

mulgate a final rule” and “Such final rule” are omitted as executed.

AMENDMENTS

2000—Subsec. (g). Pub. L. 106-181 added subsec. (g).

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.

TERMINATION OF REPORTING REQUIREMENTS

For termination, effective May 15, 2000, of reporting provisions in subsec. (a)(3) of this section, see section 3003 of Pub. L. 104-66, as amended, set out as a note under section 1113 of Title 31, Money and Finance, and the 8th item on page 138 of House Document No. 103-7.

§ 44717. Aging aircraft

(a) INSPECTIONS AND REVIEWS.—The Administrator of the Federal Aviation Administration shall prescribe regulations that ensure the continuing airworthiness of aging aircraft. The regulations prescribed under subsection (a) of this section—

(1) at least shall require the Administrator to make inspections, and review the maintenance and other records, of each aircraft an air carrier uses to provide air transportation that the Administrator decides may be necessary to enable the Administrator to decide whether the aircraft is in safe condition and maintained properly for operation in air transportation;

(2) at least shall require an air carrier to demonstrate to the Administrator, as part of the inspection, that maintenance of the aircraft’s age-sensitive parts and components has been adequate and timely enough to ensure the highest degree of safety;

(3) shall require the air carrier to make available to the Administrator the aircraft and any records about the aircraft that the Administrator requires to carry out a review; and

(4) shall establish procedures to be followed in carrying out an inspection.

(b) WHEN AND HOW INSPECTIONS AND REVIEWS SHALL BE CARRIED OUT.—(1) Inspections and reviews required under subsection (a)(1) of this section shall be carried out as part of each heavy maintenance check of the aircraft conducted after the 14th year in which the aircraft has been in service.

(2) Inspections under subsection (a)(1) of this section shall be carried out as provided under section 44701(a)(2)(B) and (C) of this title.

(c) AIRCRAFT MAINTENANCE SAFETY PROGRAMS.—The Administrator shall establish—

(1) a program to verify that air carriers are maintaining their aircraft according to maintenance programs approved by the Administrator;

(2) a program—

(A) to provide inspectors and engineers of the Administration with training necessary to conduct auditing inspections of aircraft operated by air carriers for corrosion and metal fatigue; and

(B) to enhance participation of those inspectors and engineers in those inspections; and

(3) a program to ensure that air carriers demonstrate to the Administrator their commitment and technical competence to ensure the airworthiness of aircraft that the carriers operate.

(d) FOREIGN AIR TRANSPORTATION.—(1) The Administrator shall take all possible steps to encourage governments of foreign countries and relevant international organizations to develop standards and requirements for inspections and reviews that—

(A) will ensure the continuing airworthiness of aging aircraft used by foreign air carriers to provide foreign air transportation to and from the United States; and

(B) will provide passengers of those foreign air carriers with the same level of safety that will be provided passengers of air carriers by carrying out this section.

(2) Not later than September 30, 1994, the Administrator shall report to Congress on carrying out this subsection.

(Pub. L. 103-272, §1(e), July 5, 1994, 108 Stat. 1199.)

HISTORICAL AND REVISION NOTES

Revised Section	Source (U.S. Code)	Source (Statutes at Large)
44717(a)	49 App.:1421 (note).	Oct. 28, 1991, Pub. L. 102-143, §§402(a), (b)(1), (c)-(e), 405, 105 Stat. 951, 952.
44717(b)	49 App.:1421 (note).	Oct. 28, 1991, Pub. L. 102-143, §402(b)(2), (3), 105 Stat. 951.
44717(c)	49 App.:1421 (note).	Oct. 28, 1991, Pub. L. 102-143, §403, 105 Stat. 952.
44717(d)	49 App.:1421 (note).	Oct. 28, 1991, Pub. L. 102-143, §404, 105 Stat. 952.

In subsections (a) and (c), before clause (1), the words “Not later than 180 days after the date of the enactment of this title” are omitted as obsolete.

In subsection (a), before clause (1), the text of section 405 of the Department of Transportation and Related Agencies Appropriations Act, 1992 (Public Law 102-143, 105 Stat. 952) is omitted as surplus because the complete name of the Administrator of the Federal Aviation Administration is used the first time the term appears in a section. The word “regulations” is substituted for “rule” because the terms are synonymous. In clauses (2)-(4), the words “required by the rule” are omitted as surplus. In clause (2), the words “structure, skin, and other” are omitted as surplus. In clause (3), the words “inspection, maintenance, and other” are omitted as surplus.

