L. 115–254, §166(b)(1), renumbered section 47140a of this title as this section.

Subsec. (a). Pub. L. 115–254, §171(a), inserted ", and to reimburse the airport sponsor for the costs incurred in conducting the assessment" before period at end.

Subsec. (b)(2). Pub. L. 115–254, §171(b), inserted ", including a certification that no safety projects are being be deferred by requesting a grant under this section," after "an application".

<sup>1</sup> *So in original.*

## [\$47140a. Renumbered §47140]

### §47141. Compatible land use planning and projects by State and local governments

(a) IN GENERAL.—The Secretary of Transportation may make grants, from amounts set aside under section 47117(e)(1)(A), to States and units of local government for development and implementation of land use compatibility plans and implementation of land use compatibility projects resulting from those plans for the purposes of making the use of land areas around large hub airports and medium hub airports compatible with aircraft operations. The Secretary may make a grant under this section for a land use compatibility plan or a project resulting from such plan only if—

- (1) the airport operator has not submitted a noise compatibility program to the Secretary under section 47504 or has not updated such program within the preceding 10 years; and
- (2) the land use plan or project meets the requirements of this section.

(b) ELIGIBILITY.—In order to receive a grant under this section, a State or unit of local government must—

- (1) have the authority to plan and adopt land use control measures, including zoning, in the planning area in and around a large or medium hub airport;
- (2) enter into an agreement with the airport owner or operator that the development of the land use compatibility plan will be done cooperatively; and
- (3) provide written assurance to the Secretary that it will achieve, to the maximum extent possible, compatible land uses consistent with Federal land use compatibility criteria under section 47502(3) and that those compatible land uses will be maintained.

(c) ASSURANCES.—The Secretary shall require a State or unit of local government to which a grant may be made under this section for a land use plan or a project resulting from such plan to provide—

- (1) assurances satisfactory to the Secretary that the plan—
  - (A) is reasonably consistent with the goal of reducing existing noncompatible land uses and preventing the introduction of additional noncompatible land uses;
  - (B) addresses ways to achieve and maintain compatible land uses, including zoning, building codes, and any other land use compatibility measures under section 47504(a)(2) that are within the authority of the State or unit of local government to implement;
  - (C) uses noise contours provided by the airport operator that are consistent with the airport operation and planning, including any noise abatement measures adopted by the airport operator as part of its own noise mitigation efforts;
  - (D) does not duplicate, and is not inconsistent with, the airport operator's noise compatibility measures for the same area; and
  - (E) has been approved jointly by the airport owner or operator and the State or unit of local government; and

(2) such other assurances as the Secretary determines to be necessary to carry out this section.

(d) **GUIDELINES.**—The Secretary shall establish guidelines to administer this section in accordance with the purposes and conditions described in this section. The Secretary may require a State or unit of local government to which a grant may be made under this section to provide progress reports and other information as the Secretary determines to be necessary to carry out this section.

(e) **ELIGIBLE PROJECTS.**—The Secretary may approve a grant under this section to a State or unit of local government for a project resulting from a land use compatibility plan only if the Secretary is satisfied that the project is consistent with the guidelines established by the Secretary under this section, the State or unit of local government has provided the assurances required by this section, the State or unit of local government has implemented (or has made provision to implement) those elements of the plan that are not eligible for Federal financial assistance, and that the project is not inconsistent with applicable Federal Aviation Administration standards.

(f) **SUNSET.**—This section shall not be in effect after September 30, 2023.

(Added Pub. L. 108–176, title I, §160(a), Dec. 12, 2003, 117 Stat. 2511; amended Pub. L. 110–253, §3(c)(2), June 30, 2008, 122 Stat. 2417; Pub. L. 110–330, §5(g), Sept. 30, 2008, 122 Stat. 3718; Pub. L. 111–12, §5(f), Mar. 30, 2009, 123 Stat. 1458; Pub. L. 111–69, §5(g), Oct. 1, 2009, 123 Stat. 2055; Pub. L. 111–116, §5(f), Dec. 16, 2009, 123 Stat. 3032; Pub. L. 111–153, §5(f), Mar. 31, 2010, 124 Stat. 1085; Pub. L. 111–161, §5(f), Apr. 30, 2010, 124 Stat. 1127; Pub. L. 111–197, §5(f), July 2, 2010, 124 Stat. 1354; Pub. L. 111–216, title I, §104(f), Aug. 1, 2010, 124 Stat. 2349; Pub. L. 111–249, §5(g), Sept. 30, 2010, 124 Stat. 2628; Pub. L. 111–329, §5(f), Dec. 22, 2010, 124 Stat. 3567; Pub. L. 112–7, §5(f), Mar. 31, 2011, 125 Stat. 32; Pub. L. 112–16, §5(f), May 31, 2011, 125 Stat. 219; Pub. L. 112–21, §5(f), June 29, 2011, 125 Stat. 234; Pub. L. 112–27, §5(f), Aug. 5, 2011, 125 Stat. 271; Pub. L. 112–30, title II, §205(g), Sept. 16, 2011, 125 Stat. 358; Pub. L. 112–91, §5(g), Jan. 31, 2012, 126 Stat. 4; Pub. L. 112–95, title I, §153, Feb. 14, 2012, 126 Stat. 34; Pub. L. 114–55, title I, §102(d), Sept. 30, 2015, 129 Stat. 523; Pub. L. 114–141, title I, §102(d), Mar. 30, 2016, 130 Stat. 323; Pub. L. 114–190, title I, §1102(d), July 15, 2016, 130 Stat. 617; Pub. L. 115–63, title I, §102(e), Sept. 29, 2017, 131 Stat. 1169; Pub. L. 115–141, div. M, title I, §102(d), Mar. 23, 2018, 132 Stat. 1046; Pub. L. 115–254, div. B, title I, §117(b), Oct. 5, 2018, 132 Stat. 3201.)

#### EDITORIAL NOTES

#### AMENDMENTS

**2018**—Subsec. (f). Pub. L. 115–254 substituted "September 30, 2023" for "September 30, 2018".

Pub. L. 115–141 substituted "September 30, 2018" for "March 31, 2018".

**2017**—Subsec. (f). Pub. L. 115–63 substituted "March 31, 2018" for "September 30, 2017".

**2016**—Subsec. (f). Pub. L. 114–190 substituted "September 30, 2017" for "July 15, 2016".

Pub. L. 114–141 substituted "July 15, 2016" for "March 31, 2016".

**2015**—Subsec. (f). Pub. L. 114–55 substituted "March 31, 2016" for "September 30, 2015".

**2012**—Subsec. (f). Pub. L. 112–95 amended subsec. (f) generally. Prior to amendment, text read as follows: "This section shall not be in effect after February 17, 2012."

Pub. L. 112–91 substituted "February 17, 2012." for "January 31, 2012."

**2011**—Subsec. (f). Pub. L. 112–30 substituted "January 31, 2012." for "September 16, 2011."

Pub. L. 112–27 substituted "September 16, 2011." for "July 22, 2011."

Pub. L. 112–21 substituted "July 22, 2011." for "June 30, 2011."

Pub. L. 112–16 substituted "June 30, 2011." for "May 31, 2011."

Pub. L. 112–7 substituted "May 31, 2011." for "March 31, 2011."

