AUTHENTICATED U.S. GOVERNMENT INFORMATION GPO

an Effective Date note under section 101 of Title 6, Domestic Security.

EFFECTIVE DATE OF 2000 AMENDMENT

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

ENVIRONMENTAL REVIEW OF AIRPORT IMPROVEMENT PROJECTS

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

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

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

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

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

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

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

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

''(d) REPORT.—Not later than 1 year after the date of the enactment of this Act [Apr. 5, 2000], the Secretary shall transmit to the Committee on Transportation and Infrastructure of the House of Representatives and the Committee on Commerce, Science, and Transportation of the Senate a report on the results of the study, together with recommendations for streamlining, if appropriate, the environmental review process in the planning and approval of airport improvement projects.''

GRANTS FOR ENGINEERED MATERIALS ARRESTING SYSTEMS

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

GRANTS FOR RUNWAY REHABILITATION

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

COMPLIANCE WITH REQUIREMENTS

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

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

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

(1) the airport will be available for public use on reasonable conditions and without unjust discrimination;

(2) air carriers making similar use of the airport will be subject to substantially comparable charges—

(A) for facilities directly and substantially related to providing air transportation; and

(B) regulations and conditions, except for differences based on reasonable classifications, such as between—

(i) tenants and nontenants; and

(ii) signatory and nonsignatory carriers;

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

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

(A) the right would be unreasonably costly, burdensome, or impractical for more than one fixed-base operator to provide the services; and

(B) allowing more than one fixed-base operator to provide the services would require reducing the space leased under an existing agreement between the one fixed-base operator and the airport owner or operator;

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

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

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

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

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

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

are compatible with normal airport operations;

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

(b) WRITTEN ASSURANCES ON USE OF REVENUE.—(1) The Secretary of Transportation may approve a project grant application under this subchapter for an airport development project only if the Secretary receives written assur-

ances, satisfactory to the Secretary, that local taxes on aviation fuel (except taxes in effect on December 30, 1987) and the revenues generated by a public airport will be expended for the capital or operating costs of—

(A) the airport;

(B) the local airport system; or

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

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

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

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

(A)(i) the land may be needed for an aeronautical purpose (including runway protection zone) or serves as noise buffer land; and

(ii) revenue from interim uses of the land contributes to the financial self-sufficiency of the airport; and

(B) for land purchased with a grant the owner or operator received not later than December 30, 1987, the Secretary of Transportation or the department, agency, or instrumentality of the Government that made the grant was notified by the owner or operator of the use of the land and did not object to the use and the land is still being used for that purpose.

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

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

(i) the owner or operator will dispose of the land at fair market value at the earliest practicable time after the land no longer is needed for a noise compatibility purpose;

(ii) the disposition will be subject to retaining or reserving an interest in the land necessary to ensure that the land will be used in a way that is compatible with noise levels associated with operating the airport; and

(iii) the part of the proceeds from disposing of the land that is proportional to the Government's share of the cost of acquiring the land will be reinvested in another project at the airport or transferred to another airport as the Secretary prescribes under paragraph (4); or

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

(i) the owner or operator, when the land no longer is needed for an airport purpose, will dispose of the land at fair market value or make available to the Secretary an amount equal to the Government's proportional share of the fair market value;

(ii) the disposition will be subject to retaining or reserving an interest in the land necessary to ensure that the land will be used in a way that is compatible with noise levels associated with operating the airport; and

(iii) the part of the proceeds from disposing of the land that is proportional to the Government's share of the cost of acquiring the land will be reinvested in another project at the airport or transferred to another airport as the Secretary prescribes under paragraph (4).

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

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

(A) Reinvestment in an approved noise compatibility project.

(B) Reinvestment in an approved project that is eligible for funding under section 47117(e).

(C) Reinvestment in an approved airport development project that is eligible for funding under section 47114, 47115, or 47117.

(D) Transfer to a sponsor of another public airport to be reinvested in an approved noise compatibility project at that airport.

(E) Payment to the Secretary for deposit in the Airport and Airway Trust Fund established under section 9502 of the Internal Revenue Code of 1986.