In subsection (c)(1), the word “Administrator” is substituted for “Federal Aviation Administration” for consistency in the revised title.

In subsection (d)(1), before clause (A), the words “governments of foreign countries” are substituted for “foreign governments” for consistency in the revised title and with other titles of the United States Code.

§ 44718. Structures interfering with air commerce

(a) NOTICE.—By regulation or by order when necessary, the Secretary of Transportation shall require a person to give adequate public notice, in the form and way the Secretary prescribes, of the construction, alteration, establishment, or expansion, or the proposed construction, alteration, establishment, or expansion, of a structure or sanitary landfill when the notice will promote—

(1) safety in air commerce; and

(2) the efficient use and preservation of the navigable airspace and of airport traffic capacity at public-use airports.

(b) STUDIES.—(1) Under regulations prescribed by the Secretary, if the Secretary decides that constructing or altering a structure may result in an obstruction of the navigable airspace or an interference with air navigation facilities and equipment or the navigable airspace, the Secretary shall conduct an aeronautical study to decide the extent of any adverse impact on the safe and efficient use of the airspace, facilities, or equipment. In conducting the study, the Secretary shall consider factors relevant to the efficient and effective use of the navigable airspace, including—

(A) the impact on arrival, departure, and en route procedures for aircraft operating under visual flight rules;

(B) the impact on arrival, departure, and en route procedures for aircraft operating under instrument flight rules;

(C) the impact on existing public-use airports and aeronautical facilities;

(D) the impact on planned public-use airports and aeronautical facilities; and

(E) the cumulative impact resulting from the proposed construction or alteration of a structure when combined with the impact of other existing or proposed structures.

(2) On completing the study, the Secretary shall issue a report disclosing completely the extent of the adverse impact on the safe and efficient use of the navigable airspace that the Secretary finds will result from constructing or altering the structure.

(c) BROADCAST APPLICATIONS AND TOWER STUDIES.—In carrying out laws related to a broadcast application and conducting an aeronautical study related to broadcast towers, the Administrator of the Federal Aviation Administration and the Federal Communications Commission shall take action necessary to coordinate efficiently—

(1) the receipt and consideration of, and action on, the application; and

(2) the completion of any associated aeronautical study.

(d) LIMITATION ON CONSTRUCTION OF LANDFILLS.—

(1) IN GENERAL.—No person shall construct or establish a municipal solid waste landfill (as defined in section 258.2 of title 40, Code of Federal Regulations, as in effect on the date of the enactment of this subsection) that receives putrescible waste (as defined in section 257.3–8 of such title) within 6 miles of a public airport that has received grants under chapter 471 and is primarily served by general aviation aircraft and regularly scheduled flights of aircraft designed for 60 passengers or less unless the State aviation agency of the State in which the airport is located requests that the Administrator of the Federal Aviation Administration exempt the landfill from the application of this subsection and the Administrator determines that such exemption would have no adverse impact on aviation safety.

(2) LIMITATION ON APPLICABILITY.—Paragraph (1) shall not apply in the State of Alaska and

shall not apply to the construction, establishment, expansion, or modification of, or to any other activity undertaken with respect to, a municipal solid waste landfill if the construction or establishment of the landfill was commenced on or before the date of the enactment of this subsection.

(e) REVIEW OF AERONAUTICAL STUDIES.—The Administrator of the Federal Aviation Administration shall develop procedures to allow the Department of Defense and the Department of Homeland Security to review and comment on an aeronautical study conducted pursuant to subsection (b) prior to the completion of the study.

(Pub. L. 103–272, §1(e), July 5, 1994, 108 Stat. 1200; Pub. L. 104–264, title XII, §1220(a), Oct. 9, 1996, 110 Stat. 3286; Pub. L. 106–181, title V, §503(b), Apr. 5, 2000, 114 Stat. 133; Pub. L. 112–81, div. A, title III, §332, Dec. 31, 2011, 125 Stat. 1369.)

HISTORICAL AND REVISION NOTES

Revised Section	Source (U.S. Code)	Source (Statutes at Large)
44718(a)	49 App.:1501(a).	Aug. 23, 1958, Pub. L. 85–726, §1101, 72 Stat. 797; re-stated Dec. 30, 1987, Pub. L. 100–223, §206 (less (b)), 101 Stat. 1521; Oct. 31, 1992, Pub. L. 102–581, §203(a), 106 Stat. 4890.
44718(b)	49 App.:1501(b).	
44718(c)	49 App.:1501(c).	

