

## GUIDANCE

Pub. L. 108-176, title I, §121(d), Dec. 12, 2003, 117 Stat. 2500, provided that: “The Secretary, in consultation with the Administrator of the Environmental Protection Agency, shall issue guidance determining eligibility of projects, and how benefits to air quality must be demonstrated, under the amendments made by this section [amending this section].”

ELIGIBILITY OF AIRPORT GROUND ACCESS  
TRANSPORTATION PROJECTS

Pub. L. 108-176, title I, §123(e), Dec. 12, 2003, 117 Stat. 2502, provided that: “Not later than 60 days after the enactment of this Act [Dec. 12, 2003], the Administrator of the Federal Aviation Administration shall publish in the Federal Register the current policy of the Administration, consistent with current law, with respect to the eligibility of airport ground access transportation projects for the use of passenger facility fees under section 40117 of title 49, United States Code.”

## COMPETITION PLANS

Pub. L. 106-181, title I, §155(a), Apr. 5, 2000, 114 Stat. 88, provided that: “The Congress makes the following findings:

“(1) Major airports must be available on a reasonable basis to all air carriers wishing to serve those airports.

“(2) 15 large hub airports today are each dominated by one air carrier, with each such carrier controlling more than 50 percent of the traffic at the hub.

“(3) The General Accounting Office [now Government Accountability Office] has found that such levels of concentration lead to higher air fares.

“(4) The United States Government must take every step necessary to reduce those levels of concentration.

“(5) Consistent with air safety, spending at these airports must be directed at providing opportunities for carriers wishing to serve such facilities on a commercially viable basis.”

LIMITATION ON STATUTORY CONSTRUCTION OF  
SUBSECTION (e)(2)(D)

Pub. L. 103-305, title II, §204(a)(2), Aug. 23, 1994, 108 Stat. 1583, provided that: “The amendment made by paragraph (1) [amending this section] shall not be construed as requiring any person to refund any fee paid before the date of the enactment of this Act [Aug. 23, 1994].”

**§ 40118. Government-financed air transportation**

(a) **TRANSPORTATION BY AIR CARRIERS HOLDING CERTIFICATES.**—A department, agency, or instrumentality of the United States Government shall take necessary steps to ensure that the transportation of passengers and property by air is provided by an air carrier holding a certificate under section 41102 of this title if—

(1) the department, agency, or instrumentality—

(A) obtains the transportation for itself or in carrying out an arrangement under which payment is made by the Government or payment is made from amounts provided for the use of the Government; or

(B) provides the transportation to or for a foreign country or international or other organization without reimbursement;

(2) the transportation is authorized by the certificate or by regulation or exemption of the Secretary of Transportation; and

(3) the air carrier is—

(A) available, if the transportation is between a place in the United States and a place outside the United States; or

(B) reasonably available, if the transportation is between 2 places outside the United States.

(b) **TRANSPORTATION BY FOREIGN AIR CARRIERS.**—This section does not preclude the transportation of passengers and property by a foreign air carrier if the transportation is provided under a bilateral or multilateral air transportation agreement to which the Government and the government of a foreign country are parties if the agreement—

(1) is consistent with the goals for international aviation policy of section 40101(e) of this title; and

(2) provides for the exchange of rights or benefits of similar magnitude.

(c) **PROOF.**—The Administrator of General Services shall prescribe regulations under which agencies may allow the expenditure of an appropriation for transportation in violation of this section only when satisfactory proof is presented showing the necessity for the transportation.

(d) **CERTAIN TRANSPORTATION BY AIR OUTSIDE THE UNITED STATES.**—Notwithstanding subsections (a) and (c) of this section, any amount appropriated to the Secretary of State or the Administrator of the Agency for International Development may be used to pay for the transportation of an officer or employee of the Department of State or one of those agencies, a dependent of the officer or employee, and accompanying baggage, by a foreign air carrier when the transportation is between 2 places outside the United States.

(e) **RELATIONSHIP TO OTHER LAWS.**—This section does not affect the application of the anti-discrimination provisions of this part.

(f) **PROHIBITION OF CERTIFICATION OR CONTRACT CLAUSE.**—(1) No certification by a contractor, and no contract clause, may be required in the case of a contract for the transportation of commercial products in order to implement a requirement in this section.

(2) In paragraph (1), the term “commercial product” has the meaning given such term in section 103 of title 41, except that it shall not include a contract for the transportation by air of passengers.