**2010**—Subsec. (f). Pub. L. 111–329 substituted "March 31, 2011." for "December 31, 2010."

Pub. L. 111–249 substituted "December 31, 2010." for "September 30, 2010."

Pub. L. 111–216 substituted "September 30, 2010." for "August 1, 2010."

Pub. L. 111–197 substituted "August 1, 2010." for "July 3, 2010."

Pub. L. 111–161 substituted "July 3, 2010." for "April 30, 2010."

Pub. L. 111–153 substituted "April 30, 2010." for "March 31, 2010."

**2009**—Subsec. (f). Pub. L. 111–116 substituted "March 31, 2010." for "December 31, 2009."

Pub. L. 111–69 substituted "December 31, 2009." for "September 30, 2009."

Pub. L. 111–12 substituted "September 30, 2009." for "March 31, 2009."

**2008**—Subsec. (f). Pub. L. 110–330 substituted "March 31, 2009" for "September 30, 2008".

Pub. L. 110–253 substituted "September 30, 2008" for "September 30, 2007".

#### STATUTORY NOTES AND RELATED SUBSIDIARIES

#### EFFECTIVE DATE OF 2011 AMENDMENT

Amendment by Pub. L. 112–27 effective July 23, 2011, see section 5(j) of Pub. L. 112–27, set out as a note under section 40117 of this title.

Amendment by Pub. L. 112–21 effective July 1, 2011, see section 5(j) of Pub. L. 112–21, set out as a note under section 40117 of this title.

Amendment by Pub. L. 112–16 effective June 1, 2011, see section 5(j) of Pub. L. 112–16, set out as a note under section 40117 of this title.

Amendment by Pub. L. 112–7 effective Apr. 1, 2011, see section 5(j) of Pub. L. 112–7, set out as a note under section 40117 of this title.

### **EFFECTIVE DATE OF 2010 AMENDMENT**

Amendment by Pub. L. 111–329 effective Jan. 1, 2011, see section 5(j) of Pub. L. 111–329, set out as a note under section 40117 of this title.

Amendment by Pub. L. 111–249 effective Oct. 1, 2010, see section 5(l) of Pub. L. 111–249, set out as a note under section 40117 of this title.

Amendment by Pub. L. 111–216 effective Aug. 2, 2010, see section 104(j) of Pub. L. 111–216, set out as a note under section 40117 of this title.

Amendment by Pub. L. 111–197 effective July 4, 2010, see section 5(j) of Pub. L. 111–197, set out as a note under section 40117 of this title.

Amendment by Pub. L. 111–161 effective May 1, 2010, see section 5(j) of Pub. L. 111–161, set out as a note under section 40117 of this title.

Amendment by Pub. L. 111–153 effective Apr. 1, 2010, see section 5(j) of Pub. L. 111–153, set out as a note under section 40117 of this title.

### **EFFECTIVE DATE OF 2009 AMENDMENT**

Amendment by Pub. L. 111–116 effective Jan. 1, 2010, see section 5(j) of Pub. L. 111–116, set out as a note under section 40117 of this title.

Amendment by Pub. L. 111–12 effective Apr. 1, 2009, see section 5(j) of Pub. L. 111–12, set out as a note under section 40117 of this title.

### **EFFECTIVE DATE OF 2008 AMENDMENT**

Amendment by Pub. L. 110–330 effective Oct. 1, 2008, see section 5(l) of Pub. L. 110–330, set out as a note under section 40117 of this title.

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**

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.

### **PILOT PROGRAM FOR REDEVELOPMENT OF AIRPORT PROPERTIES**

Pub. L. 112–95, [title VIII, §822, Feb. 14, 2012](#), 126 Stat. 128, as amended by Pub. L. 114–55, [title I, §102\(j\), Sept. 30, 2015](#), 129 Stat. 523; Pub. L. 114–141, [title I, §102\(h\), Mar. 30, 2016](#), 130 Stat. 323; Pub. L. 114–190, [title I, §1102\(k\), July 15, 2016](#), 130 Stat. 618; Pub. L. 115–63, [title I, §102\(j\), Sept. 29, 2017](#), 131 Stat. 1170; Pub. L. 115–141, [div. M, title I, §102\(h\), Mar. 23, 2018](#), 132 Stat. 1046; Pub. L. 115–254, [div. B, title I, §117\(d\), Oct. 5, 2018](#), 132 Stat. 3201, provided that:

"(a) **IN GENERAL.**—Not later than 1 year after the date of enactment of this Act [Feb. 14, 2012], the Administrator of the Federal Aviation Administration shall establish a pilot program under which operators of up to 4 public-use airports may receive grants for activities related to the redevelopment of airport properties in accordance with the requirements of this section.

"(b) **GRANTS.**—Under the pilot program, the Administrator may make a grant in a fiscal year, from funds made available for grants under section 47117(e)(1)(A) of title 49, United States Code, to an airport operator for a project—

"(1) to support joint planning, engineering, design, and environmental permitting of projects, including the assembly and redevelopment of property purchased with noise mitigation funds made available under section 48103 of such title or passenger facility revenue collected under section 40117 of such title; and

"(2) to encourage airport-compatible land uses and generate economic benefits to the local airport authority and adjacent community.

"(c) **ELIGIBILITY.**—An airport operator shall be eligible to participate in the pilot program if—

"(1) the operator has received approval for a noise compatibility program under section 47504 of such title; and

"(2) the operator demonstrates, as determined by the Administrator—

"(A) a readiness to implement cooperative land use management and redevelopment plans with neighboring local jurisdictions; and

"(B) the probability of a clear economic benefit to neighboring local jurisdictions and financial return to the airport through the implementation of those plans.

"(d) DISTRIBUTION.—The Administrator shall seek to award grants under the pilot program to airport operators representing different geographic areas of the United States.

"(e) PARTNERSHIP WITH NEIGHBORING LOCAL JURISDICTIONS.—An airport operator shall use grant funds made available under the pilot program only in partnership with neighboring local jurisdictions.

"(f) GRANT REQUIREMENTS.—The Administrator may not make a grant to an airport operator under the pilot program unless the grant is—

"(1) made to enable the airport operator and local jurisdictions undertaking community redevelopment efforts to expedite those efforts;

"(2) subject to a requirement that the local jurisdiction governing the property interests subject to the redevelopment efforts has adopted and will continue in effect zoning regulations that permit airport-compatible redevelopment; and

"(3) subject to a requirement that, in determining the part of the proceeds from disposing of land that is subject to repayment and reinvestment requirements under section 47107(c)(2)(A) of such title, the total amount of a grant issued under the pilot program that is attributable to the redevelopment of such land shall be added to other amounts that must be repaid or reinvested under that section upon disposal of such land by the airport operator.

"(g) EXCEPTIONS TO REPAYMENT AND REINVESTMENT REQUIREMENTS.—Amounts paid to the Secretary of Transportation under subsection (f)(3)—

"(1) shall be available to the Secretary for, giving preference to the actions in descending order—

"(A) reinvestment in an approved noise compatibility project at the applicable airport;

"(B) reinvestment in another approved project at the airport that is eligible for funding under section 47117(e) of such title;

"(C) reinvestment in an approved airport development project at the airport that is eligible for funding under section 47114, 47115, or 47117 of such title;

"(D) transfer to an operator of another public airport to be reinvested in an approved noise compatibility project at such airport; and

"(E) deposit in the Airport and Airway Trust Fund established under section 9502 of the Internal Revenue Code of 1986 (26 U.S.C. 9502);

"(2) shall be available in addition to amounts authorized under section 48103 of such title;

"(3) shall not be subject to any limitation on grant obligations for any fiscal year; and

"(4) shall remain available until expended.