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

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

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

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

(d) ASSURANCES OF CONTINUATION AS PUBLIC-USE AIRPORT.—The Secretary of Transportation

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

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

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

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

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

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

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

(5) This subsection does not preempt—

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

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

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

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

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

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

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

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

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

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

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

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

(A) shall prescribe requirements for sponsors that the Secretary considers necessary; and

(B) may make a contract with a public agency.

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

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

(1) IN GENERAL.—Subject to paragraph (2), before modifying an assurance required of a

person receiving a grant under this subchapter and in effect after December 29, 1987, or to require compliance with an additional assurance from the person, the Secretary of Transportation must—

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

(B) provide an opportunity for comment on the proposal.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

(A) direct payments or indirect payments, other than payments reflecting the value of services and facilities provided to the airport;

(B) use of airport revenues for general economic development, marketing, and promotional activities unrelated to airports or airport systems;

(C) payments in lieu of taxes or other assessments that exceed the value of services provided; or

(D) payments to compensate nonsponsoring governmental bodies for lost tax revenues exceeding stated tax rates.

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

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

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

(A) any request by a sponsor or any other governmental entity to any airport for additional payments for services conducted off of the airport or for reimbursement for capital contributions or operating expenses shall be filed not later than 6 years after the date on which the expense is incurred; and

(B) any amount of airport funds that are used to make a payment or reimbursement as described in subparagraph (A) after the date specified in that subparagraph shall be considered to be an illegal diversion of airport revenues that is subject to subsection (m).

(*l*) AUDIT CERTIFICATION.—

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

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

(m) RECOVERY OF ILLEGALLY DIVERTED FUNDS.—

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

(A) review the audit or report;

(B) perform appropriate factfinding; and

(C) conduct a hearing and render a final determination concerning whether the illegal diversion of airport revenues asserted in the audit or report occurred.

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

(A) the finding; and

(B) the obligations of the sponsor to reimburse the airport involved under this paragraph.

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

(A) receives notification that the sponsor is required to reimburse an airport; and

(B) has had an opportunity to reimburse the airport, but has failed to do so.

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

(5) DISPOSITION OF PENALTIES.—

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

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

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

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

(n) INTEREST.—

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

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

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

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

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

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

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

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

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

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

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

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

(r) COMPETITION DISCLOSURE REQUIREMENT.—

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

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

(A) describes the requests;

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

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

(3) SUNSET PROVISION.—This subsection shall cease to be effective beginning March 9, 2024.

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

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

(A) Aircraft of the person.

(B) Aircraft authorized by the person.

(2) THROUGH-THE-FENCE AGREEMENTS.—

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

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

(i) to pay airport access charges that, as determined by the airport sponsor, are

comparable to those charged to tenants and operators on-airport making similar use of the airport;

(ii) to bear the cost of building and maintaining the infrastructure that, as determined by the airport sponsor, is necessary to provide aircraft located on the property adjacent to or near the airport access to the airfield of the airport;

(iii) to maintain the property for residential, noncommercial use for the duration of the agreement;

(iv) to prohibit access to the airport from other properties through the property of the property owner; and

(v) to prohibit any aircraft refueling from occurring on the property.

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

(t) RENEWAL OF CERTAIN LEASES.—

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

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

(A) originally entered into before the date of enactment of this subsection;

(B) under which a nominal lease rate is provided;

(C) under which the lessee is a Federal or State government entity; and

(D) that supports the operation of military aircraft by the Air Force or Air National Guard—

(i) at the airport; or

(ii) remotely from the airport.

(u) CONSTRUCTION OF RECREATIONAL AIRCRAFT.—

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

(A) determining an airport's compliance with a grant assurance made under this section or any other provision of law; and

(B) the receipt of Federal financial assistance for airport development.

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

(A) used or intended to be used exclusively for recreational purposes; and

(B) constructed or under construction by a private individual at a general aviation airport.

(v) COMMUNITY USE OF AIRPORT LAND.—

(1) IN GENERAL.—Notwithstanding subsection (a)(13), and subject to paragraph (2), the sponsor of a public-use airport shall not be considered to be in violation of this subtitle, or to be found in violation of a grant assurance made under this section, or under any other provision of law, as a condition for the receipt of Federal financial assistance for airport development, solely because the sponsor has entered into an agreement, including a revised agreement, with a local government providing for the use of airport property for an interim compatible recreational purpose at below fair market value.

