

to the Administrator and be subject to the authority of the Administrator. The COO, in consultation with the Air Traffic Control Subcommittee of the Aviation Management Advisory Committee, shall enter into an annual performance agreement with the Administrator that sets forth measurable organization and individual goals in key operational areas and describes specific targets and how such goals will be achieved. The COO may receive an annual bonus not to exceed 30 percent of the annual rate of basic pay, based upon the Administrator's evaluation of the COO's performance in relation to the targets and goals described above.

(d) The COO shall develop a 5-year strategic plan for the air traffic control system, including a clear statement of the mission and objectives for the system's safety, efficiency, and productivity. This strategic plan must ensure that ATO actions are consistent with long-term FAA strategies for the aviation system as a whole.

(e) The COO shall also enter into a framework agreement with the Administrator that will establish the relationship of the ATO with the other organizations of the FAA.

SEC. 2. Purpose. The FAA's primary mission is to ensure the safety, security, and efficiency of the National Airspace System. The purpose of this order is to enhance that mission and further improve the delivery of air traffic services to the American public by reorganizing the FAA's air traffic services and related offices into a performance-based, results-oriented, organization. The ATO will be better able to make use of the unique procurement and personnel authorities that the FAA currently has and to better use the additional management reforms enacted by the Congress this year under Air-21. Specifically, the ATO shall:

(a) optimize use of existing management flexibilities and authorities to improve the efficiency of air traffic services and increase the capacity of the system;

(b) develop methods to accelerate air traffic control modernization and to improve aviation safety related to air traffic control;

(c) develop agreements with the Administrator of the FAA and users of the products, services, and capabilities it will provide;

(d) operate in accordance with safety performance standards developed by the FAA and rapidly respond to FAA safety and security oversight findings;

(e) consult with its customers, the traveling public, including direct users such as airlines, cargo carriers, manufacturers, airports, general aviation, and commercial space transportation providers, and focus on producing results that satisfy the FAA's external customer needs;

(f) consult with appropriate Federal, State, and local public agencies, including the Department of Defense and the National Aeronautics and Space Administration, to determine the best practices for meeting the diverse needs throughout the National Airspace System;

(g) establish strong incentives to managers for achieving results; and

(h) formulate and recommend to the Administrator any management, fiscal, or legislative changes necessary for the organization to achieve its performance goals.

SEC. 3. Aviation Management Advisory Committee. The Air Traffic Control Subcommittee of the Aviation Management Advisory Committee shall provide, consistent with its responsibilities under Air-21, general oversight to ATO regarding the administration, management, conduct, direction, and supervision of the air traffic control system.

SEC. 4. Evaluation and Report. Not later than 5 years after the date of this order, the Aviation Management Advisory Committee shall provide to the Secretary and the Administrator a report on the operation and effectiveness of the ATO, together with any recommendations for management, fiscal, or legislative changes to enable the organization to achieve its goals.

SEC. 5. Definitions. The term "air traffic control system" has the same meaning as the term defined by sec-

tion 40102(a)(42) [now 40102(a)(47)] of title 49, United States Code.

SEC. 6. Judicial Review. This order is intended only to improve the internal management of the executive branch and is not intended to, nor does it, create any right to administrative or judicial review, or any right, whether substantive or procedural, enforceable by any party against the United States, its agencies or instrumentalities, its officers or employees, or any other person.

DEFINITIONS FOR TITLE II OF PUB. L. 104-264

Section 202 of title II of Pub. L. 104-264 provided that: "In this title [see Effective Date of 1996 Amendment note set out above], the following definitions apply:

"(1) **ADMINISTRATION.**—The term 'Administration' means the Federal Aviation Administration.

"(2) **ADMINISTRATOR.**—The term 'Administrator' means the Administrator of the Federal Aviation Administration.

"(3) **SECRETARY.**—The term 'Secretary' means the Secretary of Transportation."

§ 107. Federal Transit Administration

(a) The Federal Transit Administration is an administration in the Department of Transportation.

(b) The head of the Administration is the Administrator who is appointed by the President, by and with the advice and consent of the Senate. The Administrator reports directly to the Secretary of Transportation.

(c) The Administrator shall carry out duties and powers prescribed by the Secretary.

(Pub. L. 97-449, §1(b), Jan. 12, 1983, 96 Stat. 2417; Pub. L. 102-240, title III, §3004(c)(1), (2), Dec. 18, 1991, 105 Stat. 2088.)

