

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**

2024—Pub. L. 118–63, title VII, §§725(b), 726(b), May 16, 2024, 138 Stat. 1269, 1271, which directed amendment of the analysis for subchapter I of this chapter by adding items 47145 and 47146, was executed by making the amendment to the analysis for this chapter, to reflect the probable intent of Congress.

Pub. L. 118–63, title II, §218(d), title VII, §§723(c), 742(b), May 16, 2024, 138 Stat. 1055, 1267, 1279, struck out item 47131 "Annual report", added items 47140 and 47142, and struck out former items 47140 "Increasing the energy efficiency of airport power sources" and 47142 "Design-build contracting".

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, 3222, 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.

¹ *So in original. Does not conform to section catchline.*

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 projects, activities, and actions that prevent runway incursions serve to—
 - (A) improve airport surface surveillance; and
 - (B) mitigate surface safety risks that are essential to ensuring the safe operation of the airport and airway system;
 - (3) that aviation facilities be constructed and operated to minimize current and projected noise impact on nearby communities;
 - (4) to give special emphasis to developing reliever airports;
 - (5) that appropriate provisions should be made to make the development and enhancement of cargo hub airports easier;
 - (6) 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;
 - (7) 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;
 - (8) 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;
 - (9) 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;
 - (10) 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;
 - (11) that special emphasis should be placed on converting appropriate former military air bases to civil use and identifying and improving additional joint-use facilities;
 - (12) 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;
 - (13) that airport fees, rates, and charges must be reasonable and may only be used for purposes not prohibited by this subchapter; and
 - (14) 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)(6) 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 (including long-term resilience from the impact of natural hazards and severe weather events), 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;

(D) are integrated with metropolitan plans to ensure that airport development proposals include adequate consideration of land use and ground transportation access; and

(E) consider the impact of hazardous weather events on long-term operational resilience.

(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)(7) of this section, the Secretary of Transportation may 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; Pub. L. 118–63, title III, §347(a)(1), (2), title VII, §§701, 781, May 16, 2024, 138 Stat. 1104, 1245, 1302.)

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,

	49 App.:2201(a)(10).	§102(b)(1), (c)(1), 101 Stat. 1487. 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

2024—Subsec. (a)(2) to (14). Pub. L. 118–63, §347(a)(1), added par. (2) and redesignated former pars. (2) to (13) as (3) to (14), respectively.

Subsec. (g). Pub. L. 118–63, §347(a)(2)(A), substituted "subsection (a)(6)" for "subsection (a)(5)" in introductory provisions.

Subsec. (g)(1). Pub. L. 118–63, §701(1), inserted "(including long-term resilience from the impact of natural hazards and severe weather events)" after "environmental".

Subsec. (g)(2)(E). Pub. L. 118–63, §701(2), added subpar. (E).

Subsec. (h). Pub. L. 118–63, §781, substituted "may" for "shall" in introductory provisions.

Pub. L. 118–63, §347(a)(2)(B), substituted "subsection (a)(7)" for "subsection (a)(6)" in introductory provisions.

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.

RUNWAY LENGTH IN ALASKA

Pub. L. 118–63, [title III, §342\(d\), May 16, 2024](#), 138 Stat. 1100, provided that: "The Administrator [of the Federal Aviation Administration]—

"(1) may not restrict funding made available under chapter 471 of title 49, United States Code, from being used at an airport in Alaska to rehabilitate, resurface, or reconstruct the full length and width of an existing runway within Alaska based solely on reduced current or forecasted aeronautical activity levels or critical design type standards;

"(2) may not reject requests for runway projects at airports in Alaska if such projects address critical community needs, including projects—

"(A) that support economic development by expanding a runway to meet new demands; or

"(B) that preserve the length of runways used by aircraft to deliver necessary cargo, including heating fuel and gasoline, for the community served by the airport; and

"(3) shall, not later than 60 days after receiving a request for a runway rehabilitation or reconstruction project at an airport in Alaska, review each such request on a case-by-case basis."

CONTINUOUS EVALUATION OF GROUND AND AIR TRAFFIC ACTIVITY AND RELATED INCIDENTS

Pub. L. 118–63, [title III, §347\(a\)\(3\), May 16, 2024](#), 138 Stat. 1104, provided that: "In carrying out section 47101(a) of title 49, United States Code, as amended by this subsection, the Administrator [of the Federal Aviation Administration] shall establish a process to continuously track and evaluate ground traffic and air traffic activity and related incidents at airports."

RUNWAY AND SURFACE SAFETY

Pub. L. 118–63, [title III, §347\(b\)–\(f\), May 16, 2024](#), 138 Stat. 1104–1107, provided that:

"(b) RUNWAY SAFETY COUNCIL.—

(1) IN GENERAL.—Not later than 6 months after the date of enactment of this Act [May 16, 2024], the Administrator [of the Federal Aviation Administration] shall establish a council, to be known as the 'Runway Safety Council' (in this section referred to as the 'Council'), to develop a systematic management strategy to address airport surface safety risks.

"(2) DUTIES.—The duties of the Council shall include, at a minimum, advancing the development of risk-based, data driven, integrated systems solutions and strategies to enhance airport surface safety risk mitigation.

"(3) Membership.—

"(A) IN GENERAL.—In establishing the Council, the Administrator shall appoint at least 1 member from each of the following:

"(i) Airport operators.

"(ii) Air carriers.

"(iii) Aircraft operators.

"(iv) Avionics manufacturers.

"(v) Flight schools.

"(vi) The exclusive collective bargaining representative of aviation safety professionals for the FAA [Federal Aviation Administration] certified under section 7111 of title 5, United States Code.

"(vii) The exclusive bargaining representative of the air traffic controllers certified under section 7111 of title 5, United States Code.

"(viii) Other safety experts the Administrator determines appropriate.

"(B) ADDITIONAL MEMBERS.—The Administrator may appoint members representing any other stakeholder organization that the Administrator determines appropriate to the Runway Safety Council.

"(c) AIRPORT SURFACE SAFETY TECHNOLOGIES.—

"(1) IDENTIFICATION.—Not later than 6 months after the date of enactment of this Act, the Administrator shall, in coordination with the Council, consult with relevant stakeholders to identify technologies, equipment, systems, and process changes, that—

"(A) may provide airport surface surveillance capabilities at airports lacking such capabilities;

"(B) may augment existing airport surface detection and surveillance system; or

"(C) may improve onboard situational awareness for flight crewmembers, including technologies for use in an aircraft that

"(i) reduce the risk of collision on the runway with other aircraft or vehicles;

"(ii) calculate safe landing distances; and

"(iii) prompt actions to bring the aircraft to a safe stop.

"(2) CRITERIA.—Not later than 1 year after the date of enactment of this Act, the Administrator shall—

"(A) based on the information obtained pursuant to paragraph (1)(A) and (1)(B), identify airport surface detection and surveillance systems that meet the standards of the FAA and may be able to—

"(i) provide airport surface surveillance capabilities at airports lacking such capabilities; or

"(ii) augment existing airport surface detection and surveillance systems, such as Airport Surface Detection System—

Model X or the Airport Surface Surveillance Capability;

"(B) establish a timeline and action plan for replacing, maintaining, or enhancing the operational capability provided by existing airport surface detection and surveillance systems, and implementing runway safety technologies at airports without airport surface detection and surveillance systems, as needed, to improve runway safety;

"(C) based on the information obtained pursuant to paragraph (1)(C), identify safety technologies and systems in transport airplanes that meet the standards of the FAA that will—

"(i) enhance runway safety for transport airplanes that lack the capabilities of such technologies and systems, as appropriate; or

"(ii) augment existing onboard situational awareness runway traffic alerting and runway landing safety technologies installed on transport airplanes; and

"(D) establish clear and quantifiable criteria relating to operational factors, including ground traffic and air traffic activity and the rate of runway and terminal airspace safety events (including runway incursions), that determine when the installation and deployment of an airport surface detection or surveillance system, or other runway safety system (including runway status lights), at an airport is required.

"(3) DEPLOYMENT.—Not later than 5 years after the date of enactment of this Act, the Administrator shall ensure that airport surface detection and surveillance systems are deployed and operational at—

"(A) all airports described in paragraph (2)(A); and

"(B) all medium and large hub airports.

"(4) BRIEFING.—Not later than 3 years after the date of enactment of this Act, the Administrator shall brief 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] on the progress of the deployment described in paragraph (3).

"(d) FOREIGN OBJECT DEBRIS DETECTION.—

"(1) IN GENERAL.—Not later than 3 years after the date of enactment of this Act [May 16, 2024], the Administrator shall assess, in coordination with the Council, automated foreign object debris monitoring and detection systems at not less than 3 airports that are using such systems.

"(2) CONSIDERATIONS.—In conducting the assessment under paragraph (1), the Administrator shall consider the following:

"(A) The categorization of an airport.

"(B) The potential frequency of foreign object debris incidents on airport runways or adjacent ramp areas.

"(C) The availability of funding for the installation and maintenance of foreign object debris monitoring and detection systems.

"(D) The impact of such systems on the airfield operations of an airport.

"(E) The effectiveness of available foreign object debris monitoring and detection systems.

"(F) Any other factors relevant to assessing the return on investment of foreign object debris monitoring and detection systems.

"(3) CONSULTATION.—In carrying out this subsection, the Administrator and the Council shall consult with manufacturers and suppliers of foreign object debris detection technology and any other relevant stakeholders.

"(e) RUNWAY SAFETY STUDY.—

"(1) IN GENERAL.—Not later than 2 years after the date of enactment of this Act, the Administrator shall seek to enter into appropriate arrangements with a federally funded research and development center to conduct a study of runway incursions, airport surface incidents, operational errors, or losses of standard separation of aircraft in the approach or departure phase of flight to determine how advanced technologies and future airport development projects may be able to reduce the frequency of such events and enhance aviation safety.

"(2) CONSIDERATIONS.—In conducting the study under paragraph (1), the federally funded research and development center shall

"(A) examine data relating to recurring runway incursions, surface incidents, operational errors, or losses of standard separation of aircraft in the approach or departure phase of flight at airports to identify the underlying factors that caused such events;

"(B) assess metrics used to identify when such events are increasing at an airport;

"(C) assess available and developmental technologies, including and beyond such technologies considered in subsection (c), that may augment existing air traffic management capabilities of surface surveillance and terminal airspace equipment;

"(D) consider growth trends in airport size, staffing and communication complexities to identify—

"(i) future gaps in information exchange between aerospace stakeholders; and

"(ii) methods for meeting future near real-time information sharing needs; and

"(E) examine airfield safety training programs used by airport tenants and other stakeholders operating on airfields of airports, including airfield familiarization training programs for employees, to assess scalability to handle future growth in airfield capacity and traffic.

"(3) RECOMMENDATIONS.—In conducting the study required by paragraph (1), the federally funded research and development center shall develop recommendations for the strategic planning efforts of the Administration to appropriately maintain surface safety considering future increases in air traffic and based on the considerations described in paragraph (2).

"(4) REPORT TO CONGRESS.—Not later than 90 days after the completion of the study required by paragraph (1), the Administrator shall submit to the appropriate committees of Congress a report on the findings of such study and any recommendations developed under paragraph (3).

"(f) DEFINITIONS.—In this section:

"(1) AIR CARRIER; FOREIGN AIR CARRIER.—The terms 'air carrier' and 'foreign air carrier' have the meanings given such terms in section 40102 of title 49, United States Code.

"(2) AIRPORT SURFACE DETECTION AND SURVEILLANCE SYSTEM.—The term 'airport surface detection and surveillance system' means an airport surveillance system that is—

"(A) designed to track surface movement of aircraft and vehicles; or

"(B) capable of alerting air traffic controllers or flight crewmembers of a possible runway incursion, misaligned approach, or other safety event.

"(3) TRANSPORT AIRPLANE.—The term 'transport airplane' means a transport category airplane designed for operation by an air carrier or foreign air carrier jet type-certificated with a passenger seating capacity of at least 10 seats or a maximum takeoff weight above 12,500 pounds or an all-cargo or combi derivative of such an airplane."

PROHIBITION ON PROVISION OF AIRPORT IMPROVEMENT GRANT FUNDS TO CERTAIN ENTITIES THAT HAVE VIOLATED INTELLECTUAL PROPERTY RIGHTS OF UNITED STATES ENTITIES

Pub. L. 118–63, [title VII, §711, May 16, 2024](#), 138 Stat. 1253, provided that:

"(a) IN GENERAL.—Beginning on the date that is 30 days after the date of enactment of this Act [May 16, 2024], amounts provided as project grants under subchapter I of chapter 471 of title 49, United States Code, may not be used to enter into a covered contract with any entity on the list required under subsection (b).

"(b) LIST REQUIRED.—

"(1) IN GENERAL.—Not later than 30 days after the date of enactment of this Act, and thereafter as required under paragraph (2), the United States Trade Representative, the Attorney General, and the Administrator [of the Federal Aviation Administration] shall make available to the Administrator a publicly-available list of entities manufacturing airport passenger boarding infrastructure or equipment that—

"(A) are owned, directed by, or subsidized in whole or in part by the People's Republic of China;

"(B) have been determined by a Federal court to have misappropriated intellectual property or trade secrets from an entity organized under the laws of the United States or any jurisdiction within the United States;

"(C) own or control, are owned or controlled by, are under common ownership or control with, or are successors to an entity described in subparagraph (A); or

"(D) have entered into an agreement with or accepted funding from, whether in the form of minority investment interest or debt, have entered into a partnership with, or have entered into another contractual or other written arrangement with an entity described in subparagraph (A).

"(2) UPDATES TO LIST.—The United States Trade Representative shall update the list required under paragraph (1), based on information provided by the Attorney General and the Administrator—

"(A) not less frequently than every 90 days during the 180-day period following the initial publication of the list under paragraph (1); and

"(B) not less frequently than annually thereafter.

"(c) DEFINITIONS.—In this section:

"(1) IN GENERAL.—The definitions in section 47102 of title 49, United States Code, shall apply.

"(2) COVERED CONTRACT.—The term 'covered contract' means a contract or other agreement for the procurement of infrastructure or equipment for a passenger boarding bridge at an airport."

NATIONAL PRIORITY SYSTEM FORMULAS

Pub. L. 118–63, [title VII, §729, May 16, 2024](#), 138 Stat. 1271, provided that:

"(a) IN GENERAL.—Not later than 1 year after the date of enactment of this Act [May 16, 2024], the Secretary [of Transportation] shall review and update the National Priority System prioritization formulas contained in FAA Order 5090.5 to account for the amendments to chapter 471 of title 49, United States Code, made by this Act [see Tables for classification].

"(b) REQUIRED CONSULTATION.—In revising the formulas under subsection (a), the Secretary shall consult with representatives of the following:

"(1) Primary airports, including large, medium, small, and nonhub airports.

"(2) Non-primary airports, including general aviation airports.

"(3) Airport trade associations, including trade associations representing airport executives.

"(4) State aviation officials, including associations representing such officials.

"(5) Air carriers, including mainline, regional, and low-cost air carriers.

"(6) Associations representing air carriers.

"(c) PRIORITY PROJECTS.—In revising the formulas under subsection (a), the Secretary shall assign the highest priority to projects that increase or maintain the safety, efficiency, and capacity of the aviation system."

AIRPORT IMPROVEMENT PROGRAM HANDBOOK UPDATE

Pub. L. 118–63, [title VII, §733, May 16, 2024](#), 138 Stat. 1273, provided that:

"(a) IN GENERAL.—Not later than 3 years after the date of enactment of this Act [May 16, 2024], the Administrator [of the Federal Aviation Administration] shall revise the Airport Improvement Program Handbook (FAA [Federal Aviation Administration] Order 5100.38D) (in this section referred to as the 'AIP Handbook') to account for legislative changes to the airport improvement program under subchapter I of chapter 471 and chapter 475 of title 49, United States Code, and to make such other changes as the Administrator determines necessary.

"(b) REQUIREMENTS RELATING TO ALASKA.—In revising the AIP Handbook under subsection (a) (and in any subsequent revision), the Administrator, in consultation with the Governor of Alaska, shall identify and incorporate reasonable exceptions to the general requirements of the AIP Handbook to meet the unique circumstances, and advance the safety needs, of airports in Alaska, including with respect to the following:

"(1) Snow Removal Equipment Building size and configuration.

- "(2) Expansion of lease areas.
- "(3) Shared governmental use of airport equipment and facilities in remote locations.
- "(4) Ensuring the resurfacing or reconstruction of legacy runways to support—
 - "(A) aircraft necessary to support critical health needs of a community;
 - "(B) remote fuel deliveries; and
 - "(C) firefighting response.
- "(5) The use of runway end identifier lights at airports in Alaska.

"(c) ADDITIONAL REQUIREMENT.—In revising the AIP Handbook under subsection (a), the Administrator shall include updates to reflect whether a light emitting diode system is an appropriate replacement for any existing halogen system.

"(d) PUBLIC COMMENT.—

"(1) IN GENERAL.—Not later than 2 years after the date of enactment of this Act, the Administrator shall publish a draft revision of the AIP Handbook and make such draft available for public comment for a period of not less than 90 days.

"(2) REVIEW.—The Administrator shall—

"(A) review all comments submitted during the public comment period described under paragraph (1);

"(B) as the Administrator considers appropriate, incorporate changes based on such comments into the final revision of the Handbook; and

"(C) provide a response to all significant comments.

"(e) INTERIM IMPLEMENTATION OF CHANGES.—

"(1) IN GENERAL.—Except as provided in paragraph (2), not later than 1 year after the date of enactment of this Act, the Administrator shall issue program guidance letters to provide for the interim implementation of amendments made by this Act to the Airport Improvement Program.

"(2) ALASKA EXCEPTIONS.—Not later than 60 days after the date on which the Administrator identified reasonable exceptions under subsection (b), the Administrator, in consultation with the Regional Administrator of the FAA Alaskan Region, shall issue program guidance letters to provide for the interim application of such exceptions."

CURB MANAGEMENT PRACTICES

Pub. L. 118–63, [title VII, §746, May 16, 2024](#), 138 Stat. 1282, provided that: "Nothing in this Act [see Tables for classification] shall be construed to prevent airports from—

- "(1) engaging in curb management practices, including determining and assigning curb designations and regulations;
- "(2) installing and maintaining upon any of the roadways or parts of roadways as many curb zones as necessary to aid in the regulation, control, and inspection of passenger loading and unloading; or
- "(3) enforcing curb zones using sensor, camera, automated license plate recognition, and software technologies and issuing citations by mail to the registered owner of the vehicle."

NOTICE OF FUNDING OPPORTUNITY

Pub. L. 118–63, [title VII, §747, May 16, 2024](#), 138 Stat. 1282, provided that: "Notwithstanding part 200 of title 2, Code of Federal Regulations, or any other provision of law, funds made available as part of the Airport Improvement Program under subchapter I of chapter 471 or chapter 475 of title 49, United States Code, shall not be subject to any public notice of funding opportunity requirement."