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

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

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

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

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

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

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

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

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

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

(w) MOTHERS' ROOMS.—

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

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

(B) a baby changing table in at least one men's and at least one women's restroom in

each passenger terminal building of the airport.

(2) APPLICABILITY.—

(A) AIRPORT SIZE.—

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

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

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

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

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

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

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

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

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

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

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

(ii) has a door that can be locked;

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

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

(v) is not located in a restroom; and

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

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

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.

HISTORICAL AND REVISION NOTES—CONTINUED

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

proval of an airport development project contained in a project grant application submitted under this chapter . . . shall'' in 49 App.:2210(a) for clarity and to eliminate unnecessary words. In clause (C) the word ''actual'' is omitted as surplus.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

Editorial Notes

REFERENCES IN TEXT

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

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

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

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

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

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

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

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

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

AMENDMENTS

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 alternation'' and all that follows through ''Secretary, will'', was executed by making the substitution for ''when an alteration in the airport or its facility is made that does not conform to the approved plan and that the Secretary decides adversely affects the safety, utility, or efficiency of any property on or off the airport that is owned, leased, or financed by the Government, the owner or operator, if requested by the Secretary, will'' to reflect the probable intent of Congress.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

2011—Subsec. (s)(3). Pub. L. 112–30 substituted ''February 1, 2012.'' for ''September 17, 2011.''

Pub. L. 112–27 substituted ''September 17, 2011.'' for ''July 23, 2011.''

Pub. L. 112–21 substituted ''July 23, 2011.'' for ''July 1, 2011.''

Pub. L. 112–16 substituted ''July 1, 2011.'' for ''June 1, 2011.''

Pub. L. 112–7 substituted ''June 1, 2011.'' for ''April 1, 2011.''

2010—Subsec. (s)(3). Pub. L. 111–329 substituted ''April 1, 2011.'' for ''January 1, 2011.''

Pub. L. 111–249 substituted ''January 1, 2011.'' for ''October 1, 2010.''

Pub. L. 111–216 substituted ''October 1, 2010.'' for ''August 2, 2010.''

Pub. L. 111–197 substituted ''August 2, 2010.'' for ''July 4, 2010.''

Pub. L. 111–161 substituted ''July 4, 2010.'' for ''May 1, 2010.''

Pub. L. 111–153 substituted ''May 1, 2010.'' for ''April 1, 2010.''

2009—Subsec. (s)(3). Pub. L. 111–116 substituted ''April 1, 2010.'' for ''January 1, 2010.''

Pub. L. 111–69 substituted ''January 1, 2010.'' for ''October 1, 2009.''

Pub. L. 111–12 substituted ''October 1, 2009.'' for ''April 1, 2009.''

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

Statutory Notes and Related Subsidiaries

EFFECTIVE DATE OF 2017 AMENDMENT

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

EFFECTIVE DATE OF 2012 AMENDMENT

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

EFFECTIVE DATE OF 2011 AMENDMENT

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

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

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

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

EFFECTIVE DATE OF 2010 AMENDMENT

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

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

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

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

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

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

EFFECTIVE DATE OF 2009 AMENDMENT

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

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

EFFECTIVE DATE OF 2008 AMENDMENT

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

EFFECTIVE DATE OF 2003 AMENDMENTS

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

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

EFFECTIVE DATE OF 2000 AMENDMENT

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

EFFECTIVE DATE OF 1997 AMENDMENT

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

EFFECTIVE DATE OF 1996 AMENDMENT

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

CONSTRUCTION OF 2000 AMENDMENT

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

DEEMED REFERENCES TO CHAPTERS 509 AND 511 OF TITLE 51

General references to ''this title'' deemed to refer also to chapters 509 and 511 of Title 51, National and Commercial Space Programs, see section 4(d)(8) of Pub. L. 111–314, set out as a note under section 101 of this title.