HISTORICAL AND REVISION NOTES

Revised Section	Source (U.S. Code)	Source (Statutes at Large)
107	49:1608 (note).	Reorg. Plan No. 2 of 1968, eff. July 1, 1968, §3, 82 Stat. 1369.

In subsection (b), the words "and shall be compensated at the rate now or hereafter provided for Level III of the Executive Schedule Pay Rates (5 U.S.C. 5314)" are omitted as surplus because of 5:5314.

AMENDMENTS

1991—Pub. L. 102-240 substituted "Federal Transit Administration" for "Urban Mass Transportation Administration" in section catchline and subsec. (a).

CHANGE OF NAME

Section 3004(a), (b) of Pub. L. 102-240 provided that:

"(a) **REDESIGNATION OF UMTA.**—The Urban Mass Transportation Administration of the Department of Transportation shall be known and designated as the 'Federal Transit Administration'.

"(b) **REFERENCES.**—Any reference in a law, map, regulation, document, paper, or other record of the United States to the Urban Mass Transportation Administration shall be deemed to be a reference to the 'Federal Transit Administration'."

§ 108. Pipeline and Hazardous Materials Safety Administration

(a) **IN GENERAL.**—The Pipeline and Hazardous Materials Safety Administration shall be an administration in the Department of Transportation.

(b) **SAFETY AS HIGHEST PRIORITY.**—In carrying out its duties, the Administration shall consider

the assignment and maintenance of safety as the highest priority, recognizing the clear intent, encouragement, and dedication of Congress to the furtherance of the highest degree of safety in pipeline transportation and hazardous materials transportation.

(c) **ADMINISTRATOR.**—The head of the Administration shall be the Administrator who shall be appointed by the President, by and with the advice and consent of the Senate, and shall be an individual with professional experience in pipeline safety, hazardous materials safety, or other transportation safety. The Administrator shall report directly to the Secretary of Transportation.

(d) **DEPUTY ADMINISTRATOR.**—The Administration shall have a Deputy Administrator who shall be appointed by the Secretary. The Deputy Administrator shall carry out duties and powers prescribed by the Administrator.

(e) **CHIEF SAFETY OFFICER.**—The Administration shall have an Assistant Administrator for Pipeline and Hazardous Materials Safety appointed in the competitive service by the Secretary. The Assistant Administrator shall be the Chief Safety Officer of the Administration. The Assistant Administrator shall carry out the duties and powers prescribed by the Administrator.

(f) **DUTIES AND POWERS OF THE ADMINISTRATOR.**—The Administrator shall carry out—

(1) duties and powers related to pipeline and hazardous materials transportation and safety vested in the Secretary by chapters 51, 57, 61, 601, and 603; and

(2) other duties and powers prescribed by the Secretary.

(g) **LIMITATION.**—A duty or power specified in subsection (f)(1) may be transferred to another part of the Department of Transportation or another government entity only if specifically provided by law.

(Pub. L. 97–449, §1(b), Jan. 12, 1983, 96 Stat. 2417; Pub. L. 103–272, §4(j)(4), July 5, 1994, 108 Stat. 1365; Pub. L. 108–426, §2(a), Nov. 30, 2004, 118 Stat. 2423.)

HISTORICAL AND REVISION NOTES PUB. L. 97–449

<i>Revised Section</i>	<i>Source (U.S. Code)</i>	<i>Source (Statutes at Large)</i>
108(a)	49:1655(b)(1), (2).	Oct. 15, 1966, Pub. L. 89–670, §§3(e)(3) (related to USCG), 6(b)(1), (2), 80 Stat. 932, 938.
108(b)	49:1652(e)(3) (related to USCG).	

Subsection (a) reflects the transfer of the Coast Guard to the Department of Transportation as provided by the source provisions and 14:1. The words “Except when operating as a service of the Navy” are substituted for 49:1655(b)(2) because of 14:3. The words “The Secretary of Transportation exercises . . . vested in the Secretary of the Treasury . . . immediately before April 1, 1967” are substituted for “and there are hereby transferred to and vested in the Secretary . . . of the Secretary of the Treasury” to reflect the transfer of duties and powers to the Secretary of Transportation on April 1, 1967, the effective date of the Department of Transportation Act (Pub. L. 89–670, 80 Stat. 931).

In subsection (b), the first sentence is included to provide the name of the officer in charge of the Coast

Guard, as reflected in 14:44. In the 2d sentence, the words “carrying out the duties and powers specified by law” are substituted for “such functions, powers, and duties as are specified in this chapter to be carried out”, and the words “carry out duties and powers prescribed” are substituted for “carry out such additional functions, powers, and duties as”, for consistency.