In subsection (a), before clause (1), the words “(hereinafter in this section referred to as the ‘Secretary’)” and “where necessary” are omitted as surplus.

In subsection (b)(1), before clause (A), the word “thoroughly” is omitted as surplus.

REFERENCES IN TEXT

The date of the enactment of this subsection, referred to in subsec. (d), probably means the date of enactment of Pub. L. 106–181, which amended subsec. (d) generally, and which was approved Apr. 5, 2000.

AMENDMENTS

2011—Subsec. (e). Pub. L. 112–81 added subsec. (e).

2000—Subsec. (d). Pub. L. 106–181 amended heading and text of subsec. (d) generally. Prior to amendment, text read as follows: “For the purposes of enhancing aviation safety, in a case in which 2 landfills have been proposed to be constructed or established within 6 miles of a commercial service airport with fewer than 50,000 enplanements per year, no person shall construct or establish either landfill if an official of the Federal Aviation Administration has stated in writing within the 3-year period ending on the date of the enactment of this subsection that 1 of the landfills would be incompatible with aircraft operations at the airport, unless the landfill is already active on such date of enactment or the airport operator agrees to the construction or establishment of the landfill.”

1996—Subsec. (d). Pub. L. 104–264 added subsec. (d).

EFFECTIVE DATE OF 2000 AMENDMENT

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

EFFECTIVE DATE OF 1996 AMENDMENT

Except as otherwise specifically provided, amendment by Pub. L. 104–264 applicable only to fiscal years beginning after Sept. 30, 1996, and not to be construed as affecting funds made available for a fiscal year end-

ing before Oct. 1, 1996, see section 3 of Pub. L. 104-264, set out as a note under section 106 of this title.

STUDY OF EFFECTS OF NEW CONSTRUCTION OF OBSTRUCTIONS ON MILITARY INSTALLATIONS AND OPERATIONS

Pub. L. 111-383, div. A, title III, §358, Jan. 7, 2011, 124 Stat. 4198, as amended by Pub. L. 112-81, div. A, title III, §331, Dec. 31, 2011, 125 Stat. 1369; Pub. L. 112-239, div. A, title X, §1076(b)(1), Jan. 2, 2013, 126 Stat. 1949; Pub. L. 114-92, div. A, title III, §314, Nov. 25, 2015, 129 Stat. 790, provided that:

“(a) **OBJECTIVE.**—It shall be an objective of the Department of Defense to ensure that the robust development of renewable energy sources and the increased resiliency of the commercial electrical grid may move forward in the United States, while minimizing or mitigating any adverse impacts on military operations and readiness.

“(b) **DESIGNATION OF SENIOR OFFICIAL AND LEAD ORGANIZATION.**—

“(1) **DESIGNATION.**—Not later than 30 days after the date of the enactment of this Act [Jan. 7, 2011], the Secretary of Defense shall designate a senior official of the Department of Defense, and a lead organization of the Department of Defense, to—

“(A) serve as the executive agent to carry out the review required by subsection (d);

“(B) serve as a clearinghouse to coordinate Department of Defense review of applications for projects filed with the Secretary of Transportation pursuant to section 44718 of title 49, United States Code, and received by the Department of Defense from the Secretary of Transportation; and

“(C) accelerate the development of planning tools necessary to determine the acceptability to the Department of Defense of proposals included in an application for a project submitted pursuant to such section.

“(2) **RESOURCES.**—The Secretary shall ensure that the senior official and lead organization designated under paragraph (1) are assigned such personnel and resources as the Secretary considers appropriate to carry out this section.

“(c) **INITIAL ACTIONS.**—Not later than 180 days after the date of the enactment of this Act [Jan. 7, 2011], the Secretary of Defense, acting through the senior official and lead organization designated pursuant to subsection (b), shall—

“(1) conduct a preliminary review of each application for a project filed with the Secretary of Transportation pursuant to section 44718 of title 49, United States Code, that may have an adverse impact on military operations and readiness, unless such project has been granted a determination of no hazard. Such review shall, at a minimum, for each such project—

“(A) assess the likely scope and duration of any adverse impact of such project on military operations and readiness; and

“(B) identify any feasible and affordable actions that could be taken in the immediate future by the Department, the developer of such project, or others to mitigate such adverse impact and to minimize risks to national security while allowing such project to proceed with development;

“(2) develop, in coordination with other departments and agencies of the Federal Government, an integrated review process to ensure timely notification and consideration of projects filed with the Secretary of Transportation pursuant to section 44718 of title 49, United States Code, that may have an adverse impact on military operations and readiness;

“(3) establish procedures for the Department of Defense for the coordinated consideration of and response to a request for a review received from a State government, an Indian tribal government, a local government, a landowner, or the developer of an energy project, including guidance to personnel at each military installation in the United States on how to

initiate such procedures and ensure a coordinated Department response while seeking to fulfill the objective under subsection (a); and

“(4) develop procedures for conducting early outreach to parties carrying out projects filed with the Secretary of Transportation pursuant to section 44718 of title 49, United States Code, that could have an adverse impact on military operations and readiness and to clearly communicate to such parties actions being taken by the Department of Defense under this section.

