

EFFECTIVE DATE OF 2003 AMENDMENT

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

EFFECTIVE DATE OF 1998 AMENDMENT

Amendment by section 1225(h) of Pub. L. 105-277 effective on earlier of Apr. 1, 1999, or date of abolition of the United States Arms Control and Disarmament Agency pursuant to reorganization plan described in section 6601 of Title 22, Foreign Relations and Intercourse, see section 1201 of Pub. L. 105-277, set out as an Effective Date note under section 6511 of Title 22.

Amendment by section 1335(p) of Pub. L. 105-277 effective on earlier of Oct. 1, 1999, or date of abolition of the United States Information Agency pursuant to reorganization plan described in section 6601 of Title 22, Foreign Relations and Intercourse, see section 1301 of Pub. L. 105-277, set out as an Effective Date note under section 6531 of Title 22.

Amendment by section 1422(b)(6) of Pub. L. 105-277 effective on earlier of Apr. 1, 1999, or date of abolition of the United States International Development Cooperation Agency pursuant to reorganization plan described in section 6601 of Title 22, Foreign Relations and Intercourse, see section 1401 of Pub. L. 105-277, set out as an Effective Date note under section 6561 of Title 22.

EFFECTIVE DATE OF 1994 AMENDMENT

For effective date and applicability of amendment by Pub. L. 103-355, see section 10001 of Pub. L. 103-355, set out as a note under section 251 of Title 41, Public Contracts.

§ 40119. Security and research and development activities

(a) GENERAL REQUIREMENTS.—The Under Secretary of Transportation for Security and the Administrator of the Federal Aviation Administration each shall conduct research (including behavioral research) and development activities appropriate to develop, modify, test, and evaluate a system, procedure, facility, or device to protect passengers and property against acts of criminal violence, aircraft piracy, and terrorism and to ensure security.

(b) DISCLOSURE.—(1) Notwithstanding section 552 of title 5 and the establishment of a Department of Homeland Security, the Secretary of Transportation shall prescribe regulations prohibiting disclosure of information obtained or developed in ensuring security under this title if the Secretary of Transportation decides disclosing the information would—

- (A) be an unwarranted invasion of personal privacy;
- (B) reveal a trade secret or privileged or confidential commercial or financial information; or
- (C) be detrimental to transportation safety.

(2) Paragraph (1) of this subsection does not authorize information to be withheld from a committee of Congress authorized to have the information.

(3) Nothing in paragraph (1) shall be construed to authorize the designation of information as sensitive security information (as defined in section 15.5 of title 49, Code of Federal Regulations)—

- (A) to conceal a violation of law, inefficiency, or administrative error;
- (B) to prevent embarrassment to a person, organization, or agency;

(C) to restrain competition; or

(D) to prevent or delay the release of information that does not require protection in the interest of transportation security, including basic scientific research information not clearly related to transportation security.

(4) Section 552a of title 5 shall not apply to disclosures that the Administrator may make from the systems of records of the Administration to any Federal law enforcement, intelligence, protective service, immigration, or national security official in order to assist the official receiving the information in the performance of official duties.

(c) TRANSFERS OF DUTIES AND POWERS PROHIBITED.—Except as otherwise provided by law, the Under Secretary may not transfer a duty or power under this section to another department, agency, or instrumentality of the United States Government.

(Pub. L. 103-272, §1(e), July 5, 1994, 108 Stat. 1117; Pub. L. 107-71, title I, §101(e), Nov. 19, 2001, 115 Stat. 603; Pub. L. 107-296, title XVI, §1601(a), Nov. 25, 2002, 116 Stat. 2312; Pub. L. 111-83, title V, §561(c)(2), Oct. 28, 2009, 123 Stat. 2182; Pub. L. 112-95, title VIII, §801, Feb. 14, 2012, 126 Stat. 118.)