"(h) FEDERAL SHARE.—

"(1) IN GENERAL.—Notwithstanding any other provision of law, the Federal share of the allowable costs of a project carried out under the pilot program shall be 80 percent.

"(2) ALLOWABLE COSTS.—In determining the allowable costs, the Administrator shall deduct from the total costs of the activities described in subsection (b) that portion of the costs which is equal to that portion of the total property to be redeveloped under this section that is not owned or to be acquired by the airport operator pursuant to the noise compatibility program or that is not owned by the affected neighboring local jurisdictions or other public entities.

"(i) MAXIMUM AMOUNT.—Not more than \$5,000,000 of the funds made available for grants under section 47117(e)(1)(A) of such title may be expended under the pilot program for any single public-use airport.

"(j) USE OF PASSENGER REVENUE.—An airport operator participating in the pilot program may use passenger facility revenue collected under section 40117 of such title to pay any project cost described in subsection (b) that is not financed by a grant under the pilot program.

"(k) SUNSET.—This section shall not be in effect after September 30, 2023."

## §47142. Design-build contracting

(a) IN GENERAL.—The Administrator of the Federal Aviation Administration may approve an application of an airport sponsor under this section to authorize the airport sponsor to award a design-build contract using a selection process permitted under applicable State or local law if—

(1) the Administrator approves the application using criteria established by the Administrator;

(2) the design-build contract is in a form that is approved by the Administrator;

(3) the Administrator is satisfied that the contract will be executed pursuant to competitive procedures and contains a schematic design adequate for the Administrator to approve the grant;

(4) use of a design-build contract will be cost effective and expedite the project;

- (5) the Administrator is satisfied that there will be no conflict of interest; and  
 (6) the Administrator is satisfied that the selection process will be as open, fair, and objective as the competitive bid system and that at least 3 or more bids will be submitted for each project under the selection process.

(b) REIMBURSEMENT OF COSTS.—The Administrator may reimburse an airport sponsor for design and construction costs incurred before a grant is made pursuant to this section if the project is approved by the Administrator in advance and is carried out in accordance with all administrative and statutory requirements that would have been applicable under this chapter if the project were carried out after a grant agreement had been executed.

(c) DESIGN-BUILD CONTRACT DEFINED.—In this section, the term "design-build contract" means an agreement that provides for both design and construction of a project by a contractor.

(Added Pub. L. 108–176, title I, §181(a), Dec. 12, 2003, 117 Stat. 2515.)

## 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.

### §47143. Non-movement area surveillance surface display systems pilot program

(a) IN GENERAL.—The Administrator of the Federal Aviation Administration may carry out a pilot program to support non-Federal acquisition and installation of qualifying non-movement area surveillance surface display systems and sensors if—

- (1) the Administrator determines that such systems and sensors would improve safety or capacity in the National Airspace System; and
- (2) the non-movement area surveillance surface display systems and sensors supplement existing movement area systems and sensors at the selected airports established under other programs administered by the Administrator.

(b) PROJECT GRANTS.—

(1) IN GENERAL.—For purposes of carrying out the pilot program, the Administrator may make a project grant out of funds apportioned under paragraph (1) or paragraph (2) of section 47114(c) to not more than 5 eligible sponsors to acquire and install qualifying non-movement area surveillance surface display systems and sensors. The airports selected to participate in the pilot program shall have existing Administration movement area systems and airlines that are participants in Federal Aviation Administration's airport collaborative decision-making process.

(2) DATA EXCHANGE PROCESSES.—As part of the pilot program carried out under this section, the Administrator may establish data exchange processes to allow airport participation in the Administration's airport collaborative decision-making process and fusion of the non-movement surveillance data with the Administration's movement area systems.

(c) SUNSET.—This section shall cease to be effective on October 1, 2023.

(d) DEFINITIONS.—In this section:

(1) NON-MOVEMENT AREA.—The term "non-movement area" means the portion of the airfield surface that is not under the control of air traffic control.

(2) NON-MOVEMENT AREA SURVEILLANCE SURFACE DISPLAY SYSTEMS AND SENSORS.—The term "non-movement area surveillance surface display systems and sensors" means a non-Federal surveillance system that uses on-airport sensors that track vehicles or aircraft that are equipped with transponders in the non-movement area.

(3) QUALIFYING NON-MOVEMENT AREA SURVEILLANCE SURFACE DISPLAY SYSTEM AND SENSORS.—The term "qualifying non-movement area surveillance surface display system and sensors" means a non-movement area surveillance surface display system that—

- (A) provides the required transmit and receive data formats consistent with the National Airspace System architecture at the appropriate service delivery point;
- (B) is on-airport; and
- (C) is airport operated.

(Added Pub. L. 115–254, div. B, title I, §140(a), Oct. 5, 2018, 132 Stat. 3210.)

### §47144. Use of funds for repairs for runway safety repairs

(a) IN GENERAL.—The Secretary of Transportation may make project grants under this subchapter to an airport described in subsection (b) from funds under section 47114 apportioned to that airport or funds available for discretionary grants to that airport under section 47115 to conduct airport development to repair the runway safety area of the airport damaged as a result of a natural disaster in order to maintain compliance with the regulations of the Federal Aviation Administration relating to runway safety areas, without regard to whether construction of the runway safety area damaged was carried out using amounts the airport received under this subchapter.

(b) AIRPORTS DESCRIBED.—An airport is described in this subsection if—

- (1) the airport is a public-use airport;
- (2) the airport is listed in the National Plan of Integrated Airport Systems of the Federal Aviation Administration;
- (3) the runway safety area of the airport was damaged as a result of a natural disaster;
- (4) the airport was denied funding under the Robert T. Stafford Disaster Relief and Emergency Assistance Act (42 U.S.C. 4121 et seq.)<sup>1</sup> with respect to the disaster;
- (5) the operator of the airport has exhausted all legal remedies, including legal action against any parties (or insurers thereof) whose action or inaction may have contributed to the need for the repair of the runway safety area;
- (6) there is still a demonstrated need for the runway safety area to accommodate current or imminent aeronautical demand; and
- (7) the cost of repairing or replacing the runway safety area is reasonable in relation to the anticipated operational benefit of repairing the runway safety area, as determined by the Administrator of the Federal Aviation Administration.

(Added Pub. L. 115–31, div. K, title I, §119F(a), May 5, 2017, 131 Stat. 734.)

#### EDITORIAL NOTES

#### REFERENCES IN TEXT

The Robert T. Stafford Disaster Relief and Emergency Assistance Act, referred to in subsec. (b)(4), is Pub. L. 93–288, [May 22, 1974](#), 88 Stat. 143, which is classified principally to chapter 68 (§5121 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 5121 of Title 42 and Tables.

#### CODIFICATION

Section 119F(a) of Pub. L. 115–31, which directed amendment of "subchapter I of chapter 471" by adding at the end this section, was executed by adding this section at the end of subchapter I of chapter 471 of this title to reflect the probable intent of Congress.