DISPUTED CHANGES OF SPONSORSHIP AT FEDERALLY OBLIGATED, PUBLICLY OWNED AIRPORT

Pub. L. 118–63, [title VII, §757, May 16, 2024](#), 138 Stat. 1285, provided that:

"(a) APPROVAL AUTHORITY.—

"(1) IN GENERAL.—Subject to paragraph (2), in the case of a disputed change of airport sponsorship, the Administrator [of the Federal Aviation Administration] shall have the sole legal authority to approve any change in the sponsorship of, or operational responsibility for, the airport from the airport sponsor of record to another public or private entity.

"(2) EXCLUSION.—This section shall not apply to a change of sponsorship or ownership of a privately-owned airport, a transfer under the Airport Investment Partnership Program, a change when the Federal Government exercises a right of reverter, or a change that is not disputed.

"(b) CONDITIONS FOR APPROVAL.—

"(1) IN GENERAL.—Subject to paragraphs (2) and (3), the Administrator shall not approve any disputed change of airport sponsorship unless the Administrator receives—

"(A) written documentation from the airport sponsor of record consenting to the change in sponsorship or operation;

"(B) notice of a final, non-reviewable judicial decision requiring such change; or

"(C) notice of a legally-binding agreement between the parties involved.

"(2) PENDING JUDICIAL REVIEW.—The Administrator may not evaluate or approve a disputed change of airport sponsorship where a legal dispute is pending before a court of competent jurisdiction.

"(3) TECHNICAL ASSISTANCE.—

"(A) IN GENERAL.—Any State or local legislative body or public agency considering whether to take an action (including by drafting legislation) that would impact the ownership, sponsorship, governance, or operations of a federally obligated, publicly owned airport may request from the Administrator, at any point in the deliberative process—

"(i) technical assistance regarding the interrelationship between Federal and State or local requirements applicable to any such action; and

"(ii) review and comment on such action.

"(B) FAILURE TO SEEK TECHNICAL ASSISTANCE.—The Administrator may deny a change in the ownership, sponsorship, or governance of, or operational responsibility for, a federally obligated, publicly owned airport if a State or local legislative body or public agency does not seek technical assistance under subparagraph (A) with respect to such change.

"(c) FINAL DECISION AUTHORITY.—In addition to the conditions outlined in subsection (b), the Administrator shall independently determine whether the proposed sponsor or operator is able to satisfy Federal requirements for airport sponsorship or operation and shall ensure, by requiring whatever terms and conditions the Administrator determines necessary, that any change in the ownership, sponsorship, or governance of, or operational responsibility for, a federally obligated, publicly owned airport is consistent with existing Federal law, regulations, existing grant assurances, and Federal land conveyance obligations.

"(d) DEFINITION OF DISPUTED CHANGE OF AIRPORT SPONSORSHIP.—In this section, the term 'disputed change of airport sponsorship' means any action that seeks to change the ownership, sponsorship, or governance of, or operational responsibility for, a federally obligated, publicly owned airport, including any such change directed by judicial action or State or local legislative action, where the airport sponsor of record initially does not consent to such change."

PROCUREMENT REGULATIONS APPLICABLE TO FAA MULTIMODAL PROJECTS

Pub. L. 118–63, [title VII, §758, May 16, 2024](#), 138 Stat. 1287, provided that:

"(a) IN GENERAL.—Any multimodal airport development project that uses grant funding from funds made available to the Administrator [of the Federal Aviation Administration] to carry out subchapter I of chapter 471 of title 49, United States Code, or airport infrastructure projects under the Infrastructure Investment and Jobs Act (Public Law 117–58) [see Tables for classification] shall abide by the procurement regulations applicable to—

"(1) the FAA [Federal Aviation Administration]; and

"(2) subject to subsection (b), the component of the project relating to transit, highway, or rail, respectively.

"(b) MULTIPLE COMPONENT PROJECTS.—In the case of a multimodal airport development project described in subsection (a) that involves more than 1 component described in paragraph (2) of such subsection, such project shall only be required to apply the procurement regulations applicable to the component where the greatest amount of Federal financial assistance will be expended."

REGIONAL AIRPORT CAPACITY STUDY

Pub. L. 118–63, [title VII, §765, May 16, 2024](#), 138 Stat. 1291, provided that:

"(a) IN GENERAL.—Not later than 1 year after the date of enactment of this Act [May 16, 2024], the Administrator [of the Federal Aviation Administration] shall initiate a study on the following:

"(1) Existing FAA [Federal Aviation Administration] policy and guidance that govern the siting of new airports or the transition of general aviation airports to commercial service.

"(2) Ways that existing regulations and policies could be streamlined to facilitate the development of new airport capacity, particularly in high-demand air travel regions looking to invest in new airport capacity.

"(3) Whether Federal funding sources (existing as of the date of enactment of this Act) that are authorized by the Secretary [of Transportation] could be used for such purposes.

"(4) Whether such Federal funding sources meet the needs of the national airspace system for adding new airport capacity outside of the commercial service airports in operation as of the date of enactment of this Act.

"(5) If such Federal funding sources are determined by the Administrator to be insufficient for the purposes described in this subsection, an estimate of the funding gap.

"(b) REPORT.—Not later than 30 months after the date of enactment of this Act, 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 on the results of the study conducted under subsection (a), together with recommendations for such legislative or administrative action as the Administrator determines appropriate.

"(c) GUIDANCE.—Not later than 3 years after the date of enactment of this Act, the Administrator shall, if appropriate, revise FAA guidance to incorporate the findings of the study conducted under subsection (a) to assist airports and State and local departments of transportation in increasing airport capacity to meet regional air travel demand."

APPLICATION OF AMENDMENTS TO AIRPORT IMPROVEMENT PROGRAM APPORTIONMENT AND DISCRETIONARY FORMULAS

Pub. L. 118–63, [title VII, §772, May 16, 2024](#), 138 Stat. 1297, provided that: "The amendments to the Airport Improvement Program apportionment and discretionary formulas under chapter 471 of title 49, United States Code, made by this Act [see Tables for classification] (except as they relate to the extension of provisions or authorities expiring on May 10, 2024, or May 11, 2024) shall not apply in a fiscal year beginning before the date of enactment of this Act [May 16, 2024]."

AIR TRAFFIC SURFACE OPERATIONS SAFETY

Pub. L. 118–63, [title X, §1023, May 16, 2024](#), 138 Stat. 1401, provided that:

"(a) RESEARCH.—Subject to the availability of appropriations, the Administrator [of the Federal Aviation Administration], in consultation with the Administrator of NASA [National Aeronautics and Space Administration] and other appropriate Federal agencies, shall continue to carry out research and development activities relating to technologies and operations to enhance air traffic surface operations safety.

"(b) REQUIREMENTS.—In carrying out the research and development under subsection (a) shall [sic] examine the following:

"(1) Methods and technologies to enhance the safety and efficiency of air traffic control operations related to air traffic surface operations.

"(2) Emerging technologies installed in aircraft cockpits to enhance ground situational awareness, including enhancements to the operational performance of runway traffic alerting and runway landing safety technologies.

"(3) Safety enhancements and adjustments to air traffic surface operations to account for and enable safe operations of advanced aviation technology.

"(c) REPORT.—Not later than 18 months after the date of enactment of this Act [May 16, 2024], the Administrator shall submit to the covered committees of Congress [Committee on Science, Space, and Technology of the House of Representatives and Committee on Commerce, Science, and Transportation of the Senate] a report on the research and development activities carried out under this section, including regarding the transition into operational use of such activities."

LIMITED REGULATION OF NON-FEDERALLY SPONSORED PROPERTY

Pub. L. 115–254, [div. B, title I, §163\(a\)–\(c\), Oct. 5, 2018](#), 132 Stat. 3224, as amended by Pub. L. 118–63, [title VII, §743\(a\), May 16, 2024](#), 138 Stat. 1279, provided that:

"(a) [Reserved].

"(b) [Reserved].

"(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, which related to closure of an airport that is not a commercial service airport that is located within 2 miles of a United States Army depot which has been closed or realigned, was repealed by Pub. L. 118–63, [title VII, §719\(c\)\(1\), May 16, 2024](#), 138 Stat. 1262.

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" has the meaning given such term in section 40102.

(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;

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

(iii) a secondary runway at a nonhub airport that is equivalent in size and type to the primary runway of such airport.

(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 and fuel infrastructure for such equipment to remove snow 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;

(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; and

(xi) a medium intensity approach lighting system with runway alignment indicator lights.

(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 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.

(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 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 reliability and efficiency of the power supply of the airport or meet current and future electrical power demand and to prevent power disruptions to the airfield, passenger terminal, and any other airport facilities, including the acquisition and installation of electrical generators, renewable energy generation and storage infrastructure (including necessary substation upgrades to support such infrastructure), separation of the airport's main power supply from its redundant power supply, 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)), and smart glass (including electrochromic glass).

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

(S) acquisition of advanced digital construction management systems and related technology used in the planning, design and engineering, construction, and maintenance of airport facilities when such systems or technologies are acquired to carry out a project approved by the Secretary under this subchapter.

(T) improvements, or planning for improvements (including monitoring equipment or services), that would be necessary to sustain commercial service flight operations or permit the resumption of such flight operations following a natural disaster (including an earthquake, flooding, high water, wildfires, hurricane, storm surge, tidal wave, tornado, tsunami, wind driven water, sea level rise, tropical storm, cyclone, land instability, or winter storm) at—

(i) a primary airport; or

(ii) a nonprimary airport that is designated as a Federal staging area or incident support base by the Administrator of the Federal Emergency Management Agency.

(U) a project to comply with rulemakings and recommendations on airport cybersecurity standards from the aviation rulemaking committee convened under section 395 of the FAA Reauthorization Act of 2024.

(V) reconstructing or rehabilitating an existing crosswind runway (regardless of the wind coverage of the primary runway) if the reconstruction or rehabilitation of such crosswind runway is in the most recently approved airport layout plan of the sponsor.

(W) constructing or acquiring such airport-owned infrastructure or equipment, notwithstanding revenue producing capability of such infrastructure or equipment, as may be required for—

- (i) the on-airport distribution or storage of unleaded aviation gasoline for piston-driven aircraft, including on-airport construction or expansion of pipelines, storage tanks, low-emission fuel systems, and airport-owned fuel trucks providing exclusively unleaded aviation fuels (unless the Secretary determines that an alternative fuel may be safely used in such fuel truck for a limited time); or
- (ii) fueling systems for type certificated hydrogen-powered aircraft.

(X) constructing, reconstructing, or rehabilitating a taxiway or taxilane that serves non-exclusive use aeronautical facilities, including aircraft storage facilities, except for the 50 feet of pavement immediately in front of an ineligible building.

(Y) any other activity (excluding terminal development) that the Secretary concludes will reasonably improve the safety of the airport.

(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 and catchment area analyses;
- (B) developing an environmental management system;
- (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; and
- (D) assessing current and future electrical power demand for airport airside and landside activities.

(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;
- (C) an Indian tribe or pueblo; or
- (D) the Republic of the Marshall Islands, Federated States of Micronesia, and Republic of Palau.

(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, 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 for moving passengers and baggage between terminal facilities and between terminal facilities and aircraft.

(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; Pub. L. 118–63, title VII, §702, May 16, 2024, 138 Stat. 1246.)

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.

Section 395 of the FAA Reauthorization Act of 2024, referred to in par. (3)(U), is section 395 of Pub. L. 118-63, which is set out as a note under section 40131 of this title.

AMENDMENTS

2024—Par. (1). Pub. L. 118-63, §702(1), added par. (1) and struck out former par. (1) which read as follows: " '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."

Par. (3)(A)(iii). Pub. L. 118-63, §702(2)(A), added cl. (iii).

Par. (3)(B)(iii). Pub. L. 118-63, §702(2)(B)(i), inserted "and fuel infrastructure for such equipment to remove snow" after "surveillance equipment".

Par. (3)(B)(xi). Pub. L. 118-63, §702(2)(B)(ii)—(iv), added cl. (xi).

Par. (3)(E). Pub. L. 118-63, §702(2)(C), struck out "after December 31, 1991," after "relocating".

Par. (3)(K). Pub. L. 118-63, §702(2)(D), struck out before period at end: "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".

Par. (3)(L). Pub. L. 118-63, §702(2)(E), struck out "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" after "technology if" in introductory provisions.

Par. (3)(P). Pub. L. 118–63, §702(2)(F), substituted "improve reliability and efficiency of the power supply of the airport or meet current and future electrical power demand" for "improve the reliability and efficiency of the airport's power supply" and "redundant power supply," for "redundant power supply, and", and inserted ", renewable energy generation and storage infrastructure (including necessary substation upgrades to support such infrastructure)" after "electrical generators" and ", and smart glass (including electrochromic glass)" before period at end.

Par. (3)(S) to (Y). Pub. L. 118–63, §702(2)(G), added subpars. (S) to (Y).

Par. (5)(A). Pub. L. 118–63, §702(3)(A), inserted "and catchment area analyses" after "planning".

Par. (5)(D). Pub. L. 118–63, §702(3)(B)–(D), added subpar. (D).

Par. (20)(D). Pub. L. 118–63, §702(4)(C), added subpar. (D).

Par. (27). Pub. L. 118–63, §702(5), struck out "the Trust Territory of the Pacific Islands," after "the Northern Mariana Islands,".

Par. (28)(B). Pub. L. 118–63, §702(6), substituted "for moving passengers and baggage between terminal facilities and between terminal facilities and aircraft" for "described in section 47119(a)(1)(B)".

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, as amended by Pub. L. 118–15, [div. B, title II, §2202\(p\), Sept. 30, 2023](#), 137 Stat. 83; Pub. L. 118–34, [title I, §102\(p\), Dec. 26, 2023](#), 137 Stat. 1114; Pub. L. 118–41, [title I, §102\(p\), Mar. 8, 2024](#), 138 Stat. 22; Pub. L. 118–63, [title VII, §731, May 16, 2024](#), 138 Stat. 1273, provided that: "Notwithstanding section 47102 of title 49, United States Code, for fiscal years 2024 through 2028—

"(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) NON-COMPLIANT AIRPORTS.—

(1) IN GENERAL.—The Secretary shall include in the plan a detailed statement listing airports the Secretary has reason to believe are not in compliance with grant assurances or other requirements with respect to airport lands and shall include—

(A) the circumstances of noncompliance;

(B) the timeline for corrective action with respect to such noncompliance; and

(C) any corrective action the Secretary intends to require to bring the airport sponsor into compliance.

(2) LISTING.—The Secretary is not required to conduct an audit or make a final determination before including an airport on the list referred to in paragraph (1).

(e) 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; Pub. L. 118–63, title II, §218(e), May 16, 2024, 138 Stat. 1055.)

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).	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.
	49 App.:2203(c).	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

2024—Subsecs. (d), (e). Pub. L. 118–63 added subsec. (d) and redesignated former subsec. (d) as (e).

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."

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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".

STATUTORY NOTES AND RELATED SUBSIDIARIES

POPULOUS COUNTIES WITHOUT AIRPORTS

Pub. L. 118–63, [title VII, §732, May 16, 2024](#), 138 Stat. 1273, provided that: "Notwithstanding any other provision of law, the Secretary [of Transportation] may not deny inclusion in the national plan of integrated airport systems maintained under section 47103 of title 49, United States Code, to an airport or proposed airport if the airport or proposed airport—

"(1) is located in the most populous county (as such term is defined in section 2 of title 1, United States Code) of a State that does not have an airport listed in the national plan;

"(2) has an airport sponsor that was established before January 1, 2017;

"(3) is located more than 15 miles away from another airport listed in the national plan;

"(4) demonstrates how the airport will meet the operational activity required, through a forecast validated by the Secretary, within the first 10 years of operation;

"(5) meets FAA [Federal Aviation Administration] airport design standards;

"(6) submits a benefit-cost analysis;

"(7) presents a detailed financial plan to accomplish construction and ongoing maintenance; and

"(8) has the documented support of the State government for the entry of the airport or proposed airport into the national 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, 2028, 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; Pub. L. 118–15, [div. B, title II, §2201\(d\)](#), Sept. 30, 2023, 137 Stat. 82; Pub. L. 118–34, [title I, §101\(d\)](#), Dec. 26, 2023, 137 Stat. 1113; Pub. L. 118–41, [title I, §101\(d\)](#), Mar. 8, 2024, 138 Stat. 21; Pub. L. 118–63, [title I, §101\(b\)](#), May 16, 2024, 138 Stat. 1033.)

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.

<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). 49App.: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

2024—Subsec. (c). Pub. L. 118–63 substituted "September 30, 2028" for "May 10, 2024" in introductory provisions.
 Pub. L. 118–41 substituted "May 10, 2024," for "March 8, 2024," in introductory provisions.
2023—Subsec. (c). Pub. L. 118–34 substituted "March 8, 2024," for "December 31, 2023," in introductory provisions.
 Pub. L. 118–15 substituted "December 31, 2023," for "September 30, 2023," in introductory provisions.
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 reenacted "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, as amended by Pub. L. 118–15, **div. B, title II, §2202(o), Sept. 30, 2023**, 137 Stat. 83; Pub. L. 118–34, **title I, §102(o), Dec. 26, 2023**, 137 Stat. 1114; Pub. L. 118–41, **title I, §102(o), Mar. 8, 2024**, 138 Stat. 22; Pub. L. 118–63, **title VI, §621(d), May 16, 2024**, 138 Stat. 1237, 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, 2028.

"(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, as amended by Pub. L. 118–63, **title VII, §785, May 16, 2024**, 138 Stat. 1313, provided that:

"(a) IN GENERAL.—The Secretary of Transportation may carry out a pilot program involving not more than 6 projects in each fiscal year 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 on October 1, 2028.

"(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)(2)(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; Pub. L. 118–63, title VII, §712(c)(1), May 16, 2024, 138 Stat. 1256.)

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

2024—Subsec. (a)(7). Pub. L. 118–63 substituted "section 47114(d)(2)(B)" for "section 47114(d)(3)(B)" in introductory provisions.

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.

PROHIBITION ON CERTAIN RUNWAY LENGTH REQUIREMENTS

Pub. L. 118–63, [title VII, §752, May 16, 2024](#), 138 Stat. 1284, provided that: "Notwithstanding any other provision of law, the Secretary [of Transportation] may not require an airport to shorten the length or width of the runway, apron, or taxiway of the airport as a condition for the receipt of federal financial assistance if the airport directly supports a base of the United States Air Force or the Air National Guard at the airport, regardless of the stationing of military aircraft."