DIVERSION OF AIRPORT REVENUES FOR CLAIMS RELATED TO CERTAIN CEDED LANDS

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

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

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

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

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

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

''(5) the policy of the United States that airports should be as self-sustaining as possible and that revenues generated at airports should not be diverted from airport purposes was stated by Congress in 1982 and reaffirmed and strengthened in 1987, 1994, and 1996;

''(6) certain airports are constructed on lands that may have belonged, at one time, to Native Americans, Native Hawaiians, or Alaska Natives;

''(7) contrary to the prohibition against diverting airport revenues from airport purposes under section 47107 of title 49, United States Code, certain payments from airport revenues may have been made for the betterment of Native Americans, Native Hawaiians, or Alaska Natives based upon the claims related to lands ceded to the United States;

''(8) Federal law prohibits diversions of airport revenues obtained from any source whatsoever to occur in the future whether related to claims for periods of time prior to or after the date of enactment of this Act [Oct. 27, 1997]; and

''(9) because of the special circumstances surrounding such past diversions of airport revenues for the betterment of Native Americans, Native Hawaiians, or Alaska Natives, it is in the national interest that amounts from airport revenues previously received by any entity for the betterment of Native Americans, Native Hawaiians, or Alaska Natives, as specified in subsection (b) of this section, should not be subject to repayment.

''(b) TERMINATION OF REPAYMENT RESPONSIBILITY.—Notwithstanding the provisions of [section] 47107 of title 49, United States Code, or any other provision of law, monies paid for claims related to ceded lands and diverted from airport revenues and received prior to April 1, 1996, by any entity for the betterment of Native Americans, Native Hawaiians, or Alaska Natives, shall not be subject to repayment.

''(c) PROHIBITION ON FURTHER DIVERSION.—There shall be no further payment of airport revenues for claims related to ceded lands, whether characterized as operating expenses, rent, or otherwise, and whether related to claims for periods of time prior to or after the date of enactment of this Act [Oct. 27, 1997].

''(d) CLARIFICATION.—Nothing in this Act [see Tables for classification] shall be construed to affect any existing Federal statutes, enactments, or trust obligations created thereunder, or any statute of the several States that define the obligations of such States to Native Americans, Native Hawaiians, or Alaska Natives in connection with ceded lands, except to make clear that airport revenues may not be used to satisfy such obligations.''

FINDINGS AND PURPOSE

Pub. L. 104–264, title VIII, § 802, Oct. 9, 1996, 110 Stat. 3270, provided that:

''(a) IN GENERAL.—Congress finds that—

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

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

''(3) any diversion of airport revenues in violation of the condition referred to in paragraph (1) undermines the interest of the United States in promoting a strong national air transportation system that is responsive to the needs of airport users;

''(4) the Secretary and the Administrator have not enforced airport revenue diversion rules adequately

and must have additional regulatory tools to increase enforcement efforts; and

''(5) sponsors who have been found to have illegally diverted airport revenues—

''(A) have not reimbursed or made restitution to airports in a timely manner; and

''(B) must be encouraged to do so.

''(b) PURPOSE.—The purpose of this title [see Short Title of 1996 Amendment note set out under section 40101 of this title] is to ensure that airport users are not burdened with hidden taxation for unrelated municipal services and activities by—

''(1) eliminating the ability of any State or political subdivision thereof that is a recipient of a project grant to divert airport revenues for purposes that are not related to an airport, in violation of section 47107 of title 49, United States Code;

''(2) imposing financial reporting requirements that are designed to identify instances of illegal diversions referred to in paragraph (1);

''(3) establishing a statute of limitations for airport revenue diversion actions;

''(4) clarifying limitations on revenue diversion that are permitted under chapter 471 of title 49, United States Code; and

''(5) establishing clear penalties and enforcement mechanisms for identifying and prosecuting airport revenue diversion.''

DEFINITIONS

Pub. L. 104–264, title VIII, §803, Oct. 9, 1996, 110 Stat. 3270, provided that: ''For purposes of this title [see Short Title of 1996 Amendment note set out under section 40101 of this title], the following definitions apply:

''(1) ADMINISTRATOR.—The term 'Administrator' means the Administrator of the Federal Aviation Administration.