PUB. L. 103–272

Section 4(j)(4) amends 49:108(a) to reflect the intent of 49 App.:1655(b)(2), on which 49:108(a) was based.

AMENDMENTS

2004—Pub. L. 108–426 amended section catchline and text generally, substituting provisions relating to Pipeline and Hazardous Materials Safety Administration for provisions relating to Coast Guard.

1994—Subsec. (a). Pub. L. 103–272 designated existing provisions as par. (1), substituted “The Coast Guard” for “Except when operating as a service in the Navy, the Coast Guard”, and added par. (2).

SAVINGS PROVISIONS

Pub. L. 108–426, §5, Nov. 30, 2004, 118 Stat. 2426, provided that:

“(a) **TRANSFER OF ASSETS AND PERSONNEL.**—Personnel, property, and records employed, used, held, available, or to be made available in connection with functions transferred within the Department of Transportation by this Act [see Short Title of 2004 Amendment note set out under section 101 of this title] shall be transferred for use in connection with the functions transferred, and unexpended balances of appropriations, allocations, and other funds (including funds of any predecessor entity) shall also be transferred accordingly.

“(b) **LEGAL DOCUMENTS.**—All orders, determinations, rules, regulations, permits, grants, loans, contracts, settlements, agreements, certificates, licenses, and privileges—

“(1) that have been issued, made, granted, or allowed to become effective by any officer or employee, or any other Government official, or by a court of competent jurisdiction, in the performance of any function that is transferred by this Act; and

“(2) that are in effect on the effective date of such transfer (or become effective after such date pursuant to their terms as in effect on such effective date), shall continue in effect according to their terms until modified, terminated, superseded, set aside, or revoked in accordance with law by the Department, any other authorized official, a court of competent jurisdiction, or operation of law.

“(c) **PROCEEDINGS.**—The provisions of this Act shall not affect any proceedings, including administrative enforcement actions, pending before this Act takes effect, insofar as those functions are transferred by this Act; but such proceedings, to the extent that they relate to functions so transferred, shall proceed in accordance with applicable law and regulations. Nothing in this subsection shall be deemed to prohibit the conclusion or modification of any proceeding described in this subsection under the same terms and conditions and to the same extent that such proceeding could have been concluded or modified if this Act had not been enacted. The Secretary of Transportation is authorized to provide for the orderly transfer of pending proceedings.

“(d) **SUITS.**—

“(1) **IN GENERAL.**—This Act shall not affect suits commenced before the date of enactment of this Act [Nov. 30, 2004], except as provided in paragraphs (2) and (3). In all such suits, proceedings shall be had, appeals taken, and judgments rendered in the same manner and with the same effect as if this Act had not been enacted.

“(2) **SUITS BY OR AGAINST DEPARTMENT.**—Any suit by or against the Department begun before the date of enactment of this Act, shall proceed in accordance with applicable law and regulations, insofar as it in-

volves a function retained and transferred under this Act.

“(3) PROCEDURES FOR REMANDED CASES.—If the court in a suit described in paragraph (1) remands a case, subsequent proceedings related to such case shall proceed under procedures that are in accordance with applicable law and regulations as in effect at the time of such subsequent proceedings.

“(e) CONTINUANCE OF ACTIONS AGAINST OFFICERS.—No suit, action, or other proceeding commenced by or against any officer in his or her official capacity shall abate by reason of the enactment of this Act.

“(f) EXERCISE OF AUTHORITIES.—An officer or employee of the Department, for purposes of performing a function transferred by this Act, may exercise all authorities under any other provision of law that were available with respect to the performance of that function to the official responsible for the performance of the function immediately before the effective date of the transfer of the function by this Act.

“(g) REFERENCES.—A reference relating to an agency, officer, or employee affected by this Act in any Federal law, Executive order, rule, regulation, or delegation of authority, or in any document pertaining to an officer or employee, is deemed to refer, as appropriate, to the agency, officer, or employee who succeeds to the functions transferred by this Act.

“(h) DEFINITION.—In this section, the term ‘this Act’ includes the amendments made by this Act.”

TRANSFER OF DUTIES AND POWERS OF RESEARCH AND SPECIAL PROGRAMS ADMINISTRATION

Pub. L. 108-426, §2(b), Nov. 30, 2004, 118 Stat. 2424, provided that: “The authority of the Research and Special Programs Administration exercised under chapters 51, 57, 61, 601, and 603 of title 49, United States Code, is transferred to the Administrator of the Pipeline and Hazardous Materials Safety Administration.”