HISTORICAL AND REVISION NOTES

Revised Section	Source (U.S. Code)	Source (Statutes at Large)
40119(a) .....	49 App.:1357(d)(1).	Aug. 23, 1958, Pub. L. 85-726, 72 Stat. 731, §316(d)(1), (e)(1); added Aug. 5, 1974, Pub. L. 93-366, §202, 88 Stat. 417.
40119(b) .....	49 App.:1357(d)(2).	Aug. 23, 1958, Pub. L. 85-726, 72 Stat. 731, §316(d)(2); added Aug. 5, 1974, Pub. L. 93-366, §202, 88 Stat. 417; Nov. 5, 1990, Pub. L. 101-508, §9121, 104 Stat. 1388-370.
40119(c) .....	49 App.:1357(e)(1).	

In this section, the word “Administrator” in section 316(d) and (e) of the Federal Aviation Act of 1958 (Public Law 85-726, 72 Stat. 731) is retained on authority of 49:106(g).

In subsection (a), the words “as he may deem” and “aboard aircraft in air transportation or intrastate air transportation” are omitted as surplus.

In subsection (b)(1), before clause (A), the words “relating to freedom of information”, “as he may deem necessary”, and “in the conduct of research and development activities” are omitted as surplus. In clause (A), the words “(including, but not limited to, information contained in any personnel, medical, or similar file)” are omitted as surplus. In clause (B), the words “obtained from any person” are omitted as surplus. In clause (C), the word “traveling” is omitted as surplus.

In subsection (b)(2), the word “duly” is omitted as surplus. The words “to have the information” are added for clarity.

AMENDMENTS

2012—Subsec. (b)(4). Pub. L. 112-95 added par. (4).

2009—Subsec. (b)(3). Pub. L. 111-83 added par. (3).

2002—Subsec. (a). Pub. L. 107-296, §1601(a)(1), inserted “and the Administrator of the Federal Aviation Administration each” after “for Security” and substituted “criminal violence, aircraft piracy, and terrorism and to ensure security” for “criminal violence and aircraft piracy”.

Subsec. (b)(1). Pub. L. 107-296, §1601(a)(2)(A), (B), in introductory provisions, substituted “and the establishment of a Department of Homeland Security, the

Secretary of Transportation” for “, the Under Secretary” and “ensuring security under this title if the Secretary of Transportation” for “carrying out security or research and development activities under section 44501(a) or (c), 44502(a)(1) or (3), (b), or (c), 44504, 44505, 44507, 44508, 44511, 44512, 44513, 44901, 44903(a), (b), (c), or (e), 44905, 44912, 44935, 44936, or 44938(a) or (b) of this title if the Under Secretary”.

Subsec. (b)(1)(C). Pub. L. 107–296, §1601(a)(2)(C), substituted “transportation safety” for “the safety of passengers in transportation”.

2001—Subsec. (a). Pub. L. 107–71, §101(e)(1), substituted “Under Secretary of Transportation for Security” for “Administrator of the Federal Aviation Administration”.

Subsec. (b). Pub. L. 107–71, §101(e)(2), substituted “Under Secretary” for “Administrator” in two places in introductory provisions.

Subsec. (b)(1)(C). Pub. L. 107–71, §101(e)(3), struck out “air” before “transportation”.

Subsec. (c). Pub. L. 107–71, §101(e)(2), substituted “Under Secretary” for “Administrator”.

#### EFFECTIVE DATE OF 2002 AMENDMENT

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

#### TRANSFER OF FUNCTIONS

For transfer of functions, personnel, assets, and liabilities of the Transportation Security Administration of the Department of Transportation, including the functions of the Secretary of Transportation, and of the Under Secretary of Transportation for Security, relating thereto, to the Secretary of Homeland Security, and for treatment of related references, see sections 203(2), 551(d), 552(d), and 557 of Title 6, Domestic Security, and the Department of Homeland Security Reorganization Plan of November 25, 2002, as modified, set out as a note under section 542 of Title 6.

#### 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.

### § 40120. Relationship to other laws

(a) NONAPPLICATION.—Except as provided in the International Navigational Rules Act of 1977 (33 U.S.C. 1601 et seq.), the navigation and shipping laws of the United States and the rules for the prevention of collisions do not apply to aircraft or to the navigation of vessels related to those aircraft.