<sup>1</sup> *See References in Text note below.*

### SUBCHAPTER II—SURPLUS PROPERTY FOR PUBLIC AIRPORTS

#### §47151. Authority to transfer an interest in surplus property

(a) GENERAL AUTHORITY.—Subject to sections 47152 and 47153 of this title, a department, agency, or instrumentality of the executive branch of the United States Government or a wholly owned Government corporation may convey to a State, political subdivision of a State, or tax-supported organization any interest in surplus property—

(1) that the Secretary of Transportation decides is—

(A) desirable for developing, improving, operating, or maintaining a public airport (as defined in section 47102 of this title);

(B) reasonably necessary to fulfill the immediate and foreseeable future requirements for developing, improving, operating, or maintaining a public airport; or

(C) needed for developing sources of revenue from nonaviation businesses at a public airport; and

(2) if the Administrator of General Services approves the conveyance and decides the interest is not best suited for industrial use.

(b) ENSURING COMPLIANCE.—Only the Secretary may ensure compliance with an instrument conveying an interest in surplus property under this subchapter. The Secretary may amend the instrument to correct the instrument or to make the conveyance comply with law.

(c) DISPOSING OF INTERESTS NOT CONVEYED UNDER THIS SUBCHAPTER.—An interest in surplus property that could be used at a public airport but that is not conveyed under this subchapter shall be disposed of under other applicable

law.

(d) **WAIVER OF CONDITION.**—Before the Secretary may waive any condition imposed on an interest in surplus property conveyed under subsection (a) that such interest be used for an aeronautical purpose, the Secretary must provide notice to the public not less than 30 days before waiving such condition.

(e) **REQUESTS BY PUBLIC AGENCIES.**—Except with respect to a request made by another department, agency, or instrumentality of the executive branch of the United States Government, such a department, agency, or instrumentality shall give priority consideration to a request made by a public agency (as defined in section 47102) for surplus property described in subsection (a) for use at a public airport.

(Pub. L. 103–272, §1(e), July 5, 1994, 108 Stat. 1278; Pub. L. 106–181, title I, §§125(c), 135(d)(1), 136, Apr. 5, 2000, 114 Stat. 75, 84, 85; Pub. L. 112–95, title I, §152(f), Feb. 14, 2012, 126 Stat. 34.)

#### HISTORICAL AND REVISION NOTES

<i>Revised Section</i>	<i>Source (U.S. Code)</i>	<i>Source (Statutes at Large)</i>
47151(a)	49 App.:1655(c)(1).  50 App.:1622(g)(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.  Oct. 3, 1944, ch. 479, 58 Stat. 765, §13(g)(1); added July 30, 1947, ch. 404, §2, 61 Stat. 678; Aug. 23, 1958, Pub. L. 85–726, §1402(c), 72 Stat. 807; May 21, 1970, Pub. L. 91–258, §52(b)(6), 84 Stat. 235; Sept. 3, 1982, Pub. L. 97–248, §524(c), 96 Stat. 696.
47151(b)	49 App.:1655(c)(1). 50 App.:1622b.	Oct. 1, 1949, ch. 589, §3, 63 Stat. 700; Aug. 23, 1958, Pub. L. 85–726, §1402(c), 72 Stat. 807.
47151(c)	50 App.:1622(g)(5), (6).	Oct. 3, 1944, ch. 479, 58 Stat. 765, §13(g)(5), (6); added July 30, 1947, ch. 404, §2, 61 Stat. 680.

In subsection (a), before clause (1), the words "Notwithstanding any other provision of this Act" are omitted as surplus. The words "Subject to sections 47152 and 47153 of this title" are substituted for "but subject to the terms, conditions, reservations, and restrictions hereinafter provided for" to eliminate unnecessary words. The words "a department, agency, or instrumentality of the executive branch of the United States Government or a wholly owned Government corporation" are substituted for "any disposal agency designated pursuant to this Act" for clarity because disposal agencies were Government agencies designated under 50 App.:1619(a), that was repealed by section 602(a)(1) of the Federal Property and Administrative Services Act of 1949 (ch. 288, 63 Stat. 399), and Government agencies were all departments, agencies, and instrumentalities of the executive branch of the United States Government and wholly owned Government corporations. The word "give" is substituted for "convey or dispose of . . . without monetary consideration to the United States", to eliminate unnecessary words. The word "municipality" is omitted as being included in "political subdivision". The words "of a State" are added for clarity and consistency in the revised title and with other titles of the United States Code. The word "organization" is substituted for "institution" for consistency in the revised title. The words "all of the right, title, and . . . of the United States . . . and to . . . real or personal" are omitted as surplus. In clause (1)(A), the words "essential, suitable, or" are omitted as surplus. In clause (1)(B), the words "of the grantee" are omitted as surplus. In clause (2), the words "Administrator of General Services" are substituted for "[War Assets] Administrator" in section 13(g)(1) of the Surplus Property Act of 1944 (ch. 479, 58 Stat. 765) because of section 105 of the Federal Property and Administrative Services Act of 1949 (ch. 288, 63 Stat. 381). The words "and decides the interest is not best suited for industrial use" are substituted for "(exclusive of property the highest and best use of which is determined by the Administrator of General Services to be industrial and which shall be so classified for disposal without regard to the provisions of this subsection)" to eliminate unnecessary words.

Subsection (b) is substituted for 50 App.:1622b to eliminate unnecessary words.

In subsection (c), the text of 50 App.:1622(g)(5) is omitted as obsolete because 50 App.:1621, 1622(f), and 1627(e) were repealed by section 602(a)(1) of the Federal Property and Administrative Services Act of 1949 (ch. 288, 63 Stat. 399). The words "An interest in surplus property that could be used at a public airport" are substituted for "All surplus property within the purview of this subsection" for clarity. The words "elsewhere in this Act or other applicable" are omitted as surplus. The word "law" is substituted for "Federal Statute" for consistency in the revised title and with other titles of the Code.

**EDITORIAL NOTES****AMENDMENTS**

**2012**—Subsec. (e). Pub. L. 112–95 struck out "(other than real property that is subject to section 2687 of title 10, section 201 of the Defense Authorization Amendments and Base Closure and Realignment Act (10 U.S.C. 2687 note), or section 2905 of the Defense Base Closure and Realignment Act of 1990 (10 U.S.C. 2687 note))" after "subsection (a)".

**2000**—Subsec. (a). Pub. L. 106–181, §135(d)(1)(A)(i), substituted "convey to" for "give" in introductory provisions.

Subsec. (a)(2). Pub. L. 106–181, §135(d)(1)(A)(ii), substituted "conveyance" for "gift".

Subsec. (b). Pub. L. 106–181, §135(d)(1)(B), substituted "conveying" for "giving" and "conveyance" for "gift".

Subsec. (c). Pub. L. 106–181, §135(d)(1)(C), substituted "Conveyed" for "Given" in heading and "conveyed" for "given" in text.

Subsec. (d). Pub. L. 106–181, §125(c), added subsec. (d).

Subsec. (e). Pub. L. 106–181, §136, 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.

**CONSTRUCTION OF 2000 AMENDMENT**

Nothing in amendment by section 125(c) of Pub. L. 106–181 to be construed to authorize Secretary of Transportation to issue waiver or make a modification referred to in such amendment, see section 125(e) of Pub. L. 106–181, set out as a note under section 47107 of this title.