(g) **TRAINING REQUIREMENTS.**—The Administrator of General Services shall ensure that any contract entered into for provision of air transportation with a domestic carrier under this section requires that the contracting air carrier submits to the Administrator of General Services, the Secretary of Transportation, the Administrator of the Transportation Security Administration, the Secretary of Labor and the Commissioner of U.S. Customs and Border Protection an annual report regarding—

(1) the number of personnel trained in the detection and reporting of potential human trafficking (as described in paragraphs (9) and (10)<sup>1</sup> of section 103 of the Trafficking Victims Protection Act of 2000 (22 U.S.C. 7102)), including the training required under section 44734(a)(4);

<sup>1</sup> See References in Text note below.

(2) the number of notifications of potential human trafficking victims received from staff or other passengers; and

(3) whether the air carrier notified the National Human Trafficking Hotline or law enforcement at the relevant airport of the potential human trafficking victim for each such notification of potential human trafficking, and if so, when the notification was made.

(Pub. L. 103-272, §1(e), July 5, 1994, 108 Stat. 1116; Pub. L. 103-355, title VIII, §8301(h), Oct. 13, 1994, 108 Stat. 3398; Pub. L. 104-287, §5(68), Oct. 11, 1996, 110 Stat. 3395; Pub. L. 104-316, title I, §127(d), Oct. 19, 1996, 110 Stat. 3840; Pub. L. 105-277, div. G, subdiv. A, title XII, §1225(h), title XIII, §1335(p), title XIV, §1422(b)(6), Oct. 21, 1998, 112 Stat. 2681-775, 2681-789, 2681-793; Pub. L. 108-176, title VIII, §806, Dec. 12, 2003, 117 Stat. 2588; Pub. L. 111-350, §5(o)(8), Jan. 4, 2011, 124 Stat. 3854; Pub. L. 115-232, div. A, title VIII, §836(g)(9), Aug. 13, 2018, 132 Stat. 1874; Pub. L. 115-425, title I, §111(a), Jan. 8, 2019, 132 Stat. 5475.)

HISTORICAL AND REVISION NOTES  
PUB. L. 103-272

Revised Section	Source (U.S. Code)	Source (Statutes at Large)
40118(a) .....	49 App.:1517(a), (b).	Aug. 23, 1958, Pub. L. 85-726, 72 Stat. 731, §1117; added Jan. 3, 1975, Pub. L. 93-623, §5(a), 88 Stat. 2104; re-stated Feb. 15, 1980, Pub. L. 96-192, §21, 94 Stat. 43.
	49 App.:1551(b)(1)(E).	Aug. 23, 1958, Pub. L. 85-726, 72 Stat. 731, §1601(b)(1)(E); added Oct. 4, 1984, Pub. L. 98-443, §3(e), 98 Stat. 1704.
40118(b) .....	49 App.:1517(c).	
40118(c) .....	49 App.:1517(d) (1st sentence).	
40118(d) .....	49 App.:1518.	Oct. 7, 1978, Pub. L. 95-426, §706, 92 Stat. 992.
40118(e) .....	49 App.:1517(d) (last sentence).	

In this section, the word “passengers” is substituted for “persons” for consistency in the revised title. The words “(and their personal effects)” are omitted as being included in “property”.

In subsection (a), before clause (1), the words “Except as provided in subsection (c) of this section” are omitted as surplus. The words “department, agency, or instrumentality” are substituted for “agency” for consistency in the revised title and with other titles of the United States Code. The words “or agencies” are omitted because of 1:1. In clause (1), before subclause (A), the words “executive” and “other” are omitted as surplus. In subclause (A), the words “procure, contract for, or otherwise” are omitted as surplus. The words “for itself or in carrying out an arrangement under which payment is made by the Government or payment is made from amounts provided for the use of the Government” are substituted for “in furtherance of the purposes or pursuant to the terms of any contract, agreement, or other special arrangement made or entered into under which payment is made by the United States or payment is made from funds appropriated, owned, controlled, granted, or conditionally granted or utilized by or otherwise” for clarity and to eliminate unnecessary words. In subclause (B), the word “country” is substituted for “nation” for consistency in the revised title and with other titles of the Code. The words “international or other organization” are substituted for “international agency, or other organization, of whatever nationality” to eliminate unnecessary words. The words “provisions for” are omitted as surplus.

In subsection (b), before clause (1), the words “government of a foreign country” are substituted for “for-

eign government” for consistency in the revised title and with other titles of the Code. The words “or governments” are omitted because of 1:1.

In subsection (c), the words “for payment for personnel or cargo transportation” are omitted as surplus.