(b) EXTENDING APPLICATION OUTSIDE UNITED STATES.—The President may extend (in the way and for periods the President considers necessary) the application of this part to outside the United States when—

(1) an international arrangement gives the United States Government authority to make the extension; and

(2) the President decides the extension is in the national interest.

(c) ADDITIONAL REMEDIES.—A remedy under this part is in addition to any other remedies provided by law.

(Pub. L. 103–272, §1(e), July 5, 1994, 108 Stat. 1117.)

#### HISTORICAL AND REVISION NOTES

Revised Section	Source (U.S. Code)	Source (Statutes at Large)
40120(a) .....	49 App.:1509(a).	Aug. 23, 1958, Pub. L. 85–726, §§1106, 1109(a), 1110, 72 Stat. 798, 799, 800.
40120(b) .....	49 App.:1510.	
40120(c) .....	49 App.:1506.	

In subsection (a), the words “International Navigational Rules Act of 1977 (33 U.S.C. 1601 et seq.)” are substituted for “sections 143 to 147d of title 33” because those sections were repealed by section 3 of the Act of September 24, 1963 (Public Law 88–131, 77 Stat. 194), and replaced by 33:ch. 21. Chapter 21 was repealed by section 10 of the International Navigational Rules Act of 1977 (Public Law 95–75, 91 Stat. 311) and replaced by 33:1601–1608. The words “including any definition of ‘vessel’ or ‘vehicle’ found therein” and “be construed to” are omitted as surplus.

In subsection (b), before clause (1), the words “to the extent”, “of time”, and “any areas of land or water” are omitted as surplus. The words “and the overlying airspace thereof” are omitted as being included in “outside the United States”. In clause (1), the words “treaty, agreement or other lawful” and “necessary legal” are omitted as surplus.

Subsection (c) is substituted for 49 App.:1506 to eliminate unnecessary words and for clarity and consistency in the revised title and with other titles of the United States Code.

#### REFERENCES IN TEXT

The International Navigational Rules Act of 1977, referred to in subsec. (a), is Pub. L. 95–75, July 27, 1977, 91 Stat. 308, as amended, which is classified principally to chapter 30 (§1601 et seq.) of Title 33, Navigation and Navigable Waters. For complete classification of this Act to the Code, see Short Title note set out under section 1601 of Title 33 and Tables.

#### EX. ORD. NO. 10854. EXTENSION OF APPLICATION

Ex. Ord. No. 10854, Nov. 27, 1959, 24 F.R. 9565, as amended by Ex. Ord. No. 11382, Nov. 28, 1967, 32 F.R. 16247, provided:

The application of the Federal Aviation Act of 1958 (72 Stat. 731; 49 U.S.C.A. §1301 et seq. [see 49 U.S.C. 40101 et seq.]), to the extent necessary to permit the Secretary of Transportation to accomplish the purposes and objectives of Titles III [former 49 U.S.C. 1341 et seq., see Disposition Table at beginning of this title] and XII [see 49 U.S.C. 40103(b)(3), 46307] thereof, is hereby extended to those areas of land or water outside the United States and the overlying airspace thereof over or in which the Federal Government of the United States, under international treaty, agreement or other lawful arrangement, has appropriate jurisdiction or control: *Provided*, That the Secretary of Transportation, prior to taking any action under the authority hereby conferred, shall first consult with the Secretary of State on matters affecting foreign relations, and with the Secretary of Defense on matters affecting national-defense interests, and shall not take any action which the Secretary of State determines to be in conflict with any international treaty or agreement to which the United States is a party, or to be inconsistent with the successful conduct of the foreign relations of the United States, or which the Secretary of Defense determines to be inconsistent with the requirements of national defense.

### § 40121. Air traffic control modernization reviews

(a) REQUIRED TERMINATIONS OF ACQUISITIONS.—The Administrator of the Federal Aviation Administration shall terminate any acquisition program initiated after the date of the enactment of the Air Traffic Management System Performance Improvement Act of 1996 and fund-