**§47152. Terms of conveyances**

Except as provided in section 47153 of this title, the following terms apply to a conveyance of an interest in surplus property under this subchapter:

(1) A State, political subdivision of a State, or tax-supported organization receiving the interest may use, lease, salvage, or dispose of the interest for other than airport purposes only after the Secretary of Transportation gives written consent that the interest can be used, leased, salvaged, or disposed of without materially and adversely affecting the development, improvement, operation, or maintenance of the airport at which the property is located.

(2) The interest shall be used and maintained for public use and benefit without unreasonable discrimination.

(3) A right may not be vested in a person, excluding others in the same class from using the airport at which the property is located—

(A) to conduct an aeronautical activity requiring the operation of aircraft; or

(B) to engage in selling or supplying aircraft, aircraft accessories, equipment, or supplies (except gasoline and oil), or aircraft services necessary to operate aircraft (including maintaining and repairing aircraft, aircraft engines, propellers, and appliances).

(4) The State, political subdivision, or tax-supported organization accepting the interest shall clear and protect the aerial approaches to the airport by mitigating existing, and preventing future, airport hazards.

(5) During a national emergency declared by the President or Congress, the United States Government is entitled to use, control, or possess, without charge, any part of the public airport at which the property is located. However, the Government shall—

(A) pay the entire cost of maintaining the part of the airport it exclusively uses, controls, or possesses during the emergency;

(B) contribute a reasonable share, consistent with the Government's use, of the cost of maintaining the property it uses nonexclusively, or over which the Government has nonexclusive control or possession, during the emergency; and

(C) pay a fair rental for use, control, or possession of improvements to the airport made without Government assistance.

(6) The Government is entitled to the nonexclusive use, without charge, of the landing area of an airport at which the property is located. The Secretary may limit the use of the landing area if necessary to prevent unreasonable



interference with use by other authorized aircraft. However, the Government shall—

(A) contribute a reasonable share, consistent with the Government's use, of the cost of maintaining and operating the landing area; and

(B) pay for damages caused by its use of the landing area if its use of the landing area is substantial.

(7) The State, political subdivision, or tax-supported organization accepting the interest shall release the Government from all liability for damages arising under an agreement that provides for Government use of any part of an airport owned, controlled, or operated by the State, political subdivision, or tax-supported organization on which, adjacent to which, or in connection with which, the property is located.

(8) When a term under this section is not satisfied, any part of the interest in the property reverts to the Government, at the option of the Government, as the property then exists.

(Pub. L. 103–272, §1(e), July 5, 1994, 108 Stat. 1279; Pub. L. 106–181, title I, §135(d)(2), Apr. 5, 2000, 114 Stat. 85.)

#### HISTORICAL AND REVISION NOTES

<i>Revised Section</i>	<i>Source (U.S. Code)</i>	<i>Source (Statutes at Large)</i>
47152	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.
	50 App.:1622(g)(2).	Oct. 3, 1944, ch. 479, 58 Stat. 765, §13(g)(2); added July 30, 1947, ch. 404, §2, 61 Stat. 678; Oct. 1, 1949, ch. 589, §1, 63 Stat. 700; Aug. 23, 1958, Pub. L. 85–726, §1402(c), 72 Stat. 807.

In this section, before paragraph (1), the words "conditions, reservations, and restrictions" and "the authority of" are omitted as surplus. In paragraph (1), the words "A State, political subdivision of a State, or tax-supported organization receiving the interest" are substituted for "grantee or transferee" for clarity. The words "sold" and "disposed of under the authority of this subsection" are omitted as surplus. In paragraph (2), the words "transferred for airport purposes" are omitted as surplus. In paragraph (3), before clause (A), the words "For the purpose of this condition, an exclusive right is defined to mean" and "any exclusive right to" are omitted because of the restatement. The words "exclusive" and "(either directly or indirectly)" are omitted as surplus. The words "or persons" are omitted because of 1:1. The words "disposed of" are omitted as surplus. In clause (A), the word "particular" is omitted as surplus. In paragraph (4), the words "removing, lowering, relocating, marking, or lighting or otherwise" and "the establishment or creation of" are omitted as surplus. In paragraphs (5)–(7), the words "or used" are omitted as surplus. In paragraph (5), before clause (A), the words "exclusive or nonexclusive" and "as it may desire" are omitted as surplus. In clause (A), the word "pay" is substituted for "be responsible for" to eliminate unnecessary words. The words "during the emergency" are substituted for "during the period of such use, possession, or control" to eliminate unnecessary words and for clarity. In clause (B), the words "be obligated to" are omitted as surplus. The words "during the emergency" are added for clarity. In clause (C), the words "exclusively or nonexclusively" are omitted as surplus. In paragraph (6), before clause (A), the words "as may be determined at any time" are omitted as surplus. In clause (B), the words "be obligated to" are omitted as surplus. In paragraph (7), the words "The State, political subdivision, or tax-supported organization accepting the interest" are substituted for "Any public agency accepting a conveyance or transfer of surplus property under the provisions of this subsection" to eliminate unnecessary words and for consistency in this section. The words "any and . . . it may be under for restoration or other . . . lease or other" are omitted as surplus. The text of 50 App.:1622(g)(2)(G) (proviso) is omitted because 49 App.:1116 was repealed by section 52(a) of the Airport and Airway Development Act of 1970 (Public Law 91–258, 84 Stat. 235). Paragraph (8) is substituted for 50 App.:1622(g)(2)(H) to eliminate unnecessary words.

#### EDITORIAL NOTES

#### AMENDMENTS

**2000**—Pub. L. 106–181 substituted "conveyances" for "gifts" in section catchline and "conveyance" for "gift" in introductory provisions.

#### 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.

### §47153. Waiving and adding terms

(a) GENERAL AUTHORITY.—(1) The Secretary of Transportation may waive, without charge, a term of a conveyance of an interest in property under this subchapter if the Secretary decides that—

(A) the property no longer serves the purpose for which it was conveyed; or

(B) the waiver will not prevent carrying out the purpose for which the conveyance was made and is necessary to advance the civil aviation interests of the United States.

(2) The Secretary of Transportation shall waive a term under paragraph (1) of this subsection on terms the Secretary considers necessary to protect or advance the civil aviation interests of the United States.

(b) WAIVERS AND INCLUSION OF ADDITIONAL TERMS ON REQUEST.—On request of the Secretary of Transportation or the Secretary of a military department, a department, agency, or instrumentality of the executive branch of the United States Government or a wholly owned Government corporation may waive a term required by section 47152 of this title or add another term if the appropriate Secretary decides it is necessary to protect or advance the interests of the United States in civil aviation or for national defense.

(c) PUBLIC NOTICE BEFORE WAIVER.—Notwithstanding subsections (a) and (b), before the Secretary may waive any term imposed under this section that an interest in land be used for an aeronautical purpose, the Secretary must provide notice to the public not less than 30 days before waiving such term.

(Pub. L. 103–272, §1(e), July 5, 1994, 108 Stat. 1280; Pub. L. 106–181, title I, §§125(d), 135(d)(3), Apr. 5, 2000, 114 Stat. 76, 85.)