''(2) AIRPORT.—The term 'airport' has the meaning provided that term in section 47102(2) of title 49, United States Code.

''(3) PROJECT GRANT.—The term 'project grant' has the meaning provided that term in section 47102(14) [now section 47102(19)] of title 49, United States Code.

''(4) SECRETARY.—The term 'Secretary' means the Secretary of Transportation.

''(5) SPONSOR.—The term 'sponsor' has the meaning provided that term in section 47102(19) [now section 47102(26)] of title 49, United States Code.''

REVISION OF POLICIES AND PROCEDURES; DEADLINES

Pub. L. 104–264, title VIII, §805(b)(1), Oct. 9, 1996, 110 Stat. 3273, provided that: ''Not later than 90 days after the date of the enactment of this Act [Oct. 9, 1996], the Secretary, acting through the Administrator, shall revise the policies and procedures established under section 47107(*l*) [now 47107(k)] of title 49, United States Code, to take into account the amendments made to that section by this title.''

FORMAT FOR REPORTING

Pub. L. 103–305, title I, §111(b), Aug. 23, 1994, 108 Stat. 1574, provided that, within 180 days after Aug. 23, 1994, the Secretary of Transportation was to prescribe a uniform simplified format readily comprehensible to the public for reporting applicable to airports.

§ 47108. Project grant agreements

(a) OFFER AND ACCEPTANCE.—On approving a project grant application under this subchapter, the Secretary of Transportation shall offer the sponsor a grant to pay the United States Government's share of the project costs allowable under section 47110 of this title. The Secretary may impose terms on the offer that the Secretary considers necessary to carry out this subchapter and regulations prescribed under this subchapter. An offer shall state the obligations to be assumed by the sponsor and the maximum amount the Government will pay for the project from the amounts authorized under chapter 481 of this title (except sections 48102(e), 48106, 48107, and 48110). At the request of the sponsor, an offer of a grant for a project that will not be completed in one fiscal year shall provide for the obligation of amounts apportioned or to be apportioned to a sponsor under section 47114(c) or 47114(d)(3)(A) of this title for the fiscal years necessary to pay the Government's share of the cost of the project. An offer that is accepted in writing by the sponsor is an agreement binding on the Government and the sponsor. The Government may pay or be obligated to pay a project cost only after a grant agreement for the project is signed.

(b) INCREASING GOVERNMENT'S SHARE UNDER THIS SUBCHAPTER OR CHAPTER 475.—(1) When an offer has been accepted in writing, the amount stated in the offer as the maximum amount the Government will pay may be increased only as provided in paragraphs (2) and (3) of this subsection.

(2)(A) For a project receiving assistance under a grant approved under the Airport and Airway Improvement Act of 1982 before October 1, 1987, the amount may be increased by not more than—

(i) 10 percent for an airport development project, except a project for acquiring an interest in land; and

(ii) 50 percent of the total increase in allowable project costs attributable to acquiring an interest in land, based on current creditable appraisals.

(B) An increase under subparagraph (A) of this paragraph may be paid only from amounts the Government recovers from other grants made under this subchapter.

(3) For a project receiving assistance under a grant approved under the Act, this subchapter, or chapter 475 of this title after September 30, 1987, the amount may be increased—

(A) for an airport development project, by not more than 15 percent; and

(B) for a grant after September 30, 1992, to acquire an interest in land for an airport (except a primary airport), by not more than the greater of the following, based on current creditable appraisals or a court award in a condemnation proceeding:

(i) 15 percent; or

(ii) 25 percent of the total increase in allowable project costs attributable to acquiring an interest in land.

(c) INCREASING GOVERNMENT'S SHARE UNDER AIRPORT AND AIRWAY DEVELOPMENT ACT OF 1970.—For a project receiving assistance under a grant made under the Airport and Airway Development Act of 1970, the maximum amount the Government will pay may be increased by not more than 10 percent. An increase under this subsection may be paid only from amounts the Government recovers from other grants made under the Act.

(d) CHANGING WORKSCOPE.—With the consent of the sponsor, the Secretary may amend a grant agreement made under this subchapter to change the workscope of a project financed