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) subject to subsection (x), the Secretary will review and approve or disapprove the plan and any revision or modification of the plan before the plan, revision, or modification takes effect;
- (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 subsection (x); 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;

(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; and

(22) the airport owner or operator may not restrict or prohibit the sale or self-fueling of any 100-octane low lead aviation gasoline for purchase or use by operators of general aviation aircraft if such aviation gasoline was available at such airport at any time during calendar year 2022, until the earlier of—

- (A) December 31, 2030; or
- (B) the date on which the airport or any retail fuel seller at such airport makes available an unleaded aviation gasoline that—
 - (i) has been authorized for use by the Administrator of the Federal Aviation Administration as a replacement for 100-octane low lead aviation gasoline for use in nearly all piston-engine aircraft and engine models; and
 - (ii) meets either an industry consensus standard or other standard that facilitates the safe use, production, and distribution of such unleaded aviation gasoline, as determined appropriate by the Administrator.

(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 double 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 double 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, 2028.

(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 October 7, 2016;
- (B) under which a nominal lease rate is provided;
- (C) under which the lessee is a Federal or State government entity; and
- (D) that—
 - (i) supports the operation of military aircraft by the Air Force or Air National Guard—
 - (I) at the airport; or
 - (II) remotely from the airport; or
 - (ii) is for the use of nonaeronautical land or facilities of the airport by the National Guard.

(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 subsections (a)(13), (b), and (c) and section 47133, 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—

- (A) 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; or
- (B) permanently restricted the use of airport property to compatible recreational and public park use without paying or otherwise obtaining payment of fair market value for the property.

(2) RESTRICTIONS.—

(A) INTERIM COMPATIBLE RECREATIONAL PURPOSE.—Paragraph (1) shall apply, with respect to a sponsor that has taken the action described in subparagraph (A) of such paragraph, only—

- (i) 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;
- (ii) 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;
- (iii) to airport property that was purchased using funds from a Federal grant for acquiring land issued prior to January 1, 1989;
- (iv) 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;
- (v) 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;
- (vi) if the recreational purpose will not impact the aeronautical use of the airport;

- (vii) if the airport sponsor provides a certification that the sponsor is not responsible for preparation, startup, operations, maintenance, or any other costs associated with the recreational purpose; and
- (viii) if the recreational purpose is consistent with Federal land use compatibility criteria under section 47502.

(B) RECREATIONAL USE.—Paragraph (1) shall apply, with respect to a sponsor that has taken the action described in subparagraph (B) of such paragraph, only—

- (i) to airport property that was purchased using funds from a Federal grant for acquiring land issued prior to January 1, 1989;
- (ii) to airport property that has been continuously leased or licensed through a written agreement with a governmental entity or non-profit entity for recreational or public park uses since July 1, 2003;
- (iii) if the airport sponsor has provided a written statement to the Administrator that the recreational or public park use does not impact the aeronautical use of the airport and that the property to be permanently restricted for recreational or public park use is not needed for any aeronautical use at the time the written statement is provided and is not expected to be needed for any aeronautical use at any time after such statement is provided;
- (iv) if the airport sponsor provides a certification to the Administrator that the sponsor is not responsible for operations, maintenance, or any other costs associated with the recreational or public park use;
- (v) if the recreational purpose is consistent with Federal land use compatibility criteria under section 47502; and
- (vi) if the airport sponsor will—
 - (I) lease the property to a local government entity or non-profit entity to operate and maintain the property at no cost to the airport sponsor; or
 - (II) transfer title to the property to a local government entity subject to a permanent deed restriction ensuring compatible airport use under regulations issued pursuant to section 47502.

(3) REVENUE FROM CERTAIN SALES OF AIRPORT PROPERTY.—Notwithstanding any other provision of law, an airport sponsor leasing or selling a portion of airport property as described in paragraph (2)(B)(vi) may—

- (A) lease or sell such portion of airport property for less than fair market value; and
- (B) subject to the requirements of subsection (b), retain the revenue from the lease or sale of such portion of airport property for use in accordance with section 47133.

(4) SECRETARY REVIEW AND APPROVAL.—Notwithstanding any other provision of law, and subject to the sponsor providing a written statement certifying such sponsor meets the requirements under this subsection, no actions permitted under this subsection shall require the review or approval of the Secretary of Transportation.

(5) 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.

(6) AERONAUTICAL USE; AERONAUTICAL PURPOSE DEFINED.—In this subsection, the terms "aeronautical use" and "aeronautical purpose"—

- (A) mean all activities that involve or are directly related to the operation of aircraft, including activities that make the operation of aircraft possible and safe;
- (B) include services located at an airport that are directly and substantially related to the movement of passengers, baggage, mail, and cargo; and
- (C) do not include any uses of an airport that are not described in subparagraph (A) or (B), including any aviation-related uses that do not need to be located at an airport, such as flight kitchens and airline reservation centers.

(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.

(x) SCOPE OF AIRPORT LAYOUT PLAN REVIEW AND APPROVAL AUTHORITY OF SECRETARY.—

(1) AUTHORITY OVER PROJECTS ON LAND ACQUIRED WITHOUT FEDERAL ASSISTANCE.—For purposes of subsection (a)(16)(B), with respect to any project proposed on land acquired by an airport owner or operator without Federal assistance, the Secretary may review and approve or disapprove only the portions of the plan (or any subsequent revision to the plan) that—

- (A) materially impact the safe and efficient operation of aircraft at, to, or from the airport;
- (B) adversely affect the safety of people or property on the ground as a result of aircraft operations; or
- (C) adversely affect the value of prior Federal investments to a significant extent.

(2) LIMITATION ON NON-AERONAUTICAL REVIEW.—

- (A) IN GENERAL.—The Secretary may not require an airport to seek approval for (including in the submission of an airport layout plan), or directly or indirectly regulate or place conditions on (including through any grant assurance), any project that is not subject to paragraph (1).
- (B) REVIEW AND APPROVAL AUTHORITY.—If only a portion of a project proposed by an airport owner or operator is subject to the review and approval of the Secretary under subsection (a)(16)(B), the Secretary shall not extend review and approval authority to other non-aeronautical portions of the project.

(3) NOTICE.—

- (A) IN GENERAL.—An airport owner or operator shall submit to the Secretary a notice of intent to proceed with a proposed project (or a portion thereof) that is outside of the review and approval authority of the Secretary, as described in this subsection, if the project was not on the most recently submitted airport layout plan of the airport.
- (B) FAILURE TO OBJECT.—If not later than 45 days after receiving the notice of intent described in subparagraph (A), the Secretary fails to object to such notice, the proposed project (or portion thereof) shall be deemed as being outside the scope of the review and approval authority of the Secretary under subsection (a)(16)(B).

(y) UNIVERSAL CHANGING STATION.—

- (1) IN GENERAL.—In fiscal year 2030 and each fiscal year thereafter, 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 install or maintain (in compliance with the requirements of section 35.133 of title 28, Code of Federal Regulations), as applicable—
 - (A) at least 1 private, single-use room with a universal changing station that—
 - (i) meets the standards established under paragraph (2)(A); and
 - (ii) is accessible to all individuals for purposes of use by an individual with a disability in each passenger terminal building of the airport; and

- (B) signage at or near the entrance to the changing station indicating the location of the changing station.

(2) STANDARDS REQUIRED.—Not later than 2 years after the date of enactment of this subsection, the United States Access Board shall—

- (A) establish—
 - (i) comprehensive accessible design standards for universal changing tables; and
 - (ii) standards on the privacy, accessibility, and sanitation equipment of the room in which such table is located, required to be installed, or maintained under this subsection; and

- (B) in establishing the standards under subparagraph (A), consult with entities with appropriate expertise relating to the use of universal changing stations used by individuals with disabilities.

(3) APPLICABILITY.—

- (A) AIRPORT SIZE.—The requirement in paragraph (1) shall only apply to applications submitted by the airport sponsor of a medium or large hub airport.
- (B) SPECIAL RULE.—The requirement in paragraph (1) 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 universal changing station to be located in the sterile area of the building.

- (4) EXCEPTION.—Upon application by an airport sponsor, the Secretary may determine that a universal changing station in existence before the date of enactment of the FAA Reauthorization Act of 2024, complies with the requirements of paragraph (1) (including the standards established under paragraph (2)(A)), notwithstanding the absence of 1 or more of the standards or characteristics required under such paragraph.

(5) DEFINITION.—In this section:

- (A) DISABILITY.—The term "disability" has the meaning given that term in section 3 of the Americans with Disabilities Act of 1990 (42 U.S.C. 12102).
- (B) STERILE AREA.—The term "sterile area" has the same meaning given that term in section 1540.5 of title 49, Code of Federal Regulations.
- (C) UNIVERSAL CHANGING STATION.—The term "universal changing station" means a universal or adult changing station that meets the standards established by the United States Access Board under paragraph (2)(A).
- (D) UNITED STATES ACCESS BOARD.—The term "United States Access Board" means the Architectural and Transportation Barriers Compliance Board established under section 502(a)(1) of the Rehabilitation Act of 1973 (29 U.S.C. 792(a)(1)).

(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; Pub. L. 118–15, div. B, title II, §2202(e), Sept. 30, 2023, 137 Stat. 83; Pub. L. 118–34, title I, §102(e), Dec. 26, 2023, 137 Stat. 1113; Pub. L. 118–41, title I, §102(e), Mar. 8, 2024, 138 Stat. 21; Pub. L. 118–63, title VII, §§703(a), 704–706, 743(b), 770(a), 774(a), May 16, 2024, 138 Stat. 1248, 1249, 1280, 1295, 1297.)

HISTORICAL AND REVISION NOTES

Revised Section	Source (U.S. Code)	Source (Statutes at Large)
47107(a)	49 App.:2202(a)(6).	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.
	49 App.:2208(b)(1)(E) (related to 49 App.:2210(a) (1)–(11), (15), (16)). 49 App.:2210(a)(1)(A).	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.
	49 App.:2210(a)(1)(B), (C), (2). 49 App.:2210(a)(3).	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.
	49 App.:2210(a)(4).	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.
	49 App.:2210(a) (5)–(10). 49 App.:2210(a)(11).	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.
	49 App.:2210(a)(15).	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.
	49 App.:2210(a)(16).	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).	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.:2208(b)(1)(E) (related to 49 App.:2210(a)(13), (14)). 49 App.:2210(a)(13).	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.
	49 App.:2210(a)(14).	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).	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.
	49 App.:2210(h).	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.
	49 App.:2210 (note).	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. (y)(2), is the date of enactment of Pub. L. 118–63, which was approved May 16, 2024.

The date of enactment of the FAA Reauthorization Act of 2024, referred to in subsec. (y)(4), is the date of enactment of Pub. L. 118–63, which was approved May 16, 2024.

AMENDMENTS

2024—Subsec. (a)(16)(B). Pub. L. 118–63, §743(b)(1)(A), added subpar. (B) and struck out former subpar. (B) which read as follows: "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;"

Subsec. (a)(16)(C)(i). Pub. L. 118–63, §743(b)(1)(B), substituted "subsection (x)" for "subparagraph (B)".

Subsec. (a)(22). Pub. L. 118–63, §770(a), added par. (22).

Subsec. (m)(4). Pub. L. 118–63, §703(a)(1), substituted "an amount equal to double" for "an amount equal to".

Subsec. (n)(1). Pub. L. 118–63, §703(a)(2), substituted "an amount equal to double" for "an amount equal to".

Subsec. (r)(3). Pub. L. 118–63, §704, substituted "October 1, 2028" for "May 11, 2024".

Pub. L. 118–41 substituted "May 11, 2024" for "March 9, 2024".

Subsec. (t)(2)(A). Pub. L. 118–63, §705(1), substituted "October 7, 2016" for "the date of enactment of this subsection".

Subsec. (t)(2)(D). Pub. L. 118–63, §705(2), added subpar. (D) and struck out former subpar. (D) which read as follows: "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."

Subsec. (v). Pub. L. 118–63, §706, amended subsec. (v) generally. Prior to amendment, subsec. (v) related to community use of airport land.

Subsec. (x). Pub. L. 118–63, §743(b)(2), added subsec. (x).

Subsec. (y). Pub. L. 118–63, §774(a), added subsec. (y).

2023—Subsec. (r)(3). Pub. L. 118–34 substituted "March 9, 2024" for "January 1, 2024".

Pub. L. 118–15 substituted "January 1, 2024" for "October 1, 2023".

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 alteration" 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 2024 AMENDMENT

Pub. L. 118–63, [title VII, §703\(b\)](#), [May 16, 2024](#), 138 Stat. 1248, provided that: "The amendments made by subsection (a) [amending this section] shall not apply to any illegal diversion of airport revenues (as described in section 47107(m) of title 49, United States Code) that occurred prior to the date of enactment of this Act [May 16, 2024]."

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)(2)(A) 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 SHARE.—

(1) IN GENERAL.—Except as provided in paragraph (2) or (3), the amount stated in an offer as the maximum amount the Government will pay may not be increased when the offer has been accepted in writing.

- (2) EXCEPTION.—For a project receiving assistance under a grant approved under this chapter or chapter 475, the amount may be increased—
- (A) for an airport development project, by not more than 15 percent; and
 - (B) to acquire an interest in land for an airport (except a primary airport), based on creditable appraisals at the time of the acquisition or a court award in a condemnation proceeding, by not more than the greater of—
 - (i) 15 percent; or
 - (ii) 25 percent of the total increase in allowable project costs attributable to acquiring an interest in land.

- (3) PRICE ADJUSTMENT PROVISIONS.—
- (A) IN GENERAL.—The Secretary may incorporate a provision in a project grant agreement under which the Secretary agrees to pay more than the maximum amount otherwise specified in the agreement if the Secretary finds that commodity or labor prices have increased since the agreement was made.
- (B) DECREASE IN COSTS.—A provision incorporated in a project grant agreement under this paragraph shall ensure that the Secretary realizes any financial benefit associated with a decrease in material or labor costs for the project.

(c) 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.

- (d) 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; Pub. L. 118–63, title VII, §707, May 16, 2024, 138 Stat. 1251.)

HISTORICAL AND REVISION NOTES		
Revised Section	Source (U.S. Code)	Source (Statutes at Large)
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).	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.
47108(d)	49 App.:2211(d).	

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.

AMENDMENTS

2024—Subsec. (a). Pub. L. 118–63, §707(1), substituted "47114(d)(2)(A)" for "47114(d)(3)(A) of this title".

Subsec. (b). Pub. L. 118–63, §707(2), added subsec. (b) and struck out former subsec. (b) which allowed increasing Government's share after an offer has been accepted in writing in certain circumstances.

Subsecs. (c) to (e). Pub. L. 118–63, §707(3), (4), struck out subsec. (c) and redesignated former subsecs. (d) and (e) as (c) and (d), respectively. Prior to amendment, text of subsec. (c) read as follows: "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."

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.

(h) **SPECIAL RULE FOR FISCAL YEARS 2025 AND 2026.**—Notwithstanding subsection (a), the Government's share of allowable project costs for a grant made to a nonhub or nonprimary airport in each of fiscal years 2025 and 2026 shall be 95 percent.

(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; Pub. L. 118–63, title VII, §708, May 16, 2024, 138 Stat. 1251.)

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

2024—Subsec. (h). Pub. L. 118–63 added subsec. (h).

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) ¹ 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 before the date the grant agreement is executed is allowable if it is—

(1) necessarily incurred in formulating or preparing for an airport development project, including costs incurred for field surveys, plans and specifications, property interests in land or airspace, utility relocation, work site preparation, 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 or distributed from the small airport fund under section 47116;

(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 medium hub airport or large hub airport, 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 subsection 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) ¹ 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(c)(1)(D) or section 47114(d)(2)(A) and if the Secretary determines that the sponsor has made adequate provision for financing airside needs of the airport.

(i) **SMALL AIRPORT LETTERS OF INTENT.**—

(1) **IN GENERAL.**—The Secretary may issue a letter of intent to a sponsor stating an intention to obligate an amount from future budget authority for an airport development project (including costs of formulating the project) at a nonhub airport or an airport that is not a primary airport.

(2) **CONTENTS.**—In the letter issued under paragraph (1), the Secretary 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.

- (3) **LIMITATIONS.**—The amount the Secretary intends to obligate in a letter of intent issued under this subsection shall not exceed the larger of—
- (A) the Government's share of allowable project costs; or
 - (B) \$10,000,000.

(4) **FINANCING.**—Allowable project costs under paragraphs (1) and (2) may include costs associated with making payments for debt service on indebtedness incurred to carry out the project.

(5) **REQUIREMENTS.**—The Secretary shall issue a letter of intent under paragraph (1) only if—

- (A) the sponsor notifies the Secretary, before the project begins, of the intent of the sponsor to carry out the project and requests a letter of intent; and
- (B) the sponsor agrees to 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.

(6) **ASSESSMENT.**—In reviewing a request for a letter of intent under this subsection, the Secretary shall consider the grant history of an airport, the enplanements or operations of an airport, and such other factors as the Secretary determines appropriate.

(7) **PRIORITIZATION.**—In issuing letters of intent under this subsection, the Secretary shall—

- (A) prioritize projects that—
 - (i) cannot reasonably be funded by an airport sponsor using funds apportioned under section 47114(c), 47114(d)(2)(A), or 47114(d)(6), including funds apportioned under such sections in multiple fiscal years pursuant to section 47117(b)(1); and
 - (ii) are necessary to the continued safe operation or development of an airport; and

(B) structure the reimbursement schedules under such letters in a manner that minimizes unnecessary or undesirable project segmentation.

(8) **NO OBLIGATION OR COMMITMENT.**—

(A) **IN GENERAL.**—A letter of intent issued under 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.

(B) **OBLIGATION OR COMMITMENT.**—An obligation or administrative commitment may be made only as amounts are provided in authorization and appropriation Acts.

(9) **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.

(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; Pub. L. 118–63, title VII, §§709–710(b)(1), May 16, 2024, 138 Stat. 1252, 1253.)

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.

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

REFERENCES IN TEXT

Section 47114(d)(3)(A), referred to in subsecs. (b)(2)(C) and (g), was redesignated section 47114(d)(2)(A) by Pub. L. 118–63, [title VII, §712\(b\)\(6\)](#), [May 16, 2024](#), 138 Stat. 1256.

AMENDMENTS

2024—Subsec. (c). Pub. L. 118–63, §709(1)(A), struck out "after May 13, 1946, and" after "this section incurred" in introductory provisions.

Subsec. (c)(1). Pub. L. 118–63, §709(1)(B), inserted "or preparing for" after "formulating" and "utility relocation, work site preparation," before "and administration".

Subsec. (d)(1). Pub. L. 118–63, §709(2), substituted "section 47114 or distributed from the small airport fund under section 47116" for "section 47114(c)(1) or 47114(d)".

