§ 47117. Use of apportioned amounts

(a) Grant Purpose.— Except as provided in this section, an amount apportioned under section 47114 (c)(1) or (d)(2) of this title is available for making grants for any purpose for which amounts are made available under section 48103 of this title.

(b) Period of Availability.— An amount apportioned under section 47114 of this title is available to be obligated for grants under the apportionment only during the fiscal year for which the amount was apportioned and the 2 fiscal years immediately after that year or the 3 fiscal years immediately following that year in the case of a nonhub airport or any airport that is not a commercial service airport. If the amount is not obligated under the apportionment within that time, it shall be added to the discretionary fund.

(c) Primary Airports.—

(1) An amount apportioned to a sponsor of a primary airport under section 47114 (c)(1) of this title is available for grants for any public-use airport of the sponsor included in the national plan of integrated airport systems.

(2) Waiver.— A sponsor of an airport may make an agreement with the Secretary of Transportation waiving the sponsor’s claim to any part of the amount apportioned for the airport under sections 47114 (c) and 47114 (d)(3)(A) if the Secretary agrees to make the waived amount available for a grant for another public-use airport in the same State or geographical area as the airport, as determined by the Secretary.

(d) State Use.— An amount apportioned to a State under—

(1) section 47114 (d)(2)(A) of this title is available for grants for airports located in the State; and

(2) section 47114 (d)(2)(B) or (C) of this title is available for grants for airports described in section 47114 (d)(2)(B) or (C) and located in the State.

(e) Special Apportionment Categories.—

(1) The Secretary shall use amounts available to the discretionary fund under section 47115 of this title for each fiscal year as follows:

(A) At least 35 percent for grants for airport noise compatibility planning under section 47505 (a)(2), for carrying out noise compatibility programs under section 47504 (c), for noise mitigation projects approved in an environmental record of decision for an airport development project under this title, for compatible land use planning and projects carried out by State and local governments under section 47141, and for airport development described in section 47102 (3)(F), 47102 (3)(K), or 47102 (3)(L) to comply with the Clean Air Act (42 U.S.C. 7401 et seq.). The Secretary may count the amount of grants made for such planning and programs with funds apportioned under section 47114 in that fiscal year in determining whether or not such 35 percent requirement is being met in that fiscal year.

(B) at least 4 percent to sponsors of current or former military airports designated by the Secretary under section 47118 (a) of this title for grants for developing current and former military airports to improve the capacity of the national air transportation system and to sponsors of noncommercial service airports for grants for operational and maintenance expenses at any such airport if the amount of such grants to the sponsor of the airport does not exceed $30,000 in that fiscal year, if the Secretary determines that the airport is adversely affected by the closure or realignment of a military base, and if the sponsor of the airport certifies that the airport would otherwise close if the airport does not receive the grant.
(C) In any fiscal year in which the total amount made available under section 48103 is $3,200,000,000 or more, at least two-thirds of 1 percent for grants to sponsors of reliever airports which have—
  (i) more than 75,000 annual operations;
  (ii) a runway with a minimum usable landing distance of 5,000 feet;
  (iii) a precision instrument landing procedure;
  (iv) a minimum number of aircraft, to be determined by the Secretary, based at the airport; and
  (v) been designated by the Secretary as a reliever airport to an airport with 20,000 hours of annual delays in commercial passenger aircraft takeoffs and landings.

(2) If the Secretary decides that an amount required to be used for grants under paragraph (1) of this subsection cannot be used for a fiscal year because there are insufficient qualified grant applications, the amount the Secretary determines cannot be used is available during the fiscal year for grants for other airports or for other purposes for which amounts are authorized for grants under section 48103 of this title.

(3) Priority.— The Secretary shall give priority in making grants under paragraph (1)(A) to applications for airport noise compatibility planning and programs at and around—
  (A) Chicago O’Hare International Airport;
  (B) LaGuardia Airport;
  (C) John F. Kennedy International Airport; and
  (D) Ronald Reagan Washington National Airport.