#### HISTORICAL AND REVISION NOTES

<i>Revised Section</i>	<i>Source (U.S. Code)</i>	<i>Source (Statutes at Large)</i>
47153(a)	49 App.:1655(c)(1).  50 App.:1622c.	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.  Oct. 1, 1949, ch. 589, §4, 63 Stat. 700; Aug. 23, 1958, Pub. L. 85–726, §1402(c), 72 Stat. 807.
47153(b)	49 App.:1655(c)(1). 50 App.:1622(g)(3).	Oct. 3, 1944, ch. 479, 58 Stat. 765, §13(g)(3); added July 30, 1947, ch. 404, §2, 61 Stat. 680; Aug. 23, 1958, Pub. L. 85–726, §1402(c), 72 Stat. 807.

In subsection (a), before clause (1), the words "Notwithstanding any other provision of law" and "further" are omitted as surplus. The word "waive" is substituted for "grant releases from" and "and to convey, quitclaim, or release any right or interest reserved to the United States by" to eliminate unnecessary words. The words "a term of a gift of an interest in property under this subchapter" are substituted for "any of the terms, conditions, reservations, and restrictions contained in . . . any such instrument of disposal" for clarity and consistency. In clause (1), the words "transferred by such instrument" are omitted as surplus. In clause (2), the text of 50 App.:1622c (last proviso) is omitted as executed. The words "protect or" are omitted as surplus.

In subsection (b), the words "In making any disposition of surplus property under this subsection" are omitted as surplus. The words "Secretary of a military department" are substituted for "the Secretary of the Army, or the Secretary of the Navy" for consistency with other titles of the United States Code and to eliminate unnecessary words. The words "Secretary of the Army" are substituted for "Secretary of War" in section 13(g)(3) of the Surplus Property Act of 1944 (ch. 479, 58 Stat. 765) because of section 205(a) of the National Security Act of 1947 (ch. 343, 61 Stat. 501). The Secretary of the Air Force is included in "Secretary of a military department" because of section 207(a) and (f) of the National Security Act of 1947 (ch. 343, 61 Stat. 502, 503). The word "waive" is substituted for "omit from the instrument of disposal" to eliminate unnecessary words and for consistency in this subchapter. The words "conditions, reservations, and restrictions" are omitted as surplus.

#### EDITORIAL NOTES

## **AMENDMENTS**

**2000**—Subsec. (a)(1). Pub. L. 106–181, §135(d)(3), substituted "conveyance" for "gift" in introductory provisions and subpar. (B) and "conveyed" for "given" in subpar. (A).

Subsec. (c). Pub. L. 106–181, §125(d), added subsec. (c).

### **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.

#### **CONSTRUCTION OF 2000 AMENDMENT**

Nothing in amendment by section 125(d) of Pub. L. 106–181 to be construed to authorize Secretary of Transportation to issue waiver or make a modification referred to in such amendment, see section 125(e) of Pub. L. 106–181, set out as a note under section 47107 of this title.

### **SUBCHAPTER III—AVIATION DEVELOPMENT STREAMLINING**

#### **§47171. Expedited, coordinated environmental review process**

(a) **AVIATION PROJECT REVIEW PROCESS.**—The Secretary of Transportation shall develop and implement an expedited and coordinated environmental review process for airport capacity enhancement projects at congested airports, general aviation airport construction or improvement projects, aviation safety projects, and aviation security projects that—

(1) provides for better coordination among the Federal, regional, State, and local agencies concerned with the preparation of environmental impact statements or environmental assessments under the National Environmental Policy Act of 1969 (42 U.S.C. 4321 et seq.);

(2) provides that all environmental reviews, analyses, opinions, permits, licenses, and approvals that must be issued or made by a Federal agency or airport sponsor for such a project will be conducted concurrently, to the maximum extent practicable; and

(3) provides that any environmental review, analysis, opinion, permit, license, or approval that must be issued or made by a Federal agency or airport sponsor for such a project will be completed within a time period established by the Secretary, in cooperation with the agencies identified under subsection (d) with respect to the project.

(b) **AVIATION PROJECTS SUBJECT TO A STREAMLINED ENVIRONMENTAL REVIEW PROCESS.**—

(1) **AIRPORT CAPACITY ENHANCEMENT PROJECTS AT CONGESTED AIRPORTS.**—An airport capacity enhancement project at a congested airport shall be subject to the coordinated and expedited environmental review process requirements set forth in this section.

(2) **GENERAL AVIATION AIRPORT CONSTRUCTION OR IMPROVEMENT PROJECT.**—A general aviation airport construction or improvement project shall be subject to the coordinated and expedited environmental review process requirements set forth in this section.

(3) **AVIATION SAFETY AND AVIATION SECURITY PROJECTS.**—

(A) **IN GENERAL.**—The Administrator of the Federal Aviation Administration may designate an aviation safety project or aviation security project for priority environmental review. The Administrator may not delegate this designation authority. A designated project shall be subject to the coordinated and expedited environmental review process requirements set forth in this section.

(B) **PROJECT DESIGNATION CRITERIA.**—The Administrator shall establish guidelines for the designation of an aviation safety project or aviation security project for priority environmental review. Such guidelines shall provide for consideration of—

(i) the importance or urgency of the project;

(ii) the potential for undertaking the environmental review under existing emergency procedures under the National Environmental Policy Act of 1969 (42 U.S.C. 4321 et seq.);

(iii) the need for cooperation and concurrent reviews by other Federal or State agencies;

(iv) the prospect for undue delay if the project is not designated for priority review; and

(v) for aviation security projects, the views of the Department of Homeland Security.

(c) **HIGH PRIORITY OF AND AGENCY PARTICIPATION IN COORDINATED REVIEWS.**—

(1) **HIGH PRIORITY FOR ENVIRONMENTAL REVIEWS.**—Each Federal agency with jurisdiction over an environmental review, analysis, opinion, permit, license, or approval shall accord any such review, analysis, opinion, permit, license,

or approval involving an airport capacity enhancement project at a congested airport or a project designated under subsection (b)(3) the highest possible priority and conduct the review, analysis, opinion, permit, license, or approval expeditiously.

(2) AGENCY PARTICIPATION.—Each Federal agency described in subsection (d) shall formulate and implement administrative, policy, and procedural mechanisms to enable the agency to participate in the coordinated environmental review process under this section and to ensure completion of environmental reviews, analyses, opinions, permits, licenses, and approvals described in subsection (a) in a timely and environmentally responsible manner.

(d) IDENTIFICATION OF JURISDICTIONAL AGENCIES.—With respect to each airport capacity enhancement project at a congested airport or a project designated under subsection (b)(3), the Secretary shall identify, as soon as practicable, all Federal and State agencies that may have jurisdiction over environmental-related matters that may be affected by the project or may be required by law to conduct an environmental-related review or analysis of the project or determine whether to issue an environmental-related permit, license, or approval for the project.

(e) STATE AUTHORITY.—Under a coordinated review process being implemented under this section by the Secretary with respect to a project at an airport within the boundaries of a State, the Governor of the State, consistent with State law, may choose to participate in such process and provide that all State agencies that have jurisdiction over environmental-related matters that may be affected by the project or may be required by law to conduct an environmental-related review or analysis of the project or determine whether to issue an environmental-related permit, license, or approval for the project, be subject to the process.

(f) MEMORANDUM OF UNDERSTANDING.—The coordinated review process developed under this section may be incorporated into a memorandum of understanding for a project between the Secretary and the heads of other Federal and State agencies identified under subsection (d) with respect to the project and, if applicable, the airport sponsor.