Subsec. (e)(2)(C). Pub. L. 118–63, §709(3), substituted "medium hub airport or large hub airport" for "commercial service airport having at least 0.25 percent of the boardings each year at all such airports".

Subsec. (e)(7). Pub. L. 118–63, §710(b)(1), substituted "under this subsection" for "under this section" in introductory provisions.

Subsec. (h). Pub. L. 118–63, §709(4), substituted "section 47114(c)(1)(D) or section 47114(d)(2)(A)" for "section 47114(d)(3)(A)".

Subsec. (i). Pub. L. 118–63, §709(5), 710(a), added subsec. (i) and struck out former subsec. (i) which related to bird-detecting radar systems.

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.

¹ See References in Text note below.

§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 charge 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; Pub. L. 118–63, title XI, §1101(u), May 16, 2024, 138 Stat. 1414.)

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

2024—Subsec. (e). Pub. L. 118–63 substituted "charge" for "fee".

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).

§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\(a\), Oct. 5, 2018](#), 132 Stat. 3217, as amended by Pub. L. 118–63, [title II, §218\(n\)\(1\), May 16, 2024](#), 138 Stat. 1057, provided that: "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."

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\(b\), formerly §156\(c\), Oct. 5, 2018](#), 132 Stat. 3218, renumbered §156(b), Pub. L. 118–63, [title II, §218\(n\)\(2\), May 16, 2024](#), 138 Stat. 1057.

§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.

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(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).

(f) SUPPORTIVE SERVICES.—

(1) IN GENERAL.—The Secretary, in coordination with the Administrator of the Federal Aviation Administration, may, at the request of an airport sponsor, provide assistance under a grant issued under this subchapter to develop, conduct, and administer training programs and assistance programs in connection with any airport improvement project subject to part 26 of title 49, Code of Federal Regulations, for small business concerns referred to in subsection (b) to achieve proficiency to compete, on an equal basis for contracts and subcontracts related to such projects.

(2) ELIGIBLE ENTITIES.—An entity eligible to receive assistance under this section is—

(A) a State;

(B) a political subdivision of a State or local government;

(C) a Tribal government;

(D) an airport sponsor;

(E) a metropolitan planning organization;

(F) a group of entities described in subparagraphs (A) through (E); or

(G) any other organization considered appropriate by the Secretary.

(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; Pub. L. 118–63, title VII, §730(b), May 16, 2024, 138 Stat. 1272.)

HISTORICAL AND REVISION NOTES
PUB. L. 103–272

<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

2024—Subsec. (f). Pub. L. 118–63 added subsec. (f).
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.

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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, as amended by Pub. L. 118–63, title VII, §751, May 16, 2024, 138 Stat. 1284, provided that:

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

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

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

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

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

"(b) PROMPT PAYMENTS.—

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

"(2) IMPROVING COMPLIANCE.—

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

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

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

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

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

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

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

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

"(v) whether changes to prime contractor specifications need to be made to ensure prompt payments to

subcontractors; and,

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

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

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

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

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

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

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

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

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

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

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

§47114. Apportionments

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

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

(c) AMOUNTS APPORTIONED TO SPONSORS.—

(1) PRIMARY AND COMMERCIAL SERVICE AIRPORTS.—

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

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

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

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

(D) NONPRIMARY COMMERCIAL SERVICE AIRPORT APPORTIONMENT.—

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

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

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

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

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

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

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

(2) CARGO AIRPORTS.—

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

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

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

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

(d) AMOUNTS APPORTIONED FOR GENERAL AVIATION AIRPORTS.—

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

- (A) AREA.—The term "area" includes land and water.
- (B) POPULATION.—The term "population" means the population stated in the latest decennial census of the United States.

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

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

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

(B) Any remaining amount to States as follows:

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

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

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

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

(3) AIRPORTS IN NONCONTIGUOUS STATES AND TERRITORIES.—

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

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

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

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

(B) the Secretary determines that—

(i) safety will not be negatively affected; and

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

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

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

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

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

(e) SUPPLEMENTAL APPORTIONMENT FOR ALASKA.—

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

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

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

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

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

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

(f) REDUCING APPORTIONMENTS.—

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

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

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

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

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

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

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

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

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

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

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

(2) EFFECTIVE DATE OF REDUCTION.—

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

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

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

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

HISTORICAL AND REVISION NOTES
Pub. L. 103–272

<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.

Pub. L. 103–429

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

<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

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

Subsec. (c)(1)(J). Pub. L. 118–41 substituted "May 10, 2024," for "March 8, 2024,".

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

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

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

Pub. L. 118–63, §712(b)(5), struck out par. (2). Text read as follows: "Except as provided in paragraph (3), the Secretary shall apportion to the States 18.5 percent of the amount subject to apportionment for each fiscal year as follows:

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

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

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

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

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

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

"(C) During fiscal years 2019 and 2020—

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

"(3) SPECIAL RULE FOR TRANSITIONING AIRPORTS.—

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

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

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

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

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

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

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

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

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

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

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

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

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

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

2016—Subsec. (c)(1)(F). Pub. L. 114–190 amended subpar. (F) generally. Prior to amendment, text read as follows: "Notwithstanding subparagraph (A), for an airport that had more than 10,000 passenger boardings and scheduled passenger aircraft service in calendar year 2007, but in either calendar year 2009 or 2010, or in both years, the number of passenger boardings decreased to a level below 10,000 boardings per year at such airport, the Secretary may apportion in each of fiscal years 2012 and 2013 to the sponsor of such airport an amount equal to the amount apportioned to that sponsor in fiscal year 2009."

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

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

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

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

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

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

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

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

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

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

Subsec. (c)(2)(A). Pub. L. 108–176, §147(2), substituted "3.5 percent" for "3 percent".

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

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

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

Subsec. (c)(1)(B). Pub. L. 106–181, §104(a)(1)(A), (2)(B), (C), inserted heading, substituted "\$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 2024 AMENDMENT

Pub. L. 118–63, [title VII, §713\(b\)](#), [May 16, 2024](#), 138 Stat. 1257, provided that: "For an airport that increased in categorization from a small hub to a medium hub in any fiscal year beginning after the date of enactment of the FAA Reauthorization Act of 2018 (Public Law 115–254) [Oct. 5, 2018] and prior to the date of enactment of this Act [May 16, 2024], the amendment to section 47114(f)(2) of title 49, United States Code, under subsection (a)[(2)] shall be applied as though the airport increased in categorization from a small hub to a medium hub in the calendar year prior to the first fiscal year in which such amendment is applicable."

EFFECTIVE DATE OF 2003 AMENDMENT

Amendment by Pub. L. 108–176 applicable only to fiscal years beginning after Sept. 30, 2003, except as otherwise specifically provided, see section 3 of Pub. L. 108–176, set out as a note under section 106 of this title.

EFFECTIVE DATE OF 2000 AMENDMENT

Amendment by Pub. L. 106–181 applicable only to fiscal years beginning after Sept. 30, 1999, see section 3 of Pub. L. 106–181, set out as a note under section 106 of this title.

EFFECTIVE DATE OF 1996 AMENDMENT

Except as otherwise specifically provided, amendment by Pub. L. 104–264 applicable only to fiscal years beginning after Sept. 30, 1996, and not to be construed as affecting funds made available for a fiscal year ending before Oct. 1, 1996, see section 3 of Pub. L. 104–264, set out as a note under section 106 of this title.

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

EFFECTIVE DATE OF 1994 AMENDMENT

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

APPORTIONED FUNDS

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

EXECUTIVE DOCUMENTS

TERMINATION OF TRUST TERRITORY OF THE PACIFIC ISLANDS

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

§47115. Discretionary fund

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

- (1) amounts subject to apportionment for a fiscal year that are not apportioned under section 47114(c)–(e) of this title; and
- (2) 12.5 percent of amounts not apportioned under section 47114 of this title because of section 47114(f).

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

(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) prior to fulfilling intentions to obligate under section 47110(i).

(i) MARSHALL ISLANDS, MICRONESIA, AND PALAU.—For fiscal years 2024 through 2028, 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) AIRPORT SAFETY AND RESILIENT INFRASTRUCTURE DISCRETIONARY PROGRAM.—

(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) MINIMUM ALLOCATION.—Not less than 50 percent of the amounts available under this subsection shall be used to provide grants at nonprimary, nonhub, and small hub airports.

(C) PRIORITIZATION.—In making grants for projects eligible under subparagraph (D)(iii), the Secretary shall prioritize grants to large and medium hub airports.

(D) ELIGIBILITIES.—In making grants under this subsection, the Secretary shall provide grants to airports for projects that—

- (i) meet the definition of "airport development" under section 47102(3)(T);
- (ii) would otherwise increase the resilience of airport infrastructure against changing flooding or inundation patterns; or
- (iii) reduce runway incursions or increase runway or taxiway safety.

(4) AUTHORIZATION.—

(A) IN GENERAL.—There is authorized to be appropriated to the Secretary to carry out this subsection the following amounts:

- (i) \$532,392,074 for fiscal year 2024.
- (ii) \$200,000,000 for fiscal year 2025.
- (iii) \$200,000,000 for fiscal year 2026.
- (iv) \$200,000,000 for fiscal year 2027.
- (v) \$200,000,000 for fiscal year 2028.

(B) AVAILABILITY.—Sums authorized to be appropriated under subparagraph (A) shall remain available for 3 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.

(l) SPECIAL CARRYOVER ASSUMPTION RULE.—Notwithstanding any other provision of law, in addition to amounts made available under paragraphs (1) and (2) of subsection (a), the Secretary may add to the discretionary fund an amount equal to one-third of the apportionment funds made available under section 47114 that were not required during the previous fiscal year pursuant to section 47117(b)(1) out of the anticipated amount of apportionment funds made available under section 47114 that will not be required during the current fiscal year pursuant to section 47117(b)(1).

(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; Pub. L. 118–15, div. B, title II, §2202(f), (g), Sept. 30, 2023, 137 Stat. 83; Pub. L. 118–34, title I, §102(f), (g), Dec. 26, 2023, 137 Stat. 1113; Pub. L. 118–41, title I, §102(f), (g), Mar. 8, 2024, 138 Stat. 21; Pub. L. 118–63, title I, §104(b), title VII, §§710(b)(2), 714(a), 715, May 16, 2024, 138 Stat. 1034, 1253, 1257, 1258.)

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>
47115(f)	49 App.:2206(c)(5).	Sept. 3, 1982, Pub. L. 97–248, §507(c)(5), as added May 26, 1994, Pub. L. 103–260, §104(a), 108 Stat. 698.
	49 App.:2206 (note).	May 26, 1994, Pub. L. 103–260, §104(b), 108 Stat. 699.

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

2024—Subsec. (h). Pub. L. 118–63, §710(b)(2), inserted "prior to fulfilling intentions to obligate under section 47110(i)" after "section 47110(e)".

Subsec. (i). Pub. L. 118–63, §104(b), substituted "fiscal years 2024 through 2028," for "fiscal years 2018 through 2023, and for the period beginning on October 1, 2023, and ending on May 10, 2024,".

Pub. L. 118–41, §102(f), substituted "May 10, 2024" for "March 8, 2024".

Subsec. (j). Pub. L. 118–63, §714(a)(1), substituted "Airport Safety and Resilient Infrastructure Discretionary Program" for "Supplemental Discretionary Funds" in heading.

Subsec. (j)(3)(B) to (D). Pub. L. 118–63, §714(a)(2), added subpars. (B) to (D) and struck out former subpar. (B). Prior to amendment, text of subpar. (B) read as follows: "Not less than 50 percent of the amounts available under this subsection shall used to provide grants at—

"(i) airports that are eligible for apportionment under section 47114(d)(3); and

"(ii) nonhub and small hub airports."

Subsec. (j)(4)(A)(i) to (v). Pub. L. 118–63, §714(a)(3), added cls. (i) to (v) and struck out former cls. (i) to (v) which read as follows:

"(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."

Subsec. (j)(4)(A)(vi). Pub. L. 118–63, §714(a)(3), struck out cl. (vi) which read as follows: "\$340,321,762 for the period beginning on October 1, 2023, and ending on May 10, 2024."

Pub. L. 118–41, §102(g), added cl. (vi) and struck out former cl. (vi) which read as follows: "\$244,177,049 for the period beginning on October 1, 2023, and ending on March 8, 2024."

Subsec. (j)(4)(B). Pub. L. 118–63, §714(a)(4), substituted "3 fiscal years" for "2 fiscal years".

Subsec. (l). Pub. L. 118–63, §715, added subsec. (l).

2023—Subsec. (i). Pub. L. 118–34, §102(f), substituted "March 8, 2024" for "December 31, 2023".

Pub. L. 118–15, §2202(f), inserted ", and for the period beginning on October 1, 2023, and ending on December 31, 2023" after "fiscal years 2018 through 2023".

Subsec. (j)(4)(A)(vi). Pub. L. 118–34, §102(g), added cl. (vi) and struck out former cl. (vi) which read as follows: "\$140,401,803 for the period beginning on October 1, 2023, and ending on December 31, 2023."

Pub. L. 118–15, §2202(g), added cl. (vi).

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.

RUNWAY SAFETY PROJECTS

Pub. L. 118–63, [title VII, §748, May 16, 2024](#), 138 Stat. 1283, provided that: "In awarding grants under section 47115 of title 49, United States Code, for runway safety projects, the Administrator [of the Federal Aviation Administration] shall, to the maximum extent practicable—

"(1) reduce unnecessary or undesirable project segmentation; and

"(2) complete the entire project in an expeditious manner."

§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) Not more than 25 percent for grants for projects at small hub airports.

(2) Not less than 25 percent for grants to sponsors of public-use airports (except commercial service airports).

(3) Not less than 50 percent for grants to sponsors of commercial service airports that are not larger than a nonhub airport.

(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) 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) GENERAL AVIATION TRANSIENT APRONS.—In distributing amounts from the fund described in subsection (a) to sponsors described in subsection ¹(b)(2) and (b)(3), 5 percent of each amount shall be used for projects to construct or rehabilitate aprons intended to be used for itinerant general aviation aircraft parking.

(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](#); Pub. L. 118–63, [title VII, §716, May 16, 2024](#), 138 Stat. 1259.)

HISTORICAL AND REVISION NOTES

Revised Section	Source (U.S. Code)	Source (Statutes at Large)
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

2024—Subsec. (b). Pub. L. 118–63, [§716\(1\)](#), added pars. (1) to (3) and struck out former pars. (1) and (2) which read 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."

Subsec. (d)(2), (3). Pub. L. 118–63, §716(2), redesignated par. (3) as (2) and struck out former par. (2). Prior to amendment, text of par. (2) read as follows: "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."

Subsecs. (e), (f). Pub. L. 118–63, §716(3), added subsec. (e) and struck out former subsecs. (e) and (f) which read as follows:

"(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."

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.

¹ *So in original. Probably should be "subsections".*

§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); 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)(2)(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)(2)(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)(2)(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)(B)(i) is available for grants for airports located in the State; and
 - (2) section 47114(d)(2)(B)(ii) or (iii) is available for grants for airports described in section 47114(d)(2)(B)(ii) or (iii) 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 \$200,000,000, 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 airport development described in subparagraphs (O), (P), (Q), and (W) of section 47102(3), for airport development described in section 47102(3)(F), 47102(3)(K), or 47102(3)(L), 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. The Secretary shall provide not less than two-thirds of amounts under this subparagraph and paragraph (3) for grants to sponsors of small hub, medium hub, and large hub airports.
- (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.

(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) SPECIAL RULE.—Beginning in fiscal year 2026, if the amount made available under paragraph (1)(A) was not equal to or greater than \$150,000,000 in the preceding fiscal year, the Secretary shall issue grants for projects eligible under paragraph (1)(A) from apportionment funds made available under section 47114 that are not required during the fiscal year pursuant to subsection (b)(1) in an amount that is not less than—

- (A) \$150,000,000; minus
- (B) the amount made available under paragraph (1)(A) in the preceding fiscal year.

(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; Pub. L. 118–63, title VII, §717, May 16, 2024, 138 Stat. 1259.)

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. 97–276, §167, 96 Stat. 1204; Dec. 30, 1987, Pub. L. 100–223, §106(b)(2)(E), 101 Stat. 1498.
	49 App.:2207(e)(2).	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.
47117(h)	49 App.:2205(e)(4).	

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 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

2024—Subsec. (b)(2)(A)(i). Pub. L. 118–63, §717(1)(A), struck out "or (3)(A), whichever is applicable" after "section 47114(d)(2)".

Subsec. (b)(2)(B). Pub. L. 118–63, §717(1)(B), substituted "section 47114(d)(2)(A)" for "section 47114(d)(3)(A)" and "section 47114(d)(2)(B)" for "section 47114(d)(3)(B)".

Subsec. (c)(2). Pub. L. 118–63, §717(2), substituted "47114(d)(2)(A)" for "47114(d)(3)(A)".

Subsec. (d)(1). Pub. L. 118–63, §717(3)(A), substituted "section 47114(d)(2)(B)(i)" for "section 47114(d)(2)(A) of this title".

Subsec. (d)(2). Pub. L. 118–63, §717(3)(B), substituted "section 47114(d)(2)(B)(ii) or (iii)" for "section 47114(d)(2)(B) or (C)" in two places and struck out "of this title" before "is available".

Subsec. (e)(1)(A). Pub. L. 118–63, §717(4)(A)(i), substituted "\$200,000,000" for "\$300,000,000" and "subparagraphs (O), (P), (Q), and (W) of section 47102(3)" for "section 47102(3)(Q)", struck out "for compatible land use planning and projects carried out by State and local governments under section 47141," after "under this title," and "to comply with the Clean Air Act (42 U.S.C. 7401 et seq.)" after "for airport development described in section 47102(3)(F), 47102(3)(K), or 47102(3)(L)", and inserted "The Secretary shall provide not less than two-thirds of amounts under this subparagraph and paragraph (3) for grants to sponsors of small hub, medium hub, and large hub airports." after "being met in that fiscal year."

Subsec. (e)(1)(C). Pub. L. 118–63, §717(4)(A)(ii), struck out subpar. (C) which read as follows: "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."

Subsec. (e)(3). Pub. L. 118–63, §717(4)(B), added par. (3) and struck out former par. (3). Prior to amendment, text read as follows: "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."

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),¹ 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.