In subsection (d), the words “the limitations established by” are omitted as surplus. The words “after October 7, 1978” are omitted as executed. The words “Secretary of State” are substituted for “Department of State” because of 22:2651. The words “Director of the United States Information Agency” are substituted for “International Communication Agency” in section 706 of the Act of October 7, 1978 (Public Law 95-426, 92 Stat. 992), because of section 2 of Reorganization Plan No. 2 of 1977 (eff. July 1, 1978, 91 Stat. 1636) and section 303(b) of the United States Information Agency Authorization Act, Fiscals Year 1982 and 1983 (Public Law 97-241, 96 Stat. 291). The words “Director of the United States International Development Cooperation Agency” are substituted for “Agency for International Development (or any successor agency)” in section 706 because of section 6(a)(3) of Reorganization Plan No. 2 of 1979 (eff. October 1, 1979, 93 Stat. 1379). The words “a foreign air carrier” are substituted for “air carriers which do not hold certificates under section 1371 of this Appendix” for clarity. See H. Conf. Rept. No. 95-1535, 95th Cong., 2d Sess., p. 45 (1978).

In subsection (e), the word “affect” is substituted for “prevent” for clarity. The words “to such traffic” are omitted as surplus.

PUB. L. 104-287, §5(68)(A)

This amends the catchline for 49:40118(d) to make a clarifying amendment.

PUB. L. 104-287, §5(68)(B)

This amends 49:40118(f)(1) to make a clarifying amendment.

Editorial Notes

REFERENCES IN TEXT

Paragraphs (9) and (10) of section 103 of the Trafficking Victims Protection Act of 2000, referred to in subsec. (g)(1), were redesignated pars. (11) and (12), respectively, of section 103 of that Act by Pub. L. 115-427, §2(1), Jan. 9, 2019, 132 Stat. 5503, and are classified to section 7102(11) and (12) of Title 22, Foreign Relations and Intercourse.

AMENDMENTS

2019—Subsec. (g). Pub. L. 115-425 added subsec. (g).

2018—Subsec. (f)(1). Pub. L. 115-232, §836(g)(9)(A), substituted “commercial products” for “commercial items”.

Subsec. (f)(2). Pub. L. 115-232, §836(g)(9)(B), substituted “commercial product” for “commercial item”.

2011—Subsec. (f)(2). Pub. L. 111-350 substituted “section 103 of title 41” for “section 4(12) of the Office of Federal Procurement Policy Act (41 U.S.C. 403(12))”.

2003—Subsec. (f)(2). Pub. L. 108-176 inserted “, except that it shall not include a contract for the transportation by air of passengers” before period at end.

1998—Subsec. (d). Pub. L. 105-277, §1422(b)(6), substituted “or the Administrator of the Agency for International Development” for “the Director of the United States International Development Cooperation Agency”.

Pub. L. 105-277, §1335(p), struck out “, the Director of the United States Information Agency,” after “Secretary of State”.

Pub. L. 105-277, §1225(h), struck out “, or the Director of the Arms Control and Disarmament Agency” before “may be used to pay”.

1996—Subsec. (c). Pub. L. 104-316 substituted “Administrator of General Services shall prescribe regulations under which agencies may” for “Comptroller General shall”.

Subsec. (d). Pub. L. 104-287, §5(68)(A), substituted “CERTAIN TRANSPORTATION BY AIR OUTSIDE THE UNITED

STATES” for “TRANSPORTATION BY FOREIGN AIR CARRIERS” in heading.

Subsec. (f). Pub. L. 104-287, §5(68)(B), inserted heading.

1994—Subsec. (f). Pub. L. 103-355 added subsec. (f).

#### Statutory Notes and Related Subsidiaries

##### EFFECTIVE DATE OF 2019 AMENDMENT

Pub. L. 115-425, title I, §111(b), Jan. 8, 2019, 132 Stat. 5475, provided that: “The amendment made by subsection (a) [amending this section] shall apply to any contract entered into after the date of enactment of this Act [Jan. 8, 2019] except for contracts entered into by the Secretary of Defense.”

##### EFFECTIVE DATE OF 2018 AMENDMENT

Amendment by Pub. L. 115-232 effective Jan. 1, 2020, subject to a savings provision, see section 836(h) of Pub. L. 115-232, set out as an Effective Date of 2018 Amendment; Savings Provision note under section 453b of Title 6, Domestic Security.

##### 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 8752 of Title 10, Armed Forces.

##### 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. Repealed. Pub. L. 115-254, div. K, title I, § 1991(c)(3), Oct. 5, 2018, 132 Stat. 3627]

Section, 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, related to research and development activities to protect passengers and property against acts of criminal violence, aircraft piracy, and terrorism and to ensure security and regulations prohibiting disclosure of information obtained or developed in ensuring security under 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.

#### Editorial Notes

##### 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.

#### Executive Documents

##### 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