(g) USE OF INTERAGENCY ENVIRONMENTAL IMPACT STATEMENT TEAMS.—

(1) IN GENERAL.—The Secretary may utilize an interagency environmental impact statement team to expedite and coordinate the coordinated environmental review process for a project under this section. When utilizing an interagency environmental impact statement team, the Secretary shall invite Federal, State and Tribal agencies with jurisdiction by law, and may invite such agencies with special expertise, to participate on an interagency environmental impact statement team.

(2) RESPONSIBILITY OF INTERAGENCY ENVIRONMENTAL IMPACT STATEMENT TEAM.—Under a coordinated environmental review process being implemented under this section, the interagency environmental impact statement team shall assist the Federal Aviation Administration in the preparation of the environmental impact statement. To facilitate timely and efficient environmental review, the team shall agree on agency or Tribal points of contact, protocols for communication among agencies, and deadlines for necessary actions by each individual agency (including the review of environmental analyses, the conduct of required consultation and coordination, and the issuance of environmental opinions, licenses, permits, and approvals). The members of the team may formalize their agreement in a written memorandum.

(h) LEAD AGENCY RESPONSIBILITY.—The Federal Aviation Administration shall be the lead agency for projects designated under subsection (b)(3) and airport capacity enhancement projects at congested airports and shall be responsible for defining the scope and content of the environmental impact statement, consistent with regulations issued by the Council on Environmental Quality. Any other Federal agency or State agency that is participating in a coordinated environmental review process under this section shall give substantial deference, to the extent consistent with applicable law and policy, to the aviation expertise of the Federal Aviation Administration.

(i) EFFECT OF FAILURE TO MEET DEADLINE.—

(1) NOTIFICATION OF CONGRESS AND CEQ.— If the Secretary determines that a Federal agency, State agency, or airport sponsor that is participating in a coordinated review process under this section with respect to a project has not met a deadline established under subsection (a)(3) for the project, the Secretary shall notify, within 30 days of the date of such determination, the Committee on Commerce, Science, and Transportation of the Senate, the Committee on Transportation and Infrastructure of the House of Representatives, the Council on Environmental Quality, and the agency or sponsor involved about the failure to meet the deadline.

(2) AGENCY REPORT.—Not later than 30 days after date of receipt of a notice under paragraph (1), the agency or sponsor involved shall submit a report to the Secretary, the Committee on Transportation and Infrastructure of the House of Representatives, the Committee on Commerce, Science, and Transportation of the Senate, and the Council on Environmental Quality explaining why the agency or sponsor did not meet the deadline and what actions it intends to take to complete or issue the required review, analysis, opinion, permit, license, or approval.

(j) PURPOSE AND NEED.—For any environmental review, analysis, opinion, permit, license, or approval that must be issued or made by a Federal or State agency that is participating in a coordinated review process under this section and that requires an analysis of purpose and need for the project, the agency, notwithstanding any other provision of law, shall be bound by the project purpose and need as defined by the Secretary.

(k) ALTERNATIVES ANALYSIS.—The Secretary shall determine the reasonable alternatives to an airport capacity enhancement project at a congested airport or a project designated under subsection (b)(3). Any other Federal agency,

or State agency that is participating in a coordinated review process under this section with respect to the project shall consider only those alternatives to the project that the Secretary has determined are reasonable.

(l) SOLICITATION AND CONSIDERATION OF COMMENTS.—In applying subsections (j) and (k), the Secretary shall solicit and consider comments from interested persons and governmental entities in accordance with the National Environmental Policy Act of 1969 (42 U.S.C. 4321 et seq.).

(m) MONITORING BY TASK FORCE.—The Transportation Infrastructure Streamlining Task Force, established by Executive Order 13274 (67 Fed. Reg. 59449; relating to environmental stewardship and transportation infrastructure project reviews), may monitor airport projects that are subject to the coordinated review process under this section.

(Added Pub. L. 108–176, title III, §304(a), Dec. 12, 2003, 117 Stat. 2534; amended Pub. L. 115–254, div. B, title I, §191(a), title V, §539(q), Oct. 5, 2018, 132 Stat. 3238, 3371.)

## EDITORIAL NOTES

### REFERENCES IN TEXT

The National Environmental Policy Act of 1969, referred to in subsecs. (a)(1), (b)(3)(B)(ii), and (l), 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.

Executive Order No. 13274, referred to in subsec. (m), is set out as a note under section 301 of this title.

### AMENDMENTS

**2018**—Subsec. (a). Pub. L. 115–254, §191(a)(1), inserted "general aviation airport construction or improvement projects," after "congested airports," in introductory provisions.

Subsec. (b)(2), (3). Pub. L. 115–254, §191(a)(2), added par. (2) and redesignated former par. (2) as (3).

Subsecs. (c)(1), (d), (h), (k). Pub. L. 115–254, §191(a)(3)–(6), substituted "subsection (b)(3)" for "subsection (b)(2)".

Subsec. (l). Pub. L. 115–254, §539(q), substituted "4321" for "4371".

### 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 an Effective Date of 2003 Amendment note under section 106 of this title.

### FINDINGS

Pub. L. 108–176, title III, §302, Dec. 12, 2003, 117 Stat. 2533, provided that: "Congress finds that—

"(1) airports play a major role in interstate and foreign commerce;

"(2) congestion and delays at our Nation's major airports have a significant negative impact on our Nation's economy;

"(3) airport capacity enhancement projects at congested airports are a national priority and should be constructed on an expedited basis;

"(4) airport capacity enhancement projects must include an environmental review process that provides local citizenry an opportunity for consideration of and appropriate action to address environmental concerns; and

"(5) the Federal Aviation Administration, airport authorities, communities, and other Federal, State, and local government agencies must work together to develop a plan, set and honor milestones and deadlines, and work to protect the environment while sustaining the economic vitality that will result from the continued growth of aviation."

### LIMITATIONS

Pub. L. 108–176, title III, §308, Dec. 12, 2003, 117 Stat. 2539, provided that: "Nothing in this subtitle [subtitle A (§§301–309) of title III of Pub. L. 108–176, enacting this subchapter, amending sections 40104, 47106, and 47504 of this title, and enacting provisions set out as notes under this section], including any amendment made by this title [enacting this subchapter and amending sections 40104, 40128, 47106, 47503, and 47504 of this title], shall preempt or interfere with—

"(1) any practice of seeking public comment;

"(2) any power, jurisdiction, or authority that a State agency or an airport sponsor has with respect to carrying out an airport capacity enhancement project; and

"(3) any obligation to comply with the provisions of the National Environmental Policy Act of 1969 (42 U.S.C. 4371 [4321] et seq.) and the regulations issued by the Council on Environmental Quality to carry out such Act."

### RELATIONSHIP TO OTHER REQUIREMENTS

Pub. L. 108–176, title III, §309, Dec. 12, 2003, 117 Stat. 2540, provided that: "The coordinated review process required under the amendments made by this subtitle [enacting this subchapter and amending sections 40104, 47106, and 47504 of this title] shall apply to an airport capacity enhancement project at a congested airport whether or not the project is designated by the Secretary of Transportation as a high-priority transportation infrastructure project under Executive Order 13274 [49 U.S.C. 301 note] (67 Fed. Reg. 59449; relating to environmental stewardship and transportation infrastructure project reviews)."

