

## EFFECTIVE DATE

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

## FINDINGS

Pub. L. 108-176, title III, §302, Dec. 12, 2003, 117 Stat. 2533, provided that: “Congress finds that—

- “(1) airports play a major role in interstate and foreign commerce;
- “(2) congestion and delays at our Nation’s major airports have a significant negative impact on our Nation’s economy;
- “(3) airport capacity enhancement projects at congested airports are a national priority and should be constructed on an expedited basis;
- “(4) airport capacity enhancement projects must include an environmental review process that provides local citizenry an opportunity for consideration of and appropriate action to address environmental concerns; and
- “(5) the Federal Aviation Administration, airport authorities, communities, and other Federal, State, and local government agencies must work together to develop a plan, set and honor milestones and deadlines, and work to protect the environment while sustaining the economic vitality that will result from the continued growth of aviation.”

## LIMITATIONS

Pub. L. 108-176, title III, §308, Dec. 12, 2003, 117 Stat. 2539, provided that: “Nothing in this subtitle [subtitle A (§§301-309) of title III of Pub. L. 108-176, enacting this subchapter, amending sections 40104, 47106, and 47504 of this title, and enacting provisions set out as notes under this section], including any amendment made by this title [enacting this subchapter and amending sections 40104, 40128, 47106, 47503, and 47504 of this title], shall preempt or interfere with—

- “(1) any practice of seeking public comment;
- “(2) any power, jurisdiction, or authority that a State agency or an airport sponsor has with respect to carrying out an airport capacity enhancement project; and
- “(3) any obligation to comply with the provisions of the National Environmental Policy Act of 1969 (42 U.S.C. 4371 [4321] et seq.) and the regulations issued by the Council on Environmental Quality to carry out such Act.”

## RELATIONSHIP TO OTHER REQUIREMENTS

Pub. L. 108-176, title III, §309, Dec. 12, 2003, 117 Stat. 2540, provided that: “The coordinated review process required under the amendments made by this subtitle [enacting this subchapter and amending sections 40104, 47106, and 47504 of this title] shall apply to an airport capacity enhancement project at a congested airport whether or not the project is designated by the Secretary of Transportation as a high-priority transportation infrastructure project under Executive Order 13274 [49 U.S.C. 301 note] (67 Fed. Reg. 59449; relating to environmental stewardship and transportation infrastructure project reviews).”

#### § 47172. Air traffic procedures for airport capacity enhancement projects at congested airports

(a) IN GENERAL.—The Administrator of the Federal Aviation Administration may consider prescribing flight procedures to avoid or minimize potentially significant adverse noise impacts of an airport capacity enhancement project at a congested airport that involves the construction of new runways or the reconfiguration of existing runways during the environ-

mental planning process for the project. If the Administrator determines that noise mitigation flight procedures are consistent with safe and efficient use of the navigable airspace, the Administrator may commit, at the request of the airport sponsor and in a manner consistent with applicable Federal law, to prescribing such procedures in any record of decision approving the project.

(b) MODIFICATION.—Notwithstanding any commitment by the Administrator under subsection (a), the Administrator may initiate changes to such procedures if necessary to maintain safety and efficiency in light of new information or changed circumstances.

(Added Pub. L. 108-176, title III, §304(a), Dec. 12, 2003, 117 Stat. 2537.)

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#### § 47173. Airport funding of FAA staff

(a) ACCEPTANCE OF SPONSOR-PROVIDED FUNDS.—Notwithstanding any other provision of law, the Administrator of the Federal Aviation Administration may accept funds from an airport sponsor, including funds provided to the sponsor under section 47114(c), to hire additional staff or obtain the services of consultants—

- (1) to facilitate the timely processing, review, and completion of environmental activities associated with an airport development project;
- (2) to conduct special environmental studies related to an airport project funded with Federal funds;
- (3) to conduct special studies or reviews to support approved noise compatibility measures described in part 150 of title 14, Code of Federal Regulations;
- (4) to conduct special studies or reviews to support environmental mitigation in a record of decision or finding of no significant impact by the Federal Aviation Administration; and
- (5) to facilitate the timely processing, review, and completion of environmental activities associated with new or amended flight procedures, including performance-based navigation procedures, such as required navigation performance procedures and area navigation procedures.

(b) ADMINISTRATIVE PROVISION.—Instead of payment from an airport sponsor from funds apportioned to the sponsor under section 47114, the Administrator, with agreement of the sponsor, may transfer funds that would otherwise be apportioned to the sponsor under section 47114 to the account used by the Administrator for activities described in subsection (a).

(c) RECEIPTS CREDITED AS OFFSETTING COLLECTIONS.—Notwithstanding section 3302 of title 31, any funds accepted under this section, except funds transferred pursuant to subsection (b)—

- (1) shall be credited as offsetting collections to the account that finances the activities and services for which the funds are accepted;

(2) shall be available for expenditure only to pay the costs of activities and services for which the funds are accepted; and

(3) shall remain available until expended.