(f) Discretionary Use of Apportionments.—
  (1) In general.— Subject to paragraph (2), if the Secretary finds that all or part of an amount of an apportionment under section 47114 is not required during a fiscal year to fund a grant for which the apportionment may be used, the Secretary may use during such fiscal year the amount not so required to make grants for any purpose for which grants may be made under section 48103. The finding may be based on the notifications that the Secretary receives under section 47105 (f) or on other information received from airport sponsors.

  (2) Restoration of apportionments.—
    (A) In general.— If the fiscal year for which a finding is made under paragraph (1) with respect to an apportionment is not the last fiscal year of availability of the apportionment under subsection (b), the Secretary shall restore to the apportionment an amount equal to the amount of the apportionment used under paragraph (1) for a discretionary grant whenever a sufficient amount is made available under section 48103. The finding may be based on the notifications that the Secretary receives under section 47105 (f) or on other information received from airport sponsors.

    (B) Period of availability.— If restoration under this paragraph is made in the fiscal year for which the finding is made or the succeeding fiscal year, the amount restored shall be subject to the original period of availability of the apportionment under subsection (b). If the restoration is made thereafter, the amount restored shall remain available in accordance with subsection (b) for the original period of availability of the apportionment plus the number of fiscal years during which a sufficient amount was not available for the restoration.

  (3) Newly available amounts.—
    (A) Restored amounts to be unavailable for discretionary grants.— Of an amount newly available under section 48103 of this title, an amount equal to the amounts restored under paragraph (2) shall not be available for discretionary grant obligations under section 47115.

    (B) Use of remaining amounts.— Subparagraph (A) does not impair the Secretary’s authority under paragraph (1), after a restoration under paragraph (2), to apply all or part of a restored amount that is not required to fund a grant under an apportionment to fund discretionary grants.
(4) Limitations on obligations apply.— Nothing in this subsection shall be construed to authorize the Secretary to incur grant obligations under section 47104 for a fiscal year in an amount greater than the amount made available under section 48103 for such obligations for such fiscal year.

(g) Limiting Authority of Secretary.— The authority of the Secretary to make grants during a fiscal year from amounts that were apportioned for a prior fiscal year and remain available for approved airport development project grants under subsection (b) of this section may be impaired only by a law enacted after September 3, 1982, that expressly limits that authority.

Footnotes

1 So in original. Probably should be capitalized.

### Revised Section

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In subsection (b), the words “for grants” are added, and the word “apportioned” is substituted for “first authorized to be obligated”, for clarity. The words “established by section 2206 (c) of this Appendix” are omitted as surplus.

In subsection (c)(2), the word “if” is substituted for “on the condition that” to eliminate unnecessary words. The word “in” is substituted for “which is a part of” for clarity.

Subsection (d) is substituted for 49 App.:2207(c) (1st sentence related to airports at which funds are available) for clarity. The text of 49 App.:2207(c) (last sentence) is omitted as surplus because of section 47105(a) of the revised title.

In subsection (e)(1), the words “The Secretary shall use . . . (A) . . . for grants . . . (B) . . . for grants . . . (C) . . . for grants . . . (D) . . . for . . . grants . . . (E) . . . for grants” are substituted for “shall be distributed” and “shall be obligated” for clarity and consistency in the revised title. Clause (C)(ii) is substituted for 49 App.:2207(d)(3)(B) and (C) to eliminate unnecessary words. In clause (E), the references to fiscal years 1991 and 1992 are omitted as obsolete.

In subsection (e)(2), the words “for each fiscal year” are omitted as surplus.

In subsection (e)(3), the words “an amount required to be used for grants under paragraph (1) of this subsection cannot be used” are substituted for “he will not be able to distribute the amount of funds required to be distributed under paragraph (1), (2), (3), or (4) of this subsection” for consistency. The words “submitted in compliance with this chapter” are omitted as surplus. The words “cannot be used” are substituted for “will not be distributed” for consistency. The words “for which amounts are” are added for clarity and consistency in this chapter.

Subsection (f) is substituted for 49 App.:2206(b)(5)(D) for clarity and consistency in the revised title.

In subsection (g)(1), the words “and (3)” are omitted because 49 App.:2207(e)(3) has expired. The words “at his discretion” are omitted as surplus.