(4) UNIVERSAL CHANGING STATIONS.—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 universal changing station (as defined in section 47107(y)) 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;

(5) to a sponsor of a nonprimary airport, any part of amounts apportioned to the sponsor for the fiscal year under sections 47114(c) and 47114(d) (2)(A) for project costs allowable under subsection (a); or

(6) not more than \$20,000,000 of the amount that may be distributed for the fiscal year from the discretionary fund established under section 47115, to the sponsor of a nonprimary airport to pay costs allowable under subsection (a) for terminal development projects, if the Secretary determines (which may be based on actual and projected enplanement trends, as well as completion of an air service development study, demonstrated commitment by airlines to provide commercial service accommodating at least 10,000 annual enplanements, the documented commitment of a sponsor to providing the remaining funding to complete the proposed project, and a favorable environmental finding (including all required permits) in support of the proposed project) that the status of the nonprimary airport is reasonably expected to change to primary status based on enplanements for the third calendar year after the issuance of the discretionary grant.

(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 \$30,000,000 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).¹

(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; Pub. L. 118–63, title VII, §§718, 774(b), May 16, 2024, 138 Stat. 1260, 1298.)

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 47108(e)(3), referred to in subsecs. (a)(2)(A) and (f), was redesignated section 47108(d)(3) of this title by Pub. L. 118–63, [title VII, §707\(4\), May 16, 2024](#), 138 Stat. 1251.

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

Subsec. (a)(4). Pub. L. 118–63, §774(b), added par. (4).

Subsec. (c)(5). Pub. L. 118–63, §718(a)(2)(A), substituted "sections 47114(c) and 47114(d)(2)(A)" for "section 47114(d)(3)(A)".

Subsec. (c)(6). Pub. L. 118–63, §718(a)(1), (2)(B), (3), added par. (6).

Subsec. (f). Pub. L. 118–63, §718(b), substituted "\$30,000,000" for "\$20,000,000".

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.

¹ See *References in Text* note below.

§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).

(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.—

(A) IN GENERAL.—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.

(B) SMALL OR MEDIUM HUB AIRPORTS.—In the case of a contract entered into on or after the date of enactment of this subparagraph to operate an airport traffic control tower at a small or medium hub airport, the contract shall require the Secretary, after coordination with the airport sponsor and the entity, State, or subdivision, and not later than 18 months after the date of enactment of the FAA Reauthorization Act of 2024, to provide funding sufficient for the cost of wages and benefits of at least 2 air traffic controllers for each tower operating shift.

(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 or a remote air traffic control tower equipment that has received System Design Approval from the Federal Aviation Administration, 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.
- (viii) Air traffic control towers at airports with safety or operational problems related to the lack of an existing tower.
- (ix) Air traffic control towers at airports with projected commercial and military increases in aircraft or flight operations.
- (x) Air traffic control towers at airports with a variety of aircraft operations, including a variety of commercial and military flight operations.

(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.

(H) PERIOD FOR COMPLETION OF AN OPERATIONAL READINESS INSPECTION.—The Secretary shall provide airport sponsors acting in good faith 7 years to complete an operational readiness inspection after receiving a benefit-to-cost ratio of air traffic control services for an airport.

(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 or remote air traffic control tower equipment that has received System Design Approval from the Federal Aviation Administration; and

(ii) a public-use airport that is not a primary airport—

- (I) from amounts made available under subsections (c) and (d) of section 47114 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) and 47114(d)(2)(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) and 47114(d)(2)(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 or remote air traffic control tower equipment that has received System Design Approval from 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)(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).

(f) IMPROVING CONTROLLER SITUATIONAL AWARENESS.—

(1) IN GENERAL.—Not later than 1 year after the date of enactment of this subsection, the Secretary shall allow air traffic controllers at towers operated under the Contract Tower Program to use approved advanced equipment and technologies to improve operational situational awareness, including Standard Terminal Automation Replacement System radar displays, Automatic Dependent Surveillance-Broadcast, Flight Data Input/Output, and Automatic Terminal Information System.

(2) INSTALLATION AND MAINTENANCE.—Not later than 2 years after the date of enactment of this subsection, the Secretary shall allow airports to—

(A) procure a Standard Terminal Automation Replacement System or any equivalent system through the Federal Aviation Administration, and install and maintain such system using Administration services; or

(B) purchase a Standard Terminal Automation Replacement System, or any equivalent system, and install and maintain such system using services directly from an original equipment manufacturer.

(3) REQUIREMENTS.—To help facilitate the integration of the equipment and technology described in paragraph (1), the Secretary—

(A) shall establish minimum performance and technical standards that ensure the safe use of equipment and technology, including commercial radar displays capable of displaying primary and secondary radar targets, for use by controllers in contract towers to improve situational awareness;

(B) shall identify approved vendors for such equipment and technology, to the maximum extent practicable;

(C) shall establish, in consultation with contract tower operators, an appropriate training program to periodically train air traffic controllers employed by such operators to ensure proper and efficient integration and use of the situational awareness equipment and technology described in paragraph (1) into contract tower operations;

(D) may add Standard Terminal Automation Replacement System equipment or any equivalent system to the minimum level of equipment necessary for Federal contract towers to perform the function of such towers, as applicable; and

(E) shall require that any technology, system, or equipment procured pursuant to this subsection be procured using non-Federal funds, except as made available under a grant issued pursuant to 47124(b)(4).¹

(g) LIABILITY INSURANCE.—

(1) IN GENERAL.—Not later than 18 months after the date of enactment of this subsection, the Secretary shall consult with aviation industry experts, including air traffic control contractors and aviation insurance professionals, to determine adequate limits of liability for the Contract Tower Program.

(2) INTERIM STEPS.—Not later than 6 months after the date of enactment of this subsection and until the Secretary makes a determination on liability limits under paragraph (1), the Secretary shall require air traffic control contractors to have excess liability insurance (as determined by the Secretary) to ensure continuity of such coverage should a major accident occur.

(3) BRIEFING.—Not later than 24 months after the date of enactment of this subsection, the Secretary shall brief the Committee on Transportation and Infrastructure of the House of Representatives and the Commerce,² Science, and Transportation of the Senate on the findings, conclusions, and actions taken and planned to be taken to carry out this subsection.

(h) MILESTONES FOR DESIGN APPROVAL OF REMOTE TOWERS.—

(1) IN GENERAL.—Not later than 180 days after the date of enactment of this subsection, the Administrator of the Federal Aviation Administration shall create a program and publish milestones to achieve system design and operational approval for a remote tower system.

(2) REQUIREMENTS.—In carrying out paragraph (1), the Administrator shall—

(A) rely on support from the Office of Airports of the Federal Aviation Administration and the Air Traffic Organization of the Federal Aviation Administration, including the Air Traffic Services Service Unit and the Technical Operations Service Unit;

(B) consult with relevant stakeholders, as the Administrator determines appropriate;

(C) establish requirements for the system design and operational approval of remote towers, including—

(i) visual siting processes and requirements for electro-optical sensors;

(ii) datalink latency requirements;

(iii) visual presentation design requirements for monitors used to display sensor and camera feeds; and

(iv) any other wireless telecommunications infrastructure requirements to enable the operation of such towers;

(D) use a safety risk management panel process to address any safety issues with respect to a remote tower;

(E) if a remote tower is intended to be installed at a non-towered airport, assess the safety benefits of the remote tower against the lack of an existing tower;

(F) allow the use of surface surveillance technology, either standalone or integrated into the visual automation platform, as a situational awareness tool;

(G) establish protocols for contingency operations and procedures in the event of remote tower technology failures and malfunctions; and

(H) support active testing of a remote tower system that has achieved system design approval by the William J. Hughes Technical Center at an airport that has installed remote tower infrastructure to support such system.

(3) SYSTEM DESIGN APPROVAL AND EVALUATION PROCESS.—Not later than December 31, 2024, the Administrator shall expand the system design approval and evaluation process for a digital or remote tower system to not less than 3 airports at which a digital or remote tower will be installed or operated at airports not located at the William J. Hughes Technical Center and using the criteria under section 161 of the FAA Reauthorization Act of 2018 (49 U.S.C. 47104 note), to the extent the Administrator has willing technology providers and airports interested in the installation and operation of such towers.

(4) PRESERVATION OF EXISTING DESIGN APPROVALS.—Nothing in this subsection shall be construed to invalidate any system design approval activity carried out by the William J. Hughes Technical Center prior to the date of enactment of this subsection.

(5) PRIORITIZATION FOR REMOTE TOWER CERTIFICATION.—In carrying out the program established under paragraph (1), the Administrator shall prioritize system design and operational approval for a remote tower system at—

(A) airports that do not have a permanent air traffic control tower at the time of application;

(B) airports that would provide small and rural community air service; or

(C) airports that have been newly accepted as of the date of enactment of this subsection into the Contract Tower Program.

(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. I, 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; Pub. L. 118–63, title VI, §§620, 621(a), (c), 625(b), (c), title VII, §712(c)(2), title XI, §1101(v), May 16, 2024, 138 Stat. 1234, 1235, 1237, 1242, 1256, 1414.)

HISTORICAL AND REVISION NOTES

<i>Revised Section</i>	<i>Source (U.S. Code)</i>	<i>Source (Statutes at Large)</i>
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.

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 subparagraph, referred to in subsec. (b)(2)(B), is the date of enactment of Pub. L. 118–63, which was approved May 16, 2024.

The date of enactment of the FAA Reauthorization Act of 2024, referred to in subsec. (b)(2)(B), is the date of enactment of Pub. L. 118–63, which was approved May 16, 2024.

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.

The date of enactment of this subsection, referred to in subsecs. (f)(1), (2), (g), and (h)(1), (4), (5)(C), is the date of enactment of Pub. L. 118–63, which was approved May 16, 2024.

Section 161 of the FAA Reauthorization Act of 2018, referred to in subsec. (h)(3), is section 161 of Pub. L. 115–254, which is set out as a note under section 47104 of this title.

AMENDMENTS

2024—Subsec. (b)(1)(B)(ii). Pub. L. 118–63, §1101(v), struck out second period at end.

Subsec. (b)(2). Pub. L. 118–63, §625(b), designated existing provisions as subpar. (A), inserted heading, and added subpar. (B).

Subsec. (b)(3)(B)(ii). Pub. L. 118–63, §621(c)(1), inserted "or a remote air traffic control tower equipment that has received System Design Approval from the Federal Aviation Administration" after "an operating air traffic control tower".

Subsec. (b)(3)(C)(viii) to (x). Pub. L. 118–63, §625(c), added cls. (viii) to (x).

Subsec. (b)(3)(H). Pub. L. 118–63, §620(1), added subpar. (H).

Subsec. (b)(4)(A)(i)(III). Pub. L. 118–63, §621(c)(2)(A), inserted "or remote air traffic control tower equipment that has received System Design Approval from the Federal Aviation Administration" after "certified by the Federal Aviation Administration".

Subsec. (b)(4)(A)(ii)(I). Pub. L. 118–63, §712(c)(2)(A)(i), substituted "subsections (c) and (d) of section 47114" for "sections 47114(c)(2) and 47114(d)".

Subsec. (b)(4)(A)(ii)(II). Pub. L. 118–63, §712(c)(2)(A)(ii), substituted "sections 47114(c) and 47114(d)(2)(A)" for "sections 47114(c)(2) and 47114(d)(3)(A)".

Subsec. (b)(4)(A)(ii)(III). Pub. L. 118–63, §712(c)(2)(A)(iii), substituted "sections 47114(c) and 47114(d)(2)(A)" for "sections 47114(c)(2) and 47114(d)(3)(A)".

Pub. L. 118–63, §621(c)(2)(B), inserted "or remote air traffic control tower equipment that has received System Design Approval from the Federal Aviation Administration" after "certified by the Federal Aviation Administration".

Subsec. (b)(4)(B)(v). Pub. L. 118–63, §712(c)(2)(B), substituted "section 47114(d)(2)(B)" for "section 47114(d)(2) or 47114(d)(3)(B)".

Subsecs. (f), (g). Pub. L. 118–63, §620(2), added subsecs. (f) and (g).

Subsec. (h). Pub. L. 118–63, §621(a)(1), added subsec. (h).

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."

FAA CONTRACT TOWER WORKFORCE AUDIT

Pub. L. 118–63, title VI, §605, May 16, 2024, 138 Stat. 1224, provided that:

"(a) **IN GENERAL.**—Not later than 120 days after the date of enactment of this Act [May 16, 2024], the inspector general of the Department of Transportation shall initiate an audit of the workforce needs of the Contract Tower Program, as established under section 47124 of title 49, United States Code.

"(b) **CONTENTS.**—In conducting the audit required under subsection (a), the inspector general shall, at a minimum—

"(1) review the assumptions and methodologies used in assessing FAA [Federal Aviation Administration] contract towers staffing levels and determine the adequacy of staffing levels at such towers;

"(2) evaluate the supply and demand of trained and certificated personnel prepared for work and such towers;

"(3) examine efforts to establish an air traffic controller training program or curriculum to allow contract tower contractors to conduct—

"(A) initial training of controller candidates employed or soon to be employed by such contractors who do not have a Control Tower Operator certificate or a FAA tower credential;

"(B) any initial training for controller candidates who have completed an approved Air Traffic Collegiate Training Initiative program from an accredited school that has a demonstrated successful curriculum; or

"(C) on-the-job training of such candidates described in subparagraphs (A) or (B);

"(4) assess whether establishing pathways to allow contract tower contractors to use the air traffic technical training academy of the FAA, or other means such as higher educational institutions, to provide initial technical training for air traffic controllers employed by such contractors could improve the workforce needs of the contract tower program and any related impact such training may have on air traffic controller staffing more broadly; and

"(5) consult with the exclusive bargaining representative of the air traffic controllers certified under section 7111 of title 5, United States Code.

"(c) REPORT.—Not later than 90 days after the completion of the audit under subsection (a), the inspector general 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 on the findings of such audit and any recommendations as a result of such audit.

"(d) IMPLEMENTATION.—The Administrator [of the Federal Aviation Administration] shall take such actions as are necessary to implement any recommendations included in the report required under subsection (c) with which the Administrator concurs.

"(e) RULE OF CONSTRUCTION.—Nothing in this subsection shall be construed as a delegation of authority by the Administrator to air traffic control contractors for the purposes of issuing initial certifications to air traffic controllers."

AIR TRAFFIC CONTROL TOWER SAFETY

Pub. L. 118–63, [title VI, §606, May 16, 2024](#), 138 Stat. 1225, provided that: "In designing, adopting a design, or constructing an air traffic control tower based on a previously adopted design, the Administrator [of the Federal Aviation Administration] shall prioritize the safety of the national airspace system, the safety of employees of the Administration, the operational reliability of such air traffic control tower, and the costs of such tower."

FEDERAL CONTRACT TOWER WAGE DETERMINATIONS AND POSITIONS

Pub. L. 118–63, [title VI, §611, May 16, 2024](#), 138 Stat. 1226, provided that:

"(a) IN GENERAL.—The Secretary [of Transportation] shall request that the Secretary of Labor—

"(1) review and update, as necessary, including to account for cost-of-living adjustments, the basis for the wage determination for air traffic controllers who are employed at air traffic control towers operated under the Contract Tower Program established under section 47124 of title 49, United States Code;

"(2) reassess the basis for air traffic controller occupation codes;

"(3) create a new wage determination category or occupation code for managers of air traffic controllers who are employed at air traffic control towers operated under the Contract Tower Program; and

"(4) consult with the Administrator [of the Federal Aviation Administration] in carrying out the requirements of paragraphs (1) through (3).

"(b) REPORT.—Not later than 2 years after the date of enactment of this Act [May 16, 2024], the Secretary, in consultation with the Secretary of Labor, 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 that includes—

"(1) a description of the findings and conclusions of the review and reassessment made under subsection (a);

"(2) an explanation of and justification for the basis for the wage determination; and

"(3) a description of the actions taken by the Department of Transportation and the Department of Labor to ensure that contract tower air traffic controller wages are adjusted for inflation and are assigned the appropriate occupation codes."

LIST OF REPLACED AIR TRAFFIC CONTROL TOWER FACILITIES

Pub. L. 118–63, [title VI, §624\(c\), May 16, 2024](#), 138 Stat. 1241, provided that: "The Administrator [of the Federal Aviation Administration] shall establish, maintain, and publish on the website of the FAA [Federal Aviation Administration] a list of the following:

"(1) All air traffic control tower facilities replaced within the 10-year period preceding the date of enactment of this Act [May 16, 2024].

"(2) Any air traffic control tower facilities for which the Administrator has made a determination requiring replacement, but for which such replacement has not yet been completed."

PILOT PROGRAM FOR TRANSITIONING TO FAA TOWERS

Pub. L. 118–63, [title VI, §625\(a\), May 16, 2024](#), 138 Stat. 1241, provided that:

"(1) IN GENERAL.—Not later than 18 months after the date of enactment of this Act [May 16, 2024], the Administrator [of the Federal Aviation Administration] shall establish a pilot program to convert high-activity air traffic control towers operating under the Contract Tower Program as established under section 47124 of title 49, United States Code, (in this section referred to as the 'Contract Tower Program') to a level I (Visual Flight Rules) tower staffed by the FAA [Federal Aviation Administration].

"(2) PRIORITY.—In selecting air traffic control towers to participate in the pilot program established under paragraph (1), the Administrator shall prioritize air traffic control towers operating under the Contract Tower Program that—

"(A) either—

"(i) had over 200,000 annual tower operations in calendar year 2022; or

"(ii) served a small hub airport with more than 900,000 passenger enplanements in calendar year 2021;

"(B) are either currently owned by the FAA or are constructed to FAA standards; and

"(C) operate within complex airspace, including airspace that serves air carrier, general aviation, and military aircraft.

"(3) TOWER SELECTION.—The number of air traffic control towers selected to participate in the pilot program established under paragraph (1) shall be determined based on the availability of funds for the pilot program and the interest of the airport sponsor related to such facility.

"(4) CONTROLLER RETENTION.—With respect to any high-activity air traffic control tower selected to be converted under the pilot program established under paragraph (1), the Administrator shall appoint to the position of air traffic controller any air traffic controller who—

"(A) is employed at such air traffic control tower as of the date on which the Administrator selects such tower to be converted;

"(B) meets the qualifications contained in section 44506(f)(1)(A) of title 49, United States Code; and

"(C) has all other pre-employment qualifications required by law to be a certified controller of the FAA.

"(5) SAFETY ANALYSIS.—

"(A) IN GENERAL.—The Administrator shall conduct a safety analysis to determine whether the conversion of any air traffic control tower described in paragraph (1) negatively impacts aviation safety at such air traffic control tower and take such actions needed to address any negative impact.

"(B) REPORT.—Not later than 3 years after the date of enactment of this Act, 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 describing the results of the safety analysis under subparagraph (A), any actions taken to address any negative impacts to safety, and the overall results of the pilot program established under this subsection.

"(6) AUTHORIZATION OF APPROPRIATIONS.—Out of amounts made available under section 106(k) of title 49, United States Code, there is authorized to be appropriated to carry out this subsection \$30,000,000 to remain available for 5 fiscal years."

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."

¹ *So in original. Probably should be preceded by "section".*

² *So in original. Probably should be preceded by "Committee on".*

§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.