“(d) **COMPREHENSIVE REVIEW.**—

“(1) **STRATEGY REQUIRED.**—Not later than 270 days after the date of the enactment of this Act [Jan. 7, 2011], the Secretary of Defense, acting through the senior official and lead organization designated pursuant to subsection (b), shall develop a comprehensive strategy for addressing the military impacts of projects filed with the Secretary of Transportation pursuant to section 44718 of title 49, United States Code.

“(2) **ELEMENTS.**—In developing the strategy required by paragraph (1), the Secretary of Defense shall—

“(A) assess of the magnitude of interference posed by projects filed with the Secretary of Transportation pursuant to section 44718 of title 49, United States Code;

“(B) identify geographic areas selected as proposed locations for projects filed, or which may be filed in the future, with the Secretary of Transportation pursuant to section 44718 of title 49, United States Code, where such projects could have an adverse impact on military operations and readiness and categorize the risk of adverse impact in such areas for the purpose of informing early outreach efforts under subsection (c)(4) and preliminary assessments under subsection (e); and

“(C) specifically identify feasible and affordable long-term actions that may be taken to mitigate adverse impacts of projects filed, or which may be filed in the future, with the Secretary of Transportation pursuant to section 44718 of title 49, United States Code, on military operations and readiness, including—

“(i) investment priorities of the Department of Defense with respect to research and development;

“(ii) modifications to military operations to accommodate applications for such projects;

“(iii) recommended upgrades or modifications to existing systems or procedures by the Department of Defense;

“(iv) acquisition of new systems by the Department and other departments and agencies of the Federal Government and timelines for fielding such new systems; and

“(v) modifications to the projects for which such applications are filed, including changes in size, location, or technology.

“(e) **DEPARTMENT OF DEFENSE HAZARD ASSESSMENT.**—

“(1) **PRELIMINARY ASSESSMENT.**—The procedures established pursuant to subsection (c) shall ensure that not later than 30 days after receiving a proper application for a project filed with the Secretary of Transportation pursuant to section 44718 of title 49, United States Code, the Secretary of Defense shall review the project and provide a preliminary assessment of the level of risk of adverse impact on military operations and readiness that would arise from the project and the extent of mitigation that may be needed to address such risk.

“(2) **DETERMINATION OF UNACCEPTABLE RISK.**—The procedures established pursuant to subsection (c) shall ensure that the Secretary of Defense does not object to a project filed with the Secretary of Transportation pursuant to section 44718 of title 49, United States Code, except in a case in which the Secretary of Defense determines, after giving full consideration to mitigation actions identified pursuant to this sec-

tion, that such project would result in an unacceptable risk to the national security of the United States.

“(3) CONGRESSIONAL NOTICE REQUIREMENT.—Not later than 30 days after making a determination of unacceptable risk under paragraph (2), the Secretary of Defense shall submit to the congressional defense committees [Committees on Armed Services and Appropriations of the Senate and the House of Representatives] a report on such determination and the basis for such determination. Such a report shall include an explanation of the operational impact that led to the determination, a discussion of the mitigation options considered, and an explanation of why the mitigation options were not feasible or did not resolve the conflict.

“(4) NON-DELEGATION OF DETERMINATIONS.—The responsibility for making a determination of unacceptable risk under paragraph (2) may only be delegated to an appropriate senior officer of the Department of Defense, on the recommendation of the senior official designated pursuant to subsection (b). The following individuals are appropriate senior officers of the Department of Defense for the purposes of this paragraph:

“(A) The Deputy Secretary of Defense.

“(B) The Under Secretary of Defense for Acquisition, Technology, and Logistics.

“(C) The Principal Deputy Under Secretary of Defense for Acquisition, Technology, and Logistics.