In subsection (g)(2)(A), the words “made available” are substituted for “authorized” for clarity.

In subsection (h), the words “to make grants” are substituted for “to obligate to an airport by grant agreement” for consistency in the revised title and to eliminate unnecessary words. The words “the unobligated balance of” are omitted as surplus. The words “limits that authority” are substituted for “limits the application of this paragraph” for clarity. The words “in addition to the amounts authorized for that fiscal year by section 2204 of this Appendix” are omitted as surplus.
49 USC 47117(e)

Pub. L. 103–429

Revised Section
Pub. L. 104–287, § 5(82)(A)

Source (U.S. Code)

Source (Statutes at Large)

49 App.:2207(d).

References in Text

The Clean Air Act, referred to in subsec. (e)(1)(A), is act July 14, 1955, ch. 360, 69 Stat. 322, as amended, which is classified generally to chapter 85 (§ 7401 et seq.) of Title 42, The Public Health and Welfare. For complete classification of this Act to the Code, see Short Title note set out under section 7401 of Title 42 and Tables.

Amendments

2003—Subsec. (b). Pub. L. 108–176, § 150, substituted “nonhub airport or any airport that is not a commercial service airport” for “primary airport that had less than .05 percent of the total boardings in the United States in the preceding calendar year”.

Subsec. (c)(2). Pub. L. 108–176, § 149(c), amended par. (2) generally. Prior to amendment, par. (2) read as follows: “A sponsor of a primary airport may make an agreement with the Secretary of Transportation waiving any part of the amount apportioned for the airport under section 47114 (c)(1) of this title if the Secretary makes the waived amount available for a grant for another public-use airport in the same State or geographical area as the primary airport.”

Subsec. (e)(1)(A). Pub. L. 108–176, § 151, substituted “At least 35 percent” for “At least 34 percent”, “section 47505 (a)(2),” for “section 47505 (a)(2) of this title and”, “for noise mitigation projects approved in an environmental record of decision for an airport development project under this title, for compatible land use planning and projects carried out by State and local governments under section 47141, and for airport development described in section 47102 (3)(F), 47102 (3)(K), or 47102 (3)(L) to comply with the Clean Air Act (42 U.S.C. 7401 et seq.),” for “of this title.”, and “35 percent requirement” for “34 percent requirement”.


Subsec. (f). Pub. L. 106–181, § 129, amended subsec. (f) generally. Prior to amendment, subsec. (f) read as follows: “(f) Discretionary Use of Apportionments.—(1) Subject to paragraph (2) of this subsection, if the Secretary finds, based on the notices the Secretary receives under section 47114 (f) of this title or otherwise, that an amount apportioned under subsection (b) of this title will not be used for grants during a fiscal year, the Secretary may use an equal amount for grants during that fiscal year for any of the purposes for which amounts are authorized for grants under section 48103 of this title.

“(2) The Secretary may make a grant under paragraph (1) of this subsection only if the Secretary decides that—

“(A) the total amount used for grants for the fiscal year under section 48103 of this title will not be more than the amount made available under section 48103 for that fiscal year; and

“(B) the amounts authorized for grants under section 48103 of this title for later fiscal years are sufficient for grants of the apportioned amounts that were not used for grants during the apportionment during the fiscal year and that remain available under subsection (b) of this section.”

Pub. L. 106–181, § 104(g), redesignated subsec. (g) as (f) and struck out heading and text of former subsec. (f). Text read as follows: “The Secretary may not make a grant for a commercial service airport in Alaska of more than 110 percent of the amount apportioned for the airport for a fiscal year under section 47114 (e) of this title.”

Subsecs. (g), (h). Pub. L. 106–181, § 104(g), redesignated subsecs. (g) and (h) as (f) and (g), respectively.


1996—Subsec. (b). Pub. L. 104–264, § 123(a), inserted “or the 3 fiscal years immediately following that year in the case of a primary airport that had less than .05 percent of the total boardings in the United States in the preceding calendar year” before period at end of first sentence.