¹ 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.

(c) **WAIVING RESTRICTIONS.**—

(1) **IN GENERAL.**—Subject to paragraph (2), the Secretary may grant to an airport, city, or county a waiver of 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 this section.

(2) **CONDITIONS.**—Any waiver granted by the Secretary pursuant to paragraph (1) shall be subject to the following conditions:

(A) The applicable airport, city, county, or other political subdivision 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 current fair market value.

(B) Any consideration received by the airport, city, or county under subparagraph (A) shall be used exclusively for the development, improvement, operation, or maintenance of a public airport by the airport, city, or county.

(C) Such waiver—

- (i) will not significantly impair the aeronautical purpose of an airport;
- (ii) will not result in the permanent closure of an airport (unless the Secretary determines that the waiver will directly facilitate the construction of a replacement airport); or
- (iii) is necessary to protect or advance the civil aviation interests of the United States.

(D) Any other conditions required by the Secretary.

(3) **ANNUAL REPORTING.**—The Secretary shall include a list and description of each waiver granted pursuant to paragraph (1) in the plan required under section 47103.

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

REFERENCES IN TEXT

Section 16 of the Federal Airport Act, referred to in subsec. (c)(1), is section 16 of act [May 13, 1946, ch. 251](#), 60 Stat. 179, which is not classified to the Code.

Section 23 of the Airport and Airway Development Act of 1970, referred to in subsec. (c)(1), is section 23 of Pub. L. 91–258, [title I, May 21, 1970](#), 84 Stat. 232, which is not classified to the Code.

AMENDMENTS

2024—Subsec. (c). Pub. L. 118–63 added subsec. (c).

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, which authorized the Secretary of Transportation 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, was repealed by Pub. L. 118–63, [title VII, §719\(c\)\(2\), May 16, 2024](#), 138 Stat. 1262.

§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.

(e) TRAINING FOR PARTICIPATING STATES.—

- (1) IN GENERAL.—The Secretary shall provide to each State participating in the block grant program under this section training or updated training materials for the administrative responsibilities assumed by the State under such program at no cost to the State.
- (2) TIMING.—The training or updated training materials provided under paragraph (1) shall be provided at least once during each 2-year period and at any time there is a material change in the program.

(f) ROLES AND RESPONSIBILITIES OF PARTICIPATING STATES.—

- (1) AIRPORTS.—Unless a State participating in the block grant program under this section expressly agrees in a memorandum of agreement, the Secretary shall not require the State to manage functions and responsibilities for airport actions or projects that do not relate to such program.
- (2) PROGRAM DOCUMENTATION.—
- (A) IN GENERAL.—Any grant agreement providing funds to be administered under such program shall be consistent with the most recently executed memorandum of agreement between the State and the Federal Aviation Administration.
 - (B) PARITY.—The Administrator of the Federal Aviation Administration shall provide parity to participating States and shall only require the same type of information and level of detail for any program agreements and documentation that the Administrator would perform with respect to such action if the State did not participate in the program.

- (3) RESPONSIBILITIES.—Unless the State expressly agrees to retain responsibility, the Administrator shall retain responsibility for the following:
- (A) Grant compliance investigations, determinations, and enforcement.
 - (B) Obstruction evaluation and airport airspace analysis, determinations, and enforcement off airport property.
 - (C) Non-rulemaking analysis, determinations, and enforcement for proposed improvements on airport properties not associated with this subchapter, or off airport property.
 - (D) Land use determinations, compatibility planning, and airport layout plan review and approval (consistent with section 47107(x)) for projects not funded by amounts available under this subchapter.
 - (E) Nonaeronautical and special event recommendations and approvals.
 - (F) Instrument approach procedure evaluations and determinations.
 - (G) Environmental review for projects not funded by amounts available under this subchapter.
 - (H) Review and approval of land leases, land releases, changes in on-airport land-use designation, and through-the-fence agreements.

(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; Pub. L. 118–63, title VII, §720(a), (b), May 16, 2024, 138 Stat. 1262.)

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

2024—Subsec. (e). Pub. L. 118–63, §720(a), added subsec. (e).

Subsec. (f). Pub. L. 118–63, §720(b), added subsec. (f).

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 and was subsequently repealed.

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. Repealed. Pub. L. 118–63, title II, §218(d), May 16, 2024, 138 Stat. 1055]

Section, 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, related to annual report submitted to Congress on activities carried out under this subchapter during the prior fiscal year.

[§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.

(4) **BENEFIT-COST ANALYSIS.**—

(A) **IN GENERAL.**—Prior to approving an application submitted under subsection (a), the Secretary may require a benefit-cost analysis.

(B) **FINDING.**—If a benefit-cost analysis is required, the Secretary shall issue a preliminary and conditional finding, which shall—

(i) be issued not later than 60 days after the date on which the sponsor submits all information required by the Secretary;

(ii) be based upon a collaborative review process that includes the sponsor or a representative of the sponsor;

(iii) not constitute the issuance of a Federal grant or obligation to issue a grant under this chapter or other provision of law; and

(iv) not constitute any other obligation on the part of the Federal Government until the conditions specified in the final benefit-cost analysis are met.

(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; Pub. L. 118–63, title VII, §738, May 16, 2024, 138 Stat. 1276.)

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

2024—Subsec. (b)(4). Pub. L. 118–63 added par. (4).

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) AUTHORITY.—

- (1) IN GENERAL.—The Secretary of Transportation may approve an application by an airport sponsor to use grants received under this subchapter for innovative financing techniques related to an airport development project that is located at an airport that is not a large hub airport.
 (2) APPROVAL.—The Secretary may approve not more than 30 applications described under paragraph (1) in a fiscal year.

(b) PURPOSES.—The purpose of grants made under this section shall be to—

- (1) provide information on the benefits and difficulties of using innovative financing techniques for airport development projects;
 (2) lower the total cost of an airport development project; or
 (3) expedite the delivery or completion of an airport development project without reducing safety or causing environmental harm.

(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;
 (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; and
 (E) any other techniques that the Secretary determines are consistent with the purposes 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; Pub. L. 118–63, [title VII, §721](#), [May 16, 2024](#), 138 Stat. 1264.)

EDITORIAL NOTES

REFERENCES IN TEXT

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

2024—Subsecs. (a), (b). Pub. L. 118–63, §721(1), added subsecs. (a) and (b) and struck out former subsecs. (a) and (b) which read as follows:

"(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."

Subsec. (c)(2)(E). Pub. L. 118–63, §721(2), added subpar. (E).

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—

- (1) will achieve the greatest air quality benefits measured by the amount of emissions reduced per dollar of funds expended under the program; and
- (2) provide a long-term management plan for eligible vehicles and equipment that includes the existing and future infrastructure requirements of the airport related to such vehicles and equipment.

(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; Pub. L. 118–63, title VII, §722, May 16, 2024, 138 Stat. 1265.)

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

2024—Subsec. (c), Pub. L. 118–63 inserted dash after "applicants that" and par (1) designation before "will", substituted "; and" for period at end, and added par. (2).

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 may receive appropriate emission reduction credits for carrying out projects, including projects described in sections 40117(a)(3)(G), 47102(3)(K), and 47102(3)(L). Such guidance shall include, at a minimum, the following considerations:

(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, including for an airport outside of a nonattainment area or maintenance area, and may be used for purposes of any current or future general conformity determination under the Clean Air Act, as offsets under the Environmental Protection Agency's new source review program for projects on the airport or associated with the airport, or as part of a State implementation plan.

(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) **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; Pub. L. 118–63, title VII, §782, May 16, 2024, 138 Stat. 1302.)

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

2024—Subsec. (a). Pub. L. 118–63, §782(1)(A), substituted "airport sponsors may receive" for "airport sponsors receive", "carrying out projects, including projects" for "carrying out projects", and "considerations" for "conditions" in introductory provisions.

Subsec. (a)(2). Pub. L. 118–63, §782(1)(B), substituted "airport sponsor, including for an airport outside of a nonattainment area or maintenance area," for "airport sponsor", ", as offsets" for "or as offsets", and ", or as part of a State implementation plan." for period at end and struck out "only" after "may".

Subsecs. (b), (c). Pub. L. 118–63, §782(2), (3), redesignated subsec. (c) as (b) and struck out former subsec. (b). Prior to amendment, text of subsec. (b) read as follows: "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."

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. Meeting current and future energy power demand

(a) IN GENERAL.—The Secretary of Transportation shall establish a program under which the Secretary shall—

(1) encourage the sponsor of each public-use airport to—

(A) conduct airport planning that assesses the airport's—

(i) current and future energy power requirements, including—

(I) heating and cooling;

(II) on-road airport vehicles and ground support equipment;

(III) gate electrification;

(IV) electric aircraft charging; and

(V) vehicles and equipment used to transport passengers and employees between the airport and—

(aa) nearby facilities owned or controlled by the airport or which otherwise directly support the functions or services provided by the airport; or

(bb) an intermodal surface transportation facility adjacent to the airport; and

(ii) existing energy infrastructure condition, location, and capacity, including base load and backup power, to meet the current and future electrical power demand as identified in this subparagraph; and

(B) conduct airport development to improve energy efficiency, increase peak load savings at the airport, and meet future electrical power demands as identified in subparagraph (A); and

(2) reimburse the airport sponsor for the costs incurred in conducting the assessment under paragraph (1)(A).

(b) GRANTS.—The Secretary shall make grants to airport sponsors from amounts made available under section 48103 to assist such sponsors that have completed the assessment described in subsection (a)(1)—

(1) to acquire or construct equipment that will improve energy efficiency at the airport; and

(2) to pursue an airport development project described in subsection (a)(1)(B).

(c) APPLICATION.—To be eligible for a grant under paragraph (1),¹ the sponsor of a public-use airport shall submit an application, including a certification that no safety projects are being 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; Pub. L. 118–63, [title VII, §742\(a\), May 16, 2024](#), 138 Stat. 1278.)

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

2024—Pub. L. 118–63 amended section generally. Prior to amendment, section related to increasing the energy efficiency of airport power sources.

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".

¹ *So in original. Probably should be "subsection (b)".*

[§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 May 10, 2024.

(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; Pub. L. 118–15, div. B, title II, §2202(h), Sept. 30, 2023, 137 Stat. 83; Pub. L. 118–34, title I, §102(h), Dec. 26, 2023, 137 Stat. 1113; Pub. L. 118–41, title I, §102(h), Mar. 8, 2024, 138 Stat. 21.)

EDITORIAL NOTES

AMENDMENTS

2024—Subsec. (f). Pub. L. 118–41 substituted "May 10, 2024" for "March 8, 2024".

2023—Subsec. (f). Pub. L. 118–34 substituted "March 8, 2024" for "December 31, 2023".

Pub. L. 118–15 substituted "December 31, 2023" for "September 30, 2023".

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; Pub. L. 118–15, [div. B, title II, §2202\(v\), Sept. 30, 2023](#), 137 Stat. 84; Pub. L. 118–34, [title I, §102\(v\), Dec. 26, 2023](#), 137 Stat. 1114; Pub. L. 118–41, [title I, §102\(v\), Mar. 8, 2024](#), 138 Stat. 22, 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 May 10, 2024."

§47142. Alternative project delivery

(a) IN GENERAL.—The Secretary of Transportation may approve an application of an airport sponsor under this section to authorize the airport sponsor to award a covered project delivery 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 covered project delivery 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 covered project delivery contract is projected to 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) PILOT PROGRAM.—

(1) PILOT PROGRAM.—Not later than 270 days after the date of enactment of this section, the Secretary shall establish a pilot program under which the Administrator may award grants for integrated project delivery contracts, as described in subsection (d)(2), to carry out up to 5 building construction projects at airports in the United States with a grant awarded under section 47104.

(2) APPLICATION.—

(A) **ELIGIBILITY.**—A sponsor of an airport may submit to the Secretary an application, in such time and manner and containing such information as the Secretary may require, to carry out a building construction project under the pilot program that would otherwise be eligible for assistance under this chapter.

(B) **APPROVAL.**—The Secretary may approve the application of a sponsor of an airport submitted under paragraph (1) to authorize such sponsor to award an integrated project delivery contract using a selection process permitted under applicable State or local law if—

- (i) the Secretary approves the application using criteria established by the Secretary;
- (ii) the integrated project delivery contract is in a form that is approved by the Secretary;
- (iii) the Secretary is satisfied that the contract will be executed pursuant to competitive procedures and contains a schematic design and any other material that the Secretary determines sufficient to approve the grant;
- (iv) the Secretary is satisfied that the use of an integrated project delivery contract will be cost effective and expedite the project;
- (v) the Secretary is satisfied that there will be no conflict of interest; and
- (vi) the Secretary is satisfied that the contract selection process will be open, fair, and objective and that not less than 2 sets of proposals will be submitted for each team entity under the selection process.

(3) REIMBURSEMENT OF COSTS.—

(A) **IN GENERAL.**—The Secretary may reimburse a sponsor of an airport for any design or construction costs incurred before a grant is made pursuant to this section if—

- (i) the project funding is approved by the Secretary in advance;
- (ii) the project is carried out in accordance with all administrative and statutory requirements under this chapter; and
- (iii) the project is carried out under this chapter after a grant agreement has been executed.

(B) **ACCOUNTING.**—Reimbursement of costs shall be based on transparent cost accounting or open book cost accounting.

(d) **COVERED PROJECT DELIVERY CONTRACT DEFINED.**—In this section, the term "covered project delivery contract" means—

- (1) an agreement that provides for both design and construction of a project by a contractor through alternative project delivery methods, including construction manager-at-risk and progressive design build; or
- (2) a single contract for the delivery of a whole project that—
 - (A) includes, at a minimum, the sponsor, builder, and architect-engineer as parties that are subject to the terms of the contract;
 - (B) aligns the interests of all the parties to the contract with respect to the project costs and project outcomes; and
 - (C) includes processes to ensure transparency and collaboration among all parties to the contract relating to project costs and project outcomes.

(Added Pub. L. 108–176, title I, §181(a), Dec. 12, 2003, 117 Stat. 2515; amended Pub. L. 118–63, title VII, §723(a), May 16, 2024, 138 Stat. 1265.)

EDITORIAL NOTES**REFERENCES IN TEXT**

The date of enactment of this section, referred to in subsec. (c)(1), probably means the date of enactment of Pub. L. 118–63, which added subsec. (c) and was approved May 16, 2024.

AMENDMENTS

2024—Pub. L. 118–63, §723(a)(1), substituted "Alternative project delivery" for "Design-build contracting" in section catchline.

Subsec. (a). Pub. L. 118–63, §723(a)(2)(A), substituted "Secretary of Transportation" for "Administrator of the Federal Aviation Administration" and "award a covered project delivery" for "award a design-build" in introductory provisions.

Subsec. (a)(2). Pub. L. 118–63, §723(a)(2)(B), substituted "covered project delivery" for "design-build".

Subsec. (a)(4). Pub. L. 118–63, §723(a)(2)(C), substituted "covered project delivery contract is projected to" for "design-build contract will".

Subsecs. (c), (d). Pub. L. 118–63, §723(a)(3), added subsecs. (c) and (d) and struck out former subsec. (c). Prior to amendment, text of subsec. (c) read as follows: "In this section, the term 'design-build contract' means an agreement that provides for both design and construction of a project by a contractor."

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, 2028.

(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; amended Pub. L. 118–15, div. B, title II, §2202(i), Sept. 30, 2023, 137 Stat. 83; Pub. L. 118–34, title I, §102(i), Dec. 26, 2023, 137 Stat. 1113; Pub. L. 118–41, title I, §102(i), Mar. 8, 2024, 138 Stat. 21; Pub. L. 118–63, title VII, §724, May 16, 2024, 138 Stat. 1267.)

EDITORIAL NOTES

AMENDMENTS

2024—Subsec. (c). Pub. L. 118–63 substituted "October 1, 2028" for "May 11, 2024".

Pub. L. 118–41 substituted "May 11, 2024" for "March 9, 2024".

2023—Subsec. (c). Pub. L. 118–34 substituted "March 9, 2024" for "January 1, 2024".

Pub. L. 118–15 substituted "January 1, 2024" for "October 1, 2023".

§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. 5121 et seq.) 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; amended Pub. L. 118–63, title XI, §1101(w), May 16, 2024, 138 Stat. 1414.)

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.

AMENDMENTS

2024—Subsec. (b)(4). Pub. L. 118–63 substituted "(42 U.S.C. 5121 et seq.)" for "(42 U.S.C. 4121 et seq.)".

§47145. Pilot program for airport accessibility

(a) IN GENERAL.—The Secretary of Transportation shall establish and carry out a pilot program to award grants to sponsors to carry out capital projects to upgrade the accessibility of commercial service airports for individuals with disabilities by increasing the number of commercial service airports, airport terminals, or airport facilities that meet or exceed the standards and regulations under the Americans with Disabilities Act of 1990 (42 U.S.C. 12131 et seq.)¹ and the Rehabilitation Act of 1973 (29 U.S.C. 701 note)¹.

(b) USE OF FUNDS.—

(1) IN GENERAL.—Subject to paragraph (2), a sponsor shall use a grant awarded under this section—

(A) for a project to repair, improve, or relocate the infrastructure of an airport, airport terminal, or airport facility to increase accessibility for individuals with disabilities, or as part of a plan to increase accessibility for individuals with disabilities;

(B) to develop or modify a plan (as described in subsection (e)) for a project that increases accessibility for individuals with disabilities, including

—

(i) assessments of accessibility or assessments of planned modifications to an airport, airport terminal, or airport facility for passenger use, performed by the disability advisory committee of the recipient airport (if applicable), the protection and advocacy system for individuals with disabilities in the applicable State, a center for independent living, or a disability organization, including an advocacy or nonprofit organization that represents or provides services to individuals with disabilities; or

(ii) coordination by the disability advisory committee of the recipient airport with a protection and advocacy system, center for independent living, or such disability organization; or

(C) to carry out any other project that meets or exceeds the standards and regulations described in subsection (a).

(2) **LIMITATION.**—Eligible costs for a project funded with a grant awarded under this section shall be limited to the costs associated with carrying out the purpose authorized under subsection (a).

(c) **ELIGIBILITY.**—A sponsor may use a grant under this section to upgrade a commercial service airport that is accessible to and usable by individuals with disabilities—

(1) consistent with the current (as of the date of the upgrade) standards and regulations described in subsection (a); and

(2) even if the related service, program, or activity, when viewed in the entirety of the service, program, or activity, is readily accessible and usable as so described.

(d) **SELECTION CRITERIA.**—In making grants to sponsors under this section, the Secretary shall give priority to sponsors that are proposing—

(1) a capital project to upgrade the accessibility of a commercial service airport that is not accessible to and usable by individuals with disabilities consistent with standards and regulations described in subsection (a); or

(2) to meet or exceed the Airports Council International accreditation under the Accessibility Enhancement Accreditation, through the incorporation of universal design principles.