### §47172. Air traffic procedures for airport capacity enhancement projects at congested airports

(a) IN GENERAL.—The Administrator of the Federal Aviation Administration may consider prescribing flight procedures to avoid or minimize potentially significant adverse noise impacts of an airport capacity enhancement project at a congested airport that involves the construction of new runways or the reconfiguration of existing runways during the environmental planning process for the project. If the Administrator determines that noise mitigation flight procedures are consistent with safe and efficient use of the navigable airspace, the Administrator may commit, at the request of the airport sponsor and in a manner consistent with applicable Federal law, to prescribing such procedures in any record of decision approving the project.

(b) MODIFICATION.—Notwithstanding any commitment by the Administrator under subsection (a), the Administrator may initiate changes to such procedures if necessary to maintain safety and efficiency in light of new information or changed circumstances.

(Added Pub. L. 108–176, title III, §304(a), Dec. 12, 2003, 117 Stat. 2537.)

### 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 an Effective Date of 2003 Amendment note under section 106 of this title.

### §47173. Airport funding of FAA staff

(a) ACCEPTANCE OF SPONSOR-PROVIDED FUNDS.—Notwithstanding any other provision of law, the Administrator of the Federal Aviation Administration may accept funds from an airport sponsor, including funds provided to the sponsor under section 47114(c), to hire additional staff or obtain the services of consultants—

(1) to facilitate the timely processing, review, and completion of environmental activities associated with an airport development project;

(2) to conduct special environmental studies related to an airport project funded with Federal funds;

(3) to conduct special studies or reviews to support approved noise compatibility measures described in part 150 of title 14, Code of Federal Regulations;

(4) to conduct special studies or reviews to support environmental mitigation in a record of decision or finding of no significant impact by the Federal Aviation Administration; and

(5) to facilitate the timely processing, review, and completion of environmental activities associated with new or amended flight procedures, including performance-based navigation procedures, such as required navigation performance procedures and area navigation procedures.

(b) ADMINISTRATIVE PROVISION.—Instead of payment from an airport sponsor from funds apportioned to the sponsor under section 47114, the Administrator, with agreement of the sponsor, may transfer funds that would otherwise be apportioned to the sponsor under section 47114 to the account used by the Administrator for activities described in subsection (a).

(c) RECEIPTS CREDITED AS OFFSETTING COLLECTIONS.—Notwithstanding section 3302 of title 31, any funds accepted under this section, except funds transferred pursuant to subsection (b)—

(1) shall be credited as offsetting collections to the account that finances the activities and services for which the funds are accepted;

(2) shall be available for expenditure only to pay the costs of activities and services for which the funds are accepted; and

(3) shall remain available until expended.

(d) MAINTENANCE OF EFFORT.—No funds may be accepted pursuant to subsection (a), or transferred pursuant to subsection (b), in any fiscal year in which the Federal Aviation Administration does not allocate at least the amount it expended in fiscal year 2002 (excluding amounts accepted pursuant to section 337 of the Department of Transportation and Related Agencies Appropriations Act, 2002 (115 Stat. 862)) for the activities described in subsection (a).

(Added Pub. L. 108–176, title III, §304(a), Dec. 12, 2003, 117 Stat. 2537; amended Pub. L. 112–95, title V, §503, Feb. 14, 2012, 126 Stat. 103.)

#### EDITORIAL NOTES

#### REFERENCES IN TEXT

Section 337 of the Department of Transportation and Related Agencies Appropriations Act, 2002, referred to in subsec. (d), is section 337 of Pub. L. 107–87, Dec. 18, 2001, 115 Stat. 862, which is not classified to the Code.

#### AMENDMENTS

2012—Subsec. (a). Pub. L. 112–95 substituted "services of consultants—" for "services of consultants in order to facilitate the timely processing, review, and completion of environmental activities associated with an airport development project." and added pars. (1) to (5).

#### 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 an Effective Date of 2003 Amendment note under section 106 of this title.

### §47174. Authorization of appropriations

In addition to the amounts authorized to be appropriated under section 106(k), there is authorized to be appropriated to the Secretary of Transportation, out of the Airport and Airway Trust Fund established under section 9502 of the Internal Revenue Code of 1986 (26 U.S.C. 9502), \$4,200,000 for fiscal year 2004 and for each fiscal year thereafter to facilitate the timely processing, review, and completion of environmental activities associated with airport capacity enhancement projects at congested airports.

(Added Pub. L. 108–176, title III, §304(a), Dec. 12, 2003, 117 Stat. 2538.)

#### 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 an Effective Date of 2003 Amendment note under section 106 of this title.

### §47175. Definitions

In this subchapter, the following definitions apply:

(1) AIRPORT SPONSOR.—The term "airport sponsor" has the meaning given the term "sponsor" under section 47102.

(2) CONGESTED AIRPORT.—The term "congested airport" means an airport that accounted for at least 1 percent of all delayed aircraft operations in the United States in the most recent year for which such data is available and an airport listed in table 1 of the Federal Aviation Administration's Airport Capacity Benchmark Report 2004 or any successor report.

(3) AIRPORT CAPACITY ENHANCEMENT PROJECT.—The term "airport capacity enhancement project" means—

(A) a project for construction or extension of a runway, including any land acquisition, taxiway, or safety area associated with the runway or runway extension; and

(B) such other airport development projects as the Secretary may designate as facilitating a reduction in air traffic congestion and delays.

(4) AVIATION SAFETY PROJECT.—The term "aviation safety project" means an aviation project that—

(A) has as its primary purpose reducing the risk of injury to persons or damage to aircraft and property, as determined by the Administrator; and

(B)(i) is needed to respond to a recommendation from the National Transportation Safety Board, as determined by the Administrator; or

(ii) is necessary for an airport to comply with part 139 of title 14, Code of Federal Regulations (relating to airport certification).

(5) AVIATION SECURITY PROJECT.—The term "aviation security project" means a security project at an airport required by the Department of Homeland Security.

(6) FEDERAL AGENCY.—The term "Federal agency" means a department or agency of the United States Government.

(7) JOINT USE AIRPORT.—The term "joint use airport" means an airport owned by the Department of Defense, at which both military and civilian aircraft make shared use of the airfield.

(8) GENERAL AVIATION AIRPORT CONSTRUCTION OR IMPROVEMENT PROJECT.—The term "general aviation airport construction or improvement project" means—

(A) a project for the construction or extension of a runway, including any land acquisition, helipad, taxiway, safety area, apron, or navigational aids associated with the runway or runway extension, at a general aviation airport, a reliever airport, or a commercial service airport that is not a primary airport (as such terms are defined in section 47102); and

(B) any other airport development project that the Secretary designates as facilitating aviation capacity building projects at a general aviation airport.

(Added Pub. L. 108–176, title III, §304(a), Dec. 12, 2003, 117 Stat. 2538; amended Pub. L. 112–95, title I, §152(g), Feb. 14, 2012, 126 Stat. 34; Pub. L. 115–254, div. B, title I, §191(b), Oct. 5, 2018, 132 Stat. 3239.)

#### **EDITORIAL NOTES**

#### **AMENDMENTS**

**2018**—Par. (8). Pub. L. 115–254 added par. (8).

**2012**—Par. (2). Pub. L. 112–95, §152(g)(1), substituted "2004 or any successor report" for "2001".

Par. (7). Pub. L. 112–95, §152(g)(2), added par. (7).

#### **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 an Effective Date of 2003 Amendment note under section 106 of this title.