(d) MAINTENANCE OF EFFORT.—No funds may be accepted pursuant to subsection (a), or transferred pursuant to subsection (b), in any fiscal year in which the Federal Aviation Administration does not allocate at least the amount it expended in fiscal year 2002 (excluding amounts accepted pursuant to section 337 of the Department of Transportation and Related Agencies Appropriations Act, 2002 (115 Stat. 862)) for the activities described in subsection (a).

(Added Pub. L. 108-176, title III, §304(a), Dec. 12, 2003, 117 Stat. 2537; amended Pub. L. 112-95, title V, §503, Feb. 14, 2012, 126 Stat. 103.)

#### REFERENCES IN TEXT

Section 337 of the Department of Transportation and Related Agencies Appropriations Act, 2002, referred to in subsec. (d), is section 337 of Pub. L. 107-87, Dec. 18, 2001, 115 Stat. 862, which is not classified to the Code.

#### AMENDMENTS

2012—Subsec. (a). Pub. L. 112-95 substituted “services of consultants—” for “services of consultants in order to facilitate the timely processing, review, and completion of environmental activities associated with an airport development project.” and added pars. (1) to (5).

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### § 47174. Authorization of appropriations

In addition to the amounts authorized to be appropriated under section 106(k), there is authorized to be appropriated to the Secretary of Transportation, out of the Airport and Airway Trust Fund established under section 9502 of the Internal Revenue Code of 1986 (26 U.S.C. 9502), \$4,200,000 for fiscal year 2004 and for each fiscal year thereafter to facilitate the timely processing, review, and completion of environmental activities associated with airport capacity enhancement projects at congested airports.

(Added Pub. L. 108-176, title III, §304(a), Dec. 12, 2003, 117 Stat. 2538.)

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### § 47175. Definitions

In this subchapter, the following definitions apply:

(1) AIRPORT SPONSOR.—The term “airport sponsor” has the meaning given the term “sponsor” under section 47102.

(2) CONGESTED AIRPORT.—The term “congested airport” means an airport that accounted for at least 1 percent of all delayed aircraft operations in the United States in the most recent year for which such data is avail-

able and an airport listed in table 1 of the Federal Aviation Administration’s Airport Capacity Benchmark Report 2004 or any successor report.

(3) AIRPORT CAPACITY ENHANCEMENT PROJECT.—The term “airport capacity enhancement project” means—

(A) a project for construction or extension of a runway, including any land acquisition, taxiway, or safety area associated with the runway or runway extension; and

(B) such other airport development projects as the Secretary may designate as facilitating a reduction in air traffic congestion and delays.

(4) AVIATION SAFETY PROJECT.—The term “aviation safety project” means an aviation project that—

(A) has as its primary purpose reducing the risk of injury to persons or damage to aircraft and property, as determined by the Administrator; and

(B)(i) is needed to respond to a recommendation from the National Transportation Safety Board, as determined by the Administrator; or

(ii) is necessary for an airport to comply with part 139 of title 14, Code of Federal Regulations (relating to airport certification).

(5) AVIATION SECURITY PROJECT.—The term “aviation security project” means a security project at an airport required by the Department of Homeland Security.

(6) FEDERAL AGENCY.—The term “Federal agency” means a department or agency of the United States Government.

(7) JOINT USE AIRPORT.—The term “joint use airport” means an airport owned by the Department of Defense, at which both military and civilian aircraft make shared use of the airfield.

(8) GENERAL AVIATION AIRPORT CONSTRUCTION OR IMPROVEMENT PROJECT.—The term “general aviation airport construction or improvement project” means—

(A) a project for the construction or extension of a runway, including any land acquisition, helipad, taxiway, safety area, apron, or navigational aids associated with the runway or runway extension, at a general aviation airport, a reliever airport, or a commercial service airport that is not a primary airport (as such terms are defined in section 47102); and

(B) any other airport development project that the Secretary designates as facilitating aviation capacity building projects at a general aviation airport.

(Added Pub. L. 108-176, title III, §304(a), Dec. 12, 2003, 117 Stat. 2538; amended Pub. L. 112-95, title I, §152(g), Feb. 14, 2012, 126 Stat. 34; Pub. L. 115-254, div. B, title I, §191(b), Oct. 5, 2018, 132 Stat. 3239.)

#### AMENDMENTS

2018—Par. (8). Pub. L. 115-254 added par. (8).

2012—Par. (2). Pub. L. 112-95, §152(g)(1), substituted “2004 or any successor report” for “2001”.

Par. (7). Pub. L. 112-95, §152(g)(2), added par. (7).