(e) **ACCESSIBILITY COMMITMENT.**—A sponsor that receives a grant under this section shall adopt a plan under which the sponsor commits to pursuing airport accessibility projects that—

(1) enhance the passenger experience and maximize accessibility of commercial service airports, airport terminals, or airport facilities for individuals with disabilities, including by—

(A) upgrading bathrooms, counters, or pumping rooms;

(B) increasing audio and visual accessibility on information boards, security gates, or paging systems;

(C) updating airport terminals to increase the availability of accessible seating and power outlets for durable medical equipment (such as powered wheelchairs);

(D) updating airport websites and other information communication technology to be accessible for individuals with disabilities; or

(E) increasing the number of elevators, including elevators that move power wheelchairs to an aircraft;

(2) improve the operations of, provide efficiencies of service to, and enhance the use of commercial service airports for individuals with disabilities;

(3) establish a disability advisory committee if the airport is a small, medium, or large hub airport; and

(4) make improvements in personnel, infrastructure, and technology that can assist passenger self-identification regarding disability and needing assistance.

(f) **COORDINATION WITH DISABILITY ADVOCACY ENTITIES.**—In administering grants under this section, the Secretary shall encourage—

(1) engagement with disability advocacy entities (such as the disability advisory committee of the sponsor) and a protection and advocacy system for individuals with disabilities in the applicable State, a center for independent living, or a disability organization, including an advocacy or nonprofit organization that represents or provides services to individuals with disabilities; and

(2) assessments of accessibility or assessments of planned modifications to commercial service airports to the extent merited by the scope of the capital project of the sponsor proposed to be assisted under this section, taking into account any such assessment already conducted by the Federal Aviation Administration.

(g) **FEDERAL SHARE OF COSTS.**—The Government's share of allowable project costs for a project carried out with a grant under this section shall be the Government's share of allowable project costs specified under section 47109.

(h) **DEFINITIONS.**—In this section:

(1) **CENTER FOR INDEPENDENT LIVING.**—The term "center for independent living" has the meaning given such term in section 702 of the Rehabilitation Act of 1973 (29 U.S.C. 796a).

(2) **DISABILITY ADVISORY COMMITTEE.**—The term "disability advisory committee" means a body of stakeholders (including airport staff, airline representatives, and individuals with disabilities) that provide to airports and appropriate transportation authorities input from individuals with disabilities, including identifying opportunities for removing barriers, expanding accessibility features, and improving accessibility for individuals with disabilities at airports.

(3) **PROTECTION AND ADVOCACY SYSTEM.**—The term "protection and advocacy system" means a system established in accordance with section 143 of the Developmental Disabilities Assistance and Bill of Rights Act of 2000 (42 U.S.C. 15043).

(i) **FUNDING.**—Notwithstanding any other provision of this chapter, for each of fiscal years 2025 through 2028, the Secretary may use up to \$20,000,000 of the amounts that would otherwise be used to make grants from the discretionary fund under section 47115 for each such fiscal year to carry out this section.

(Added Pub. L. 118–63, title VII, §725(a), May 16, 2024, 138 Stat. 1267.)

EDITORIAL NOTES

REFERENCES IN TEXT

The Americans with Disabilities Act of 1990 (42 U.S.C. 12131 et seq.), referred to in subsec. (a), probably means title II of the Americans with Disabilities Act of 1990, Pub. L. 101–336, July 26, 1990, 104 Stat. 337, which is classified generally to subchapter II (§12131 et seq.) of chapter 126 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 Rehabilitation Act of 1973, referred to in subsec. (a), is Pub. L. 93–112, Sept. 26, 1973, 87 Stat. 355, which is classified generally to chapter 16 (§701 et seq.) of Title 29, Labor. For complete classification of this Act to the Code, see Short Title note set out under section 701 of Title 29 and Tables.

¹ See *References in Text* note below.

§47146. General aviation program runway extension pilot program

(a) **ESTABLISHMENT.**—The Secretary of Transportation shall establish and carry out a pilot program to provide grants to general aviation airports to increase the usable runway length capability at such airports in order to—

- (1) expand access to such airports for larger aircraft; and
- (2) support the development and economic viability of such airports.

(b) **GRANTS.**—

(1) **IN GENERAL.**—For the purpose of carrying out the pilot program established in subsection (a), the Secretary shall make grants to not more than 2 sponsors of general aviation airports per fiscal year.

(2) **USE OF FUNDS.**—A sponsor of a general aviation airport shall use a grant awarded under this section to plan, design, or construct a project to extend an existing primary runway by not greater than 1,000 feet in order to accommodate large turboprop or turbojet aircraft that cannot be accommodated with the existing runway length.

(3) **ELIGIBILITY.**—To be eligible to receive a grant under this section, a sponsor of a general aviation airport shall submit an application to the Secretary at such time, in such form, and containing such information as the Secretary may require.

(4) **SELECTION.**—In selecting an applicant for a grant under this section, the Secretary shall prioritize projects that demonstrate that the existing runway length at the airport is—

- (A) inadequate to support the near-term operations of 1 or more business entities operating at the airport as of the date of submission of such application;
- (B) a direct aircraft operational impediment to airport economic viability, job creation or retention, or local economic development; and
- (C) not located within 20 miles of another National Plan of Integrated Airport Systems airport with comparable runway length.

(c) **PROJECT JUSTIFICATION.**—A project that demonstrates the criteria described in subsection (b) shall be considered a justified cost with respect to the pilot program, notwithstanding—

- (1) any benefit-cost analysis required under section 47115(d); or
- (2) a project justification determination described in section 3 of chapter 3 of FAA Order 5100.38D, Airport Improvement Program Handbook (dated September 30, 2014) (or any successor document).

(d) **FEDERAL SHARE.**—The Government's share of allowable project costs for a project carried out with a grant under this section shall be the Government's share of allowable project costs specified under section 47109.

(e) **REPORT TO CONGRESS.**—Not later than 5 years after the establishment of the pilot program under subsection (a), the Secretary shall submit to the Committee on Commerce, Science, and Transportation of the Senate and the Committee on Transportation and Infrastructure of the House of Representatives a report that evaluates the pilot program, including—

- (1) information regarding the level of applicant interest in grants for increasing runway length;
- (2) the number of large aircraft that accessed each general aviation airport that received a grant under the pilot program in comparison to the number of such aircraft that accessed the airport prior to the date of enactment of the FAA Reauthorization Act of 2024, based on data provided to the Secretary by the airport sponsor not later than 6 months before the submission date described in this subsection; and
- (3) a description, provided to the Secretary by the airport sponsor not later than 6 months before the submission date described in this subsection, of the economic development opportunities supported by increasing the runway length at general aviation airports.

(f) **FUNDING.**—For each of fiscal years 2025 through 2028, the Secretary may use funds under section 47116(b)(2) to carry out this section.

(Added Pub. L. 118–63, title VII, §726(a), May 16, 2024, 138 Stat. 1269.)

EDITORIAL NOTES

REFERENCES IN TEXT

The date of enactment of the FAA Reauthorization Act of 2024, referred to in subsec. (e)(2), is the date of enactment of Pub. L. 118–63, which was approved May 16, 2024.

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.**—The Secretary may not waive any condition imposed on an interest in surplus property conveyed under subsection (a) that such interest be used for an aeronautical purpose unless the Secretary provides public notice not less than 30 days before the issuance of such waiver and determines that such waiver—

- (1) will not significantly impair the aeronautical purpose of an airport;
- (2) will not result in the permanent closure of an airport (unless the Secretary determines that the waiver will directly facilitate the construction of a replacement airport); or
- (3) is necessary to protect or advance the civil aviation interests of the United States.

(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; Pub. L. 118–63, title VII, §719(b)(1), May 16, 2024, 138 Stat. 1261.)

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

2024—Subsec. (d). Pub. L. 118–63 added subsec. (d) and struck out former subsec. (d). Prior to amendment, text read as follows: "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."

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). 50 App.:1622(g)(2).	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)(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

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) RESTRICTIONS ON WAIVER.—Notwithstanding subsections (a) and (b), the Secretary may not waive any term under this section that an interest in land be used for an aeronautical purpose unless—

(1) the Secretary provides public notice not less than 30 days before the issuance of a waiver; and

(2) the Secretary determines that such waiver—

(A) will not significantly impair the aeronautical purpose of an airport;

(B) will not result in the permanent closure of an airport (unless the Secretary determines that the waiver will directly facilitate the construction of a replacement airport); or

(C) is necessary to protect or advance the civil aviation interests of the United States.

(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; Pub. L. 118–63, title VII, §719(b)(2), May 16, 2024, 138 Stat. 1261.)

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

2024—Subsec. (c). Pub. L. 118–63 added subsec. (c) and struck out former subsec. (c). Prior to amendment, text read as follows: "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."

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).

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 implement an expedited and coordinated environmental review process for airport capacity enhancement projects, terminal development projects, general aviation airport construction or improvement projects, and aviation safety projects that—

- (1) provides for streamlined 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) **IN GENERAL.**—Any airport capacity enhancement project, terminal development project, or general aviation airport construction or improvement project shall be subject to the coordinated and expedited environmental review process requirements set forth in this section.

(2) **PROJECT DESIGNATION CRITERIA.**—

(A) **IN GENERAL.**—The Secretary may designate an aviation safety project for priority environmental review.

(B) **REQUIREMENTS.**—A designated project shall be subject to the coordinated and expedited environmental review process requirements set forth in this section.

(C) **GUIDELINES.**—

(i) **IN GENERAL.**—The Secretary shall establish guidelines for the designation of an aviation safety project or aviation security project for priority environmental review.

(ii) **CONSIDERATION.**—Guidelines established under clause (i) 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; and
- (IV) the prospect for undue delay if the project is not designated for priority review.

(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 a project described or designated under subsection (b) 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 a project described or designated under subsection (b), 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 described in subsection (b)(1) 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.—

(1) IN GENERAL.—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.

(2) DEADLINE.—The Secretary shall define the purpose and need of a project not later than 45 days after—

(A) the submission of the appropriately completed proposed purpose and need description of the airport sponsor; and

(B) any appropriately completed proposed revision to a development project that affects the purpose and need description previously prepared or accepted by the Federal Aviation Administration.

(3) ASSISTANCE.—The Secretary shall provide all airport sponsors with technical assistance in drafting purpose and need statements and necessary supporting documentation for projects involving Federal approvals from more than 1 Federal agency.

(k) ALTERNATIVES ANALYSIS.—The Secretary shall determine the reasonable alternatives to a project described or designated under subsection (b). Any other Federal agency, or State agency that is participating in a coordinated review process under this section with respect to the project shall—

(1) consider only those alternatives to the project that the Secretary has determined are reasonable; and

(2) limit the comments of the agency to—

(A) subject matter areas within the special expertise of the agency; and

(B) changes necessary to ensure the agency is carrying out the obligations of that agency under the National Environmental Policy Act of 1969 (42 U.S.C. 4321 et seq.) and other applicable law.

(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.) and section 1503 of title 40, Code of Federal Regulations.

(m) COORDINATION AND SCHEDULE.—

(1) COORDINATION PLAN.—

(A) IN GENERAL.—Not later than 90 days after the date of publication of a notice of intent to prepare an environmental impact statement or the initiation of an environmental assessment, the Secretary of Transportation shall establish a plan for coordinating public and agency participation in and comment on the environmental review process for a project described or designated under subsection (b). The coordination plan may be incorporated into a memorandum of understanding.

(B) CLOUD-BASED, INTERACTIVE DIGITAL PLATFORMS.—The Secretary is encouraged to utilize cloud-based, interactive digital platforms to meet community engagement and agency coordination requirements under subparagraph (A).

(C) SCHEDULE.—

(i) IN GENERAL.—The Secretary shall establish as part of such coordination plan, after consultation with and the concurrence of each participating agency for the project and with the State in which the project is located (and, if the State is not the project sponsor, with the project sponsor), a schedule for—

(I) interim milestones and deadlines for agency activities necessary to complete the environmental review; and

(II) completion of the environmental review process for the project.

(ii) FACTORS FOR CONSIDERATION.—In establishing the schedule under clause (i), the Secretary shall consider factors such as—

(I) the responsibilities of participating agencies under applicable laws;

(II) resources available to the cooperating agencies;

(III) overall size and complexity of the project;

(IV) the overall time required by an agency to conduct an environmental review and make decisions under applicable Federal law relating to a project (including the issuance or denial of a permit or license) and the cost of the project; and

(V) the sensitivity of the natural and historic resources that could be affected by the project.

(iii) MAXIMUM PROJECT SCHEDULE.—To the maximum extent practicable and consistent with applicable Federal law, the Secretary shall develop, in concurrence with the project sponsor, a maximum schedule for the project described or designated under subsection (b) that is not more than 2 years for the completion of the environmental review process for such projects, as measured from, as applicable, the date of publication of a notice of intent to prepare an environmental impact statement to the record of decision.

(iv) DISPUTE RESOLUTION.—

(I) IN GENERAL.—Any issue or dispute that arises between the Secretary and participating agencies (or amongst participating agencies) during the environmental review process shall be addressed expeditiously to avoid delay.

(II) RESPONSIBILITIES.—The Secretary and participating agencies shall—

(aa) implement the requirements of this section consistent with any dispute resolution process established in an applicable law, regulation, or legally binding agreement to the maximum extent permitted by law; and

(bb) seek to resolve issues or disputes at the earliest possible time at the project level through agency employees who have day-to-day involvement in the project.

(III) SECRETARY RESPONSIBILITIES.—

(aa) IN GENERAL.—The Secretary shall make information available to each cooperating and participating agency and project sponsor as early as practicable in the environmental review regarding the environmental, historic, and socioeconomic resources located within the project area and the general locations of the alternatives under consideration.

(bb) SOURCES OF INFORMATION.—The information described in item (aa) may be based on existing data sources, including geographic information systems mapping.

(IV) COOPERATING AND PARTICIPATING AGENCY RESPONSIBILITIES.—Each cooperating and participating agency shall—

- (aa) identify, as early as practicable, any issues of concern regarding any potential environmental impacts of the project, including any issues that could substantially delay or prevent an agency from completing any environmental review or authorization required for the project; and
- (bb) communicate any issues described in item (aa) to the project sponsor.

(V) ELEVATION FOR MISSED MILESTONE.—If a dispute between the Secretary and participating agencies (or amongst participating agencies) causes a milestone to be missed or extended, or the Secretary anticipates that a permitting timetable milestone will be missed or will need to be extended, the dispute shall be elevated to an official designated by the relevant agency for resolution. The elevation of a dispute shall take place as soon as practicable after the Secretary becomes aware of the dispute or potential missed milestone.

(VI) EXCEPTION.—Disputes that do not impact the ability of an agency to meet a milestone may be elevated as appropriate.

(VII) FURTHER EVALUATION.—If a resolution has not been reached at the end of the 30-day period after a relevant milestone date or extension date after a dispute has been elevated to the designated official, the relevant agencies shall elevate the dispute to senior agency leadership for resolution.

(D) CONSISTENCY WITH OTHER TIME PERIODS.—A schedule under subparagraph (C) shall be consistent with any other relevant time periods established under Federal law.

(E) MODIFICATION.—

(i) IN GENERAL.—Except as provided in clause (ii), the Secretary may lengthen or shorten a schedule established under subparagraph (C) for good cause. The Secretary may consider a decision by the project sponsor to change, modify, expand, or reduce the scope of a project as good cause for purposes of this clause.

(ii) LIMITATIONS.—

(I) LENGTHENED SCHEDULE.—The Secretary may lengthen a schedule under clause (i) for a cooperating Federal agency by not more than 1 year after the latest deadline established for the project described or designated under subsection (b) by the Secretary.

(II) SHORTENED SCHEDULE.—The Secretary may not shorten a schedule under clause (i) if doing so would impair the ability of a cooperating Federal agency to conduct necessary analyses or otherwise carry out relevant obligations of the Federal agency for the project.

(F) FAILURE TO MEET DEADLINE.—If a cooperating Federal agency fails to meet a deadline established under subparagraph (D)(ii)(I) ¹—

(i) the cooperating Federal agency shall, not later than 10 days after failing to meet the deadline, submit to the Secretary a report that describes the reasons why the deadline was not met; and

(ii) the Secretary shall—

(I) submit to the Committee on Transportation and Infrastructure of the House of Representatives and the Committee on Commerce, Science, and Transportation of the Senate a copy of the report under clause (i); and

(II) make the report under clause (i) publicly available on a website of the Department of Transportation.

(G) DISSEMINATION.—A copy of a schedule under subparagraph (C), and of any modifications to the schedule under subparagraph (E), shall be

(i) provided to all participating agencies and to the State department of transportation of the State in which the project is located (and, if the State is not the project sponsor, to the project sponsor); and

(ii) made available to the public.

(2) COMMENT DEADLINES.—The Secretary shall establish the following deadlines for comment during the environmental review process for a project:

(A) For comments by agencies and the public on a draft environmental impact statement, a period of not more than 60 days after publication in the Federal Register of notice of the date of public availability of such statement, unless—

(i) a different deadline is established by agreement of the lead agency, the project sponsor, and all participating agencies; or

(ii) the deadline is extended by the lead agency for good cause.

(B) For all other comment periods established by the lead agency for agency or public comments in the environmental review process, a period of not more than 45 days from availability of the materials on which comment is requested, unless—

(i) a different deadline is established by agreement of the Secretary, the project sponsor, and all participating agencies; or

(ii) the deadline is extended by the lead agency for good cause.

(3) DEADLINES FOR DECISIONS UNDER OTHER LAWS.—In any case in which a decision under any Federal law relating to a project described or designated under subsection (b) (including the issuance or denial of a permit or license) is required to be made by the later of the date that is 180 days after the date on which the Secretary made all final decisions of the lead agency with respect to the project or 180 days after the date on which an application was submitted for the permit or license, the Secretary shall submit to the Committee on Transportation and Infrastructure of the House of Representatives and the Committee on Commerce, Science, and Transportation of the Senate and publish on a website of the Department of Transportation—

(A) as soon as practicable after the 180-day period, an initial notice of the failure of the Federal agency to make the decision; and

(B) every 60 days thereafter until such date as all decisions of the Federal agency relating to the project have been made by the Federal agency, an additional notice that describes the number of decisions of the Federal agency that remain outstanding as of the date of the additional notice.

(4) INVOLVEMENT OF THE PUBLIC.—Nothing in this subsection shall reduce any time period provided for public comment in the environmental review process under existing Federal law, including a regulation.