For transfer of authority of the Research and Special Programs Administration, other than authority exercised under chapters 51, 57, 61, 601, and 603 of this title, to the Administrator of the Research and Innovative Technology Administration, see section 4(b) of Pub. L. 108-426, set out as a note under section 112 of this title.

Pub. L. 108-426, §7, Nov. 30, 2004, 118 Stat. 2428, provided that: “The Secretary shall provide for the orderly transfer of duties and powers under this Act [see Short Title of 2004 Amendment note set out under section 101 of this title], including the amendments made by this Act, as soon as practicable but not later than 90 days after the date of enactment of this Act [Nov. 30, 2004].”

REPORTS

Pub. L. 108-426, §6, Nov. 30, 2004, 118 Stat. 2428, provided that:

“(a) REPORTS BY THE INSPECTOR GENERAL.—Not later than 30 days after the date of enactment of this Act [Nov. 30, 2004], the Inspector General of the Department of Transportation shall submit to the Secretary of Transportation and the Administrator of the Pipeline and Hazardous Materials Safety Administration a report containing the following:

“(1) A list of each statutory mandate regarding pipeline safety or hazardous materials safety that has not been implemented.

“(2) A list of each open safety recommendation made by the National Transportation Safety Board or the Inspector General regarding pipeline safety or hazardous materials safety.

“(b) REPORTS BY THE SECRETARY.—

“(1) STATUTORY MANDATES.—Not later than 90 days after the date of enactment of this Act, and every 180 days thereafter until each of the mandates referred to in subsection (a)(1) has been implemented, the Secretary shall transmit to the Committee on Transportation and Infrastructure and the Committee on Energy and Commerce of the House of Representatives and the Committee on Commerce, Science, and Transportation of the Senate a report on the specific actions taken to implement such mandates.

“(2) NTSB AND INSPECTOR GENERAL RECOMMENDATIONS.—Not later than January 1st of each year, the Secretary shall transmit to the Committee on Transportation and Infrastructure and the Committee on Energy and Commerce of the House of Representatives and the Committee on Commerce, Science, and Transportation of the Senate a report containing each recommendation referred to in subsection (a)(2) and a copy of the Department of Transportation response to each such recommendation.”

§ 109. Maritime Administration

(a) ORGANIZATION.—The Maritime Administration is an administration in the Department of Transportation.

(b) MARITIME ADMINISTRATOR.—The head of the Maritime Administration is the Maritime Administrator, who is appointed by the President by and with the advice and consent of the Senate. The Administrator shall report directly to the Secretary of Transportation and carry out the duties prescribed by the Secretary.

(c) DEPUTY MARITIME ADMINISTRATOR.—The Maritime Administration shall have a Deputy Maritime Administrator, who is appointed in the competitive service by the Secretary, after consultation with the Administrator. The Deputy Administrator shall carry out the duties prescribed by the Administrator. The Deputy Administrator shall be Acting Administrator during the absence or disability of the Administrator and, unless the Secretary designates another individual, during a vacancy in the office of Administrator.

(d) DUTIES AND POWERS VESTED IN SECRETARY.—All duties and powers of the Maritime Administration are vested in the Secretary.

(e) REGIONAL OFFICES.—The Maritime Administration shall have regional offices for the Atlantic, Gulf, Great Lakes, and Pacific port ranges, and may have other regional offices as necessary. The Secretary shall appoint a qualified individual as Director of each regional office. The Secretary shall carry out appropriate activities and programs of the Maritime Administration through the regional offices.

(f) INTERAGENCY AND INDUSTRY RELATIONS.—The Secretary shall establish and maintain liaison with other agencies, and with representative trade organizations throughout the United States, concerned with the transportation of commodities by water in the export and import foreign commerce of the United States, for the purpose of securing preference to vessels of the United States for the transportation of those commodities.

(g) DETAILING OFFICERS FROM ARMED FORCES.—To assist the Secretary in carrying out duties and powers relating to the Maritime Administration, not more than five officers of the armed forces may be detailed to the Secretary at any one time, in addition to details authorized by any other law. During the period of a detail, the Secretary shall pay the officer an amount that, when added to the officer's pay and allowances as an officer in the armed forces, makes the officer's total pay and allowances equal to the amount that would be paid to an individual performing work the Secretary considers to be of similar importance, difficulty, and responsibility as that performed by the officer during the detail.