Subsec. (e)(1)(A). Pub. L. 104–264, § 123(d), as added by Pub. L. 105–102, § 3(c)(1)(B), substituted “47504(c)” for “47504(c)(1)”.
Pub. L. 104–264, § 123(b)(4), (5), substituted “At least 31” for “at least 12.5” and inserted at end “The Secretary may count the amount of grants made for such planning and programs with funds apportioned under section 47114 in that fiscal year in determining whether or not such 31 percent requirement is being met in that fiscal year.”
Pub. L. 104–264, § 123(b)(2), (3), redesignated subpar. (B) as (A) and struck out former subpar. (A) which read as follows: “at least 5 percent for grants for reliever airports.”

Subsec. (e)(1)(B). Pub. L. 104–287, § 5(82)(A), which directed the amendment of subpar. (B) by substituting “47504(c)” for “47504(c)(1)”, could not be executed because “47504(c)(1)” did not appear in text of subpar. (B) subsequent to amendment by Pub. L. 104–264. See below.
Pub. L. 104–264, § 123(b)(2), (3), redesignated subpar. (B) as (A) and struck out former subpar. (A) which read as follows: “at least 5 percent for grants for reliever airports.”

Subsec. (e)(1)(C), (D). Pub. L. 104–264, § 123(b)(3), (7), redesignated subpar. (E) as (B) and inserted before period at end “and to sponsors of noncommercial service airports for grants for operational and maintenance expenses at any such airport if the amount of such grants to the sponsor of the airport does not exceed $30,000 in that fiscal year, if the Secretary determines that the airport is adversely affected by the closure or realignment of a military base, and if the sponsor of the airport certifies that the airport would otherwise close if the airport does not receive the grant”. Former subpar. (B) redesignated (A). Subsec. (e)(1)(C), (D). Pub. L. 104–264, § 123(b)(2), struck out subpars. (C) and (D) which read as follows: “(C) at least 1.5 percent for grants for—
“(i) nonprimary commercial service airports; and
“(ii) public airports (except commercial service airports) that were eligible for United States Government assistance from amounts apportioned under section 15(a)(3) of the Airport and Airway Development Act of 1970, and to which section 15(a)(3)(A)(I) or (II) of the Act applied during the fiscal year that ended September 30, 1981.
“(D) at least .75 percent for integrated airport system planning grants to planning agencies designated by the Secretary and authorized by the laws of a State or political subdivision of a State to do planning for an area of the State or subdivision in which a grant under this chapter is to be used.”


Subsec. (e)(2), (3). Pub. L. 104–264, § 123(c), redesignated par. (3) as (2) and struck out former par. (2) which read as follows: “A grant from the amount apportioned under section 47114 (e) of this title may not be included as part of the 1.5 percent required to be used for grants under paragraph (1)(C) of this subsection.”

Subsec. (g)(1). Pub. L. 104–287, § 5(82)(B), substituted “47105(f)” for “47105(e)”.  


Subsec. (e)(1)(C). Pub. L. 103–429, § 6(68)(B), substituted “1.5 percent” for “2.5 percent” in introductory provisions.

Subsec. (e)(1)(D). Pub. L. 103–429, § 6(68)(C), substituted “.75 percent” for “.5 percent”.


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Subsec. (e)(2). Pub. L. 103–429, § 6(68)(D), substituted “1.5 percent” for “2.5 percent”.

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 2000 Amendment

Effective Date of 1997 Amendment
Pub. L. 105–102, § 3(c), Nov. 20, 1997, 111 Stat. 2215, provided that the amendment made by section 3 (c)(1)(B) is effective Oct. 9, 1996.

Amendment by Pub. L. 105–102 effective as if included in the provisions of the Act to which the amendment relates, see section 3(f) of Pub. L. 105–102, set out as a note under section 106 of this title.

Effective Date of 1996 Amendments
Section 8(2) of Pub. L. 104–287, as amended by Pub. L. 105–102, § 3(d)(2)(B), Nov. 20, 1997, 111 Stat. 2215, provided that: “The amendments made by section 5 (81)(B), (82)(A), and (83)(A) [amending this section and sections 47115 and 47118 of this title] shall take effect on September 30, 1998.”

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.

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.