(n) CONCURRENT REVIEWS AND SINGLE NEPA DOCUMENT.—

(1) CONCURRENT REVIEWS.—Each participating agency and cooperating agency under the expedited and coordinated environmental review process established under this section shall—

(A) carry out the obligations of such agency under other applicable law concurrently, and in conjunction, with the review required under the National Environmental Policy Act of 1969 (42 U.S.C. 4321 et seq.), unless doing so would impair the ability of such agency to conduct needed analysis or otherwise carry out such obligations; and

(B) formulate and implement administrative, policy, and procedural mechanisms to enable the agency to ensure completion of the environmental review process in a timely, coordinated, and environmentally responsible manner.

(2) SINGLE NEPA DOCUMENT.—

(A) IN GENERAL.—To the maximum extent practicable and consistent with Federal law, all Federal permits and reviews for a project shall rely on a single environmental document prepared under the National Environmental Policy Act of 1969 (42 U.S.C. 4321 et seq.) under the leadership of the Secretary.

(B) USE OF DOCUMENT.—

(i) **IN GENERAL.**—To the maximum extent practicable, the Secretary shall develop an environmental document sufficient to satisfy the requirements for any Federal approval or other Federal action required for the project, including permits issued by other Federal agencies.

(ii) **COOPERATION OF PARTICIPATING AGENCIES.**—In carrying out this subparagraph, other participating agencies shall cooperate with the lead agency and provide timely information.

(C) **TREATMENT AS PARTICIPATING AND COOPERATING AGENCIES.**—A Federal agency required to make an approval or take an action for a project, as described in this paragraph, shall work with the Secretary to ensure that the agency making the approval or taking the action is treated as being both a participating and cooperating agency for the project.

(D) **EXCEPTIONS.**—The Secretary may waive the application of subparagraph (A) with respect to a project if—

- (i) the project sponsor requests that agencies issue separate environmental documents;
- (ii) the obligations of a cooperating agency or participating agency under the National Environmental Policy Act of 1969 (42 U.S.C. 4321 et seq.) have already been satisfied with respect to the project; or
- (iii) the Secretary determines that reliance on a single environmental document (as described in subparagraph (A)) would not facilitate timely completion of the environmental review process for the project.

(3) **PARTICIPATING AGENCY RESPONSIBILITIES.**—An agency participating in the expedited and coordinated environmental review process under this section shall—

- (A) provide comments, responses, studies, or methodologies on areas within the special expertise or jurisdiction of the agency; and
- (B) use the process to address any environmental issues of concern to the agency.

(o) **ENVIRONMENTAL IMPACT STATEMENT.**—

(1) **IN GENERAL.**—In preparing a final environmental impact statement under the National Environmental Policy Act of 1969 (42 U.S.C. 4321 et seq.) for a project described or designated under subsection (b), if the Secretary modifies the statement in response to comments that are minor and are confined to factual corrections or explanations of why the comments do not warrant additional agency response, the Secretary may write on errata sheets attached to the statement instead of rewriting the draft statement, subject to the condition that the errata sheets—

- (A) cite the sources, authorities, and reasons that support the position of the agency; and
- (B) if appropriate, indicate the circumstances that would trigger agency reappraisal or further response.

(2) **SINGLE DOCUMENT.**—To the maximum extent practicable, for a project subject to a coordinated review process under this section, the Secretary shall expeditiously develop a single document that consists of a final environmental impact statement and a record of decision, unless—

- (A) the final environmental impact statement or record of decision makes substantial changes to the project that are relevant to environmental or safety concerns; or
- (B) there is a significant new circumstance or information relevant to environmental concerns that bears on the proposed action or the environmental impacts of the proposed action.

(3) **LENGTH OF ENVIRONMENTAL DOCUMENT.**—

(A) **IN GENERAL.**—Except as provided in subparagraph (B), an environmental impact statement shall not exceed 150 pages, not including any citations or appendices.

(B) **EXTRAORDINARY COMPLEXITY.**—An environmental impact statement for a proposed agency action of extraordinary complexity shall not exceed 300 pages, not including any citations or appendices.

(p) **INTEGRATION OF PLANNING AND ENVIRONMENTAL REVIEW.**—

(1) **IN GENERAL.**—Subject to paragraph (5) and to the maximum extent practicable and appropriate, the following agencies may adopt or incorporate by reference, and use a planning product in proceedings relating to, any class of action in the environmental review process of a project described or designated under subsection (b):

- (A) The lead agency for a project, with respect to an environmental impact statement, environmental assessment, categorical exclusion, or other document prepared under the National Environmental Policy Act of 1969 (42 U.S.C. 4321 et seq.).
- (B) A cooperating agency with responsibility under Federal law with respect to the process for and completion of any environmental permit, approval, review, or study required for a project under any Federal law other than the National Environmental Policy Act of 1969 (42 U.S.C. 4321 et seq.), if consistent with such Act.

(2) **IDENTIFICATION.**—If a lead or cooperating agency makes a determination to adopt or incorporate by reference and use a planning product under paragraph (1), such agency shall identify the agencies that participated in the development of the planning products.

(3) **ADOPTION OR INCORPORATION BY REFERENCE OF PLANNING PRODUCTS.**—Such agency may—

- (A) adopt or incorporate by reference an entire planning product under paragraph (1); or
- (B) select portions of a planning project under paragraph (1) for adoption or incorporation by reference.

(4) **TIMING.**—The adoption or incorporation by reference of a planning product under paragraph (1) may—

- (A) be made at the time the lead and cooperating agencies decide the appropriate scope of environmental review for the project; or
- (B) occur later in the environmental review process, as appropriate.

(5) **CONDITIONS.**—Such agency in the environmental review process may adopt or incorporate by reference a planning product under this section if such agency determines, with the concurrence of the lead agency, if appropriate, and, if the planning product is necessary for a cooperating agency to issue a permit, review, or approval for the project, with the concurrence of the cooperating agency, if appropriate, that the following conditions have been met:

- (A) The planning product was developed through a planning process conducted pursuant to applicable Federal law.
- (B) The planning product was developed in consultation with appropriate Federal and State resource agencies and Indian Tribes.
- (C) The planning process included broad multidisciplinary consideration of systems-level or corridor-wide transportation needs and potential effects, including effects on the human and natural environment.
- (D) The planning process included public notice that the planning products produced in the planning process may be adopted during any subsequent environmental review process in accordance with this section.
- (E) During the environmental review process, the such agency has—
 - (i) made the planning documents available for public review and comment by members of the general public and Federal, State, local, and Tribal governments that may have an interest in the proposed project;
 - (ii) provided notice of the intention of the such agency to adopt or incorporate by reference the planning product; and
 - (iii) considered any resulting comments.

(F) There is no significant new information or new circumstance that has a reasonable likelihood of affecting the continued validity or appropriateness of the planning product or portions thereof.

(G) The planning product has a rational basis and is based on reliable and reasonably current data and reasonable and scientifically acceptable methodologies.

(H) The planning product is documented in sufficient detail to support the decision or the results of the analysis and to meet requirements for use of the information in the environmental review process.

(I) The planning product is appropriate for adoption or incorporation by reference and use in the environmental review process for the project and is incorporated in accordance with, and is sufficient to meet the requirements of, the National Environmental Policy Act of 1969 (42 U.S.C. 4321 et seq.) and section 1502.21 of title 40, Code of Federal Regulations.

(6) EFFECT OF ADOPTION OR INCORPORATION BY REFERENCE.—Any planning product or portions thereof adopted or incorporated by reference by such agency in accordance with this subsection may be—

- (A) incorporated directly into an environmental review process document or other environmental document; and
- (B) relied on and used by other Federal agencies in carrying out reviews of the project.

(q) REPORT ON NEPA DATA.—

(1) IN GENERAL.—The Secretary shall carry out a process to track, and annually submit to the Committee on Transportation and Infrastructure of the House of Representatives, the Committee on Commerce, Science, and Transportation of the Senate, the Committee on Natural Resources of the House of Representatives, and the Committee on Environment and Public Works of the Senate a report on projects described in subsection (b)(1) that contains the information described in paragraph (3).

(2) TIME TO COMPLETE.—For purposes of paragraph (3), the NEPA process—

(A) for an environmental impact statement—

- (i) begins on the date on which a notice of intent is published in the Federal Register; and
- (ii) ends on the date on which the Secretary issues a record of decision, including, if necessary, a revised record of decision; and

(B) for an environmental assessment—

- (i) begins on the date on which the Secretary makes a determination to prepare an environmental assessment; and
- (ii) ends on the date on which the Secretary issues a finding of no significant impact or determines that preparation of an environmental impact statement is necessary.

(3) INFORMATION DESCRIBED.—The information referred to in paragraph (1) is, with respect to the Federal Aviation Administration—

- (A) the number of proposed actions for which a categorical exclusion was applied by the Secretary during the reporting period;
- (B) the number of proposed actions for which a documented categorical exclusion was applied by the Secretary during the reporting period;
- (C) the number of proposed actions pending on the date on which the report is submitted for which the issuance of a documented categorical exclusion by the Secretary is pending;
- (D) the number of proposed actions for which an environmental assessment was issued by the Secretary during the reporting period;
- (E) the length of time the Administration took to complete each environmental assessment described in subparagraph (D);
- (F) the number of proposed actions pending on the date on which the report is submitted for which an environmental assessment is being drafted by the Secretary;
- (G) the number of proposed actions for which a final environmental impact statement was completed by the Secretary during the reporting period;
- (H) the length of time that the Secretary took to complete each environmental impact statement described in subparagraph (G);
- (I) the number of proposed actions pending on the date on which the report is submitted for which an environmental impact statement is being drafted; and
- (J) for the proposed actions reported under subparagraphs (F) and (I), the percentage of such proposed actions for which—
 - (i) project funding has been identified; and
 - (ii) all other Federal, State, and local activities that are required to allow the proposed action to proceed are completed.

(4) DEFINITIONS.—In this section:

(A) ENVIRONMENTAL ASSESSMENT.—The term "environmental assessment" has the meaning given such term in section 1508.1 of title 40, Code of Federal Regulations (or a successor regulation).

(B) ENVIRONMENTAL IMPACT STATEMENT.—The term "environmental impact statement" means a detailed statement required under section 102(2) (C) of the National Environmental Policy Act of 1969 (42 U.S.C. 4332(2)(C)).

(C) NEPA PROCESS.—The term "NEPA process" means the entirety of the development and documentation of the analysis required under the National Environmental Policy Act of 1969 (42 U.S.C. 4321 et seq.), including the assessment and analysis of any impacts, alternatives, and mitigation of a proposed action, and any interagency participation and public involvement required to be carried out before the Secretary undertakes a proposed action.

(D) PROPOSED ACTION.—The term "proposed action" means an action (within the meaning of the National Environmental Policy Act of 1969 (42 U.S.C. 4321 et seq.)) under this title that the Secretary proposes to carry out.

(E) REPORTING PERIOD.—The term "reporting period" means the fiscal year prior to the fiscal year in which a report is issued under subsection (a).

(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; Pub. L. 118–63, title VII, §783, May 16, 2024, 138 Stat. 1302.)

EDITORIAL NOTES

REFERENCES IN TEXT

The National Environmental Policy Act of 1969, referred to in subsecs. (a)(1), (b)(2)(C)(ii)(II), (k)(2)(B), (l), (n)(1)(A), (2)(A), (D)(ii), (o)(1), (p)(1), (5)(I), and (q)(4)(C), (D), 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

2024—Subsec. (a). Pub. L. 118–63, §783(1)(A), struck out "develop and" after "shall" and substituted "projects, terminal development projects, general aviation airport construction or improvement projects, and aviation safety projects" for "projects at congested airports, general aviation airport construction or improvement projects, aviation safety projects, and aviation security projects" in introductory provisions.

Subsec. (a)(1). Pub. L. 118–63, §783(1)(B), substituted "streamlined" for "better".

Subsec. (b). Pub. L. 118–63, §783(2), added subsec. (b) and struck out former subsec. (b) which related to aviation projects subject to a streamlined environmental review process, including airport capacity enhancement projects at congested airports, general

aviation airport construction or improvement projects, and aviation safety and aviation security projects.

Subsec. (c)(1). Pub. L. 118–63, §783(3), substituted "a project described or designated under subsection (b)" for "an airport capacity enhancement project at a congested airport or a project designated under subsection (b)(3)".

Subsec. (d). Pub. L. 118–63, §783(4), substituted "a project described or designated under subsection (b)" for "each airport capacity enhancement project at a congested airport or a project designated under subsection (b)(3)".

Subsec. (h). Pub. L. 118–63, §783(5), substituted "described in subsection (b)(1)" for "designated under subsection (b)(3) and airport capacity enhancement projects at congested airports".

Subsec. (j). Pub. L. 118–63, §783(6), designated existing provisions as par. (1), inserted heading, and added pars. (2) and (3).

Subsec. (k). Pub. L. 118–63, §783(7), substituted "a project described or designated under subsection (b)" for "an airport capacity enhancement project at a congested airport or a project designated under subsection (b)(3)"; inserted dash after "project shall" and par. (1) designation before "consider"; substituted "; and" for period at end; and added par. (2).

Subsec. (l). Pub. L. 118–63, §783(8), substituted "and section 1503 of title 40, Code of Federal Regulations." for period at end.

Subsecs. (m) to (q). Pub. L. 118–63, §783(9), added subsecs. (m) to (q) and struck out former subsec. (m). Prior to amendment, text of subsec. (m) read as follows: "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."

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.

CATEGORICAL EXCLUSIONS

Pub. L. 118–63, **title VII, §788, May 16, 2024**, 138 Stat. 1314, provided that:

"(a) **CATEGORICAL EXCLUSION FOR PROJECTS OF LIMITED FEDERAL ASSISTANCE.**—An action by the Administrator [of the Federal Aviation Administration] to approve, permit, finance, or otherwise authorize any airport project that is undertaken by the sponsor, owner, or operator of a public-use airport shall be presumed to be covered by a categorical exclusion under FAA [Federal Aviation Administration] Order 1050.1F (or any successor document), if such project—

"(1) receives less than \$6,000,000 (as adjusted annually by the Administrator to reflect any increases in the Consumer Price Index prepared by the Department of Labor) of Federal funds or funds from charges collected under section 40117 of title 49, United States Code; or

"(2) has a total estimated cost of not more than \$35,000,000 (as adjusted annually by the Administrator to reflect any increases in the Consumer Price Index prepared by the Department of Labor) and Federal funds comprising less than 15 percent of the total estimated project cost.

"(b) **CATEGORICAL EXCLUSION IN EMERGENCIES.**—An action by the Administrator to approve, permit, finance, or otherwise authorize an airport project that is undertaken by the sponsor, owner, or operator of a public-use airport shall be presumed to be covered by a categorical exclusion under FAA Order 1050.1F (or any successor document), if such project is—

"(1) for the repair or reconstruction of any airport facility, runway, taxiway, or similar structure that is in operation or under construction when damaged by an emergency declared by the Governor of the State with concurrence of the Administrator or for a disaster or emergency declared by the President pursuant to the Robert T. Stafford Disaster Relief and Emergency Assistance Act (42 U.S.C. 5121 et seq.);

"(2) in the same location with the same capacity, dimensions, and design as the original airport facility, runway, taxiway, or similar structure as before the declaration described in this section; and

"(3) commenced within a 2-year period beginning on the date of a declaration described in this section.

"(c) **EXTRAORDINARY CIRCUMSTANCES.**—The presumption that an action is covered by a categorical exclusion under subsections (a) and (b) shall not apply if the Administrator determines that extraordinary circumstances exist with respect to such action.

"(d) **RULE OF CONSTRUCTION.**—Nothing in this section shall be construed to impact any aviation safety authority of the Administrator.

"(e) **DEFINITIONS.**—In this section:

"(1) **CATEGORICAL EXCLUSION.**—The term 'categorical exclusion' has the meaning given such term in section 1508.1(d) of title 40, Code of Federal Regulations.

"(2) **PUBLIC-USE AIRPORT; SPONSOR.**—The terms 'public-use airport' and 'sponsor' have the meanings given such terms in section 47102 of title 49, United States Code."

UPDATING PRESUMED TO CONFORM LIMITS

Pub. L. 118–63, **title VII, §789, May 16, 2024**, 138 Stat. 1315, provided that: "Not later than 24 months after the date of enactment of this Act [May 16, 2024], the Administrator [of the Federal Aviation Administration] shall take such actions as are necessary to update the FAA's [Federal Aviation Administration's] list of actions that are presumed to conform to a State implementation plan pursuant to section 93.153(f) of title 40, Code of Federal Regulations, to include projects relating to the construction of aircraft hangars."

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)."

¹ So in original. Probably should be "subparagraph (E)(ii)(I)".

§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 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; or

(B) such other airport development projects as the Secretary may designate as facilitating a reduction in air traffic congestion and delays.

(2) **AIRPORT SPONSOR.**—The term "airport sponsor" has the meaning given the term "sponsor" under section 47102.

(3) **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;

(B) is needed to respond to a recommendation from the National Transportation Safety Board, as determined by the Administrator; or

(C) is necessary for an airport to comply with part 139 of title 14, Code of Federal Regulations (relating to airport certification).

(4) **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.

(5) **FEDERAL AGENCY.**—The term "Federal agency" means a department or agency of the United States Government.

(6) **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.

(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) **TERMINAL DEVELOPMENT.**—The term "terminal development" has the meaning given such term in section 47102.

(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; Pub. L. 118–63, title VII, §784, May 16, 2024, 138 Stat. 1313.)

EDITORIAL NOTES

AMENDMENTS

2024—Par. (1). Pub. L. 118–63, §784(4), redesignated par. (3) as (1). Former par. (1) redesignated (2).

Par. (2). Pub. L. 118–63, §784(4), redesignated par. (1) as (2). Former par. (2) redesignated (4).

Par. (3). Pub. L. 118–63, §784(4), redesignated par. (4) as (3). Former par. (3) redesignated (1).

Par. (3)(A). Pub. L. 118–63, §784(1), substituted "or" for "and".

Par. (4). Pub. L. 118–63, §784(4), redesignated par. (2) as (4). Former par. (4) redesignated (3).

Par. (4)(A). Pub. L. 118–63, §784(2)(A), struck out "and" at end end.

Par. (4)(B), (C). Pub. L. 118–63, §784(2)(B), struck out subpar. (B) designation and redesignated cls. (i) and (ii) of former subpar. (B) as subpars. (B) and (C), respectively, of par. (4).

Par. (5). Pub. L. 118–63, §784(4), redesignated par. (6) as (5). Former par. (5) struck out.

Pub. L. 118–63, §784(3), struck out par. (5). Text read as follows: "The term 'aviation security project' means a security project at an airport required by the Department of Homeland Security."

Pars. (6), (8). Pub. L. 118–63, §784(4), (5), added par. (8) and redesignated former par. (8) as (6). Former par. (6) redesignated (5).

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.