“(f) REPORTS.—

“(1) REPORT TO CONGRESS.—Not later than March 15 each year from 2011 through 2015, the Secretary of Defense shall submit to the congressional defense committees [Committees on Armed Services and Appropriations of the Senate and the House of Representatives] a report on the actions taken by the Department of Defense during the preceding year to implement this section and the comprehensive strategy developed pursuant to this section.

“(2) CONTENTS OF REPORT.—Each report submitted under paragraph (1) shall include—

“(A) the results of a review carried out by the Secretary of Defense of any projects filed with the Secretary of Transportation pursuant to section 44718 of title 49, United States Code—

“(i) that the Secretary of Defense has determined would result in an unacceptable risk to the national security; and

“(ii) for which the Secretary of Defense has recommended to the Secretary of Transportation that a hazard determination be issued;

“(B) an assessment of the risk associated with the loss or modifications of military training routes and a quantification of such risk;

“(C) an assessment of the risk associated with solar power and similar systems as to the effects of glint on military readiness;

“(D) an assessment of the risk associated with electromagnetic interference on military readiness, including the effects of testing and evaluation ranges;

“(E) an assessment of any risks posed by the development of projects filed with the Secretary of Transportation pursuant to section 44718 of title 49, United States Code, to the prevention of threats and aggression directed toward the United States and its territories; and

“(F) a description of the distance from a military installation that the Department of Defense will use to prescreen applicants under section 44718 of title 49, United States Code.

“(g) AUTHORITY TO ACCEPT CONTRIBUTIONS OF FUNDS.—The Secretary of Defense is authorized to accept a voluntary contribution of funds from an applicant for a project filed with the Secretary of Transportation pursuant to section 44718 of title 49, United States Code. Amounts so accepted shall remain available until expended for the purpose of offsetting the cost of measures undertaken by the Secretary of De-

fense to mitigate adverse impacts of such project on military operations and readiness or to conduct studies of potential measures to mitigate such impacts.

“(h) EFFECT OF DEPARTMENT OF DEFENSE HAZARD ASSESSMENT.—An action taken pursuant to this section shall not be considered to be a substitute for any assessment or determination required of the Secretary of Transportation under section 44718 of title 49, United States Code.

“(i) SAVINGS PROVISION.—Nothing in this section shall be construed to affect or limit the application of, or any obligation to comply with, any environmental law, including the National Environmental Policy Act of 1969 (42 U.S.C. 4321 et seq.).

“(j) APPLICABILITY OF SECTION.—This section does not apply to a non-energy project.

“(k) DEFINITIONS.—In this section:

“(1) The term ‘military training route’ means a training route developed as part of the Military Training Route Program, carried out jointly by the Federal Aviation Administration and the Secretary of Defense, for use by the Armed Forces for the purpose of conducting low-altitude, high-speed military training.

“(2) The term ‘military installation’ has the meaning given that term in section 2801(c)(4) of title 10, United States Code.

“(3) The term ‘military readiness’ includes any training or operation that could be related to combat readiness, including testing and evaluation activities.

“(4) The term ‘energy project’ means a project that provides for the generation or transmission of electrical energy.

“(5) The term ‘non-energy project’ means a project that is not an energy project.

“(6) The term ‘landowner’ means a person or other legal entity that owns a fee interest in real property on which a proposed energy project is planned to be located.”

LANDFILLS INTERFERING WITH AIR COMMERCE

Pub. L. 106-181, title V, §503(a), Apr. 5, 2000, 114 Stat. 133, provided that: “Congress finds that—

“(1) collisions between aircraft and birds have resulted in fatal accidents;

“(2) bird strikes pose a special danger to smaller aircraft;

“(3) landfills near airports pose a potential hazard to aircraft operating there because they attract birds;

“(4) even if the landfill is not located in the approach path of the airport’s runway, it still poses a hazard because of the birds’ ability to fly away from the landfill and into the path of oncoming planes;

“(5) while certain mileage limits have the potential to be arbitrary, keeping landfills at least 6 miles away from an airport, especially an airport served by small planes, is an appropriate minimum requirement for aviation safety; and

“(6) closure of existing landfills (due to concerns about aviation safety) should be avoided because of the likely disruption to those who use and depend on such landfills.”

§ 44719. Standards for navigational aids

The Secretary of Transportation shall prescribe regulations on standards for installing navigational aids, including airport control towers. For each type of facility, the regulations shall consider at a minimum traffic density (number of aircraft operations without consideration of aircraft size), terrain and other obstacles to navigation, weather characteristics, passengers served, and potential aircraft operating efficiencies.

(Pub. L. 103-272, §1(e), July 5, 1994, 108 Stat. 1201.)