



ANALYSIS OF PROVISIONS  
AFFECTING AIRPORTS AND THEIR  
COMMUNITIES IN HR 915, FAA  
REAUTHORIZATION ACT OF 2009

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## Introduction

The 111<sup>th</sup> Congress is faced with the challenge of enacting legislation providing for the long-term extension of funding and operating authority for the Federal Aviation Administration (FAA) and its key programs, including the Airport Improvement Program (AIP). With the passage of HR-915, the House of Representatives took an important step in meeting this challenge.

In this white paper, Unison Consulting, Inc. summarizes the provisions of HR-915. The focus of the white paper is on provisions that will or may have a direct impact on our airport clients and the communities they serve. These provisions are analyzed in more detail through a series of tables, based on broad subject categories. As the legislative process unfolds, Unison may produce additional white papers if we determine it would be of value to our clients.

## Overview

HR-915 closely tracks a reauthorization bill passed by the House in 2007. The bill consists of 10 separate sections, known as titles.

Title I authorizes funding for FAA programs for fiscal years (FYs) 2010 through 2012. In the case of the AIP, funding is authorized at a \$4.0 billion level for FY 2010 and grows to \$4.2 billion by FY 2012. Title I also includes modifications to other funding provisions governing AIP, e.g. local matching shares and apportionment formulas and to provisions governing administration of the program. Title I also includes modifications to the Passenger Facility Charge (PFC) program, including an increase in the maximum PFC to \$7.00

Title II of the bill addresses air traffic control modernization and NEXTGEN. Title III of the bill addresses safety issues. Title IV addresses air service, including Essential Air Service, the

## Contents

I. Introduction .....	1
II. Overview .....	1
III. AIP Funding .....	2
IV. AIP Eligibility .....	3
V. PFC Modifications .....	3
VI. Environmental Stewardship.....	3
VII. Air Service Provisions .....	4



### *About the Author:*

*Barry Molar joined Unison Consulting as the director of the firm's Federal Maximization specialty in their new Washington, DC satellite location. In this role, he will work to assist airports with maximizing federal airport program funds using his 32-year airport finance and legal affairs FAA and governmental agency experience. During his most recent nine-year tenure with the FAA, Mr. Molar served as Manager of the Airports Financial Assistance Division focusing on airport capital financing issues. In particular, he managed the AIP grant and PFC programs and developed policies for distributing discretionary funds, the use of benefit-cost analysis in evaluating capacity projects, and administering AIP and LOIs. He also developed the regulations and FAA order that govern the PFC approval process.*

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Small Community Air Service Development Program and consumer protection. The provisions of Title V address environmental stewardship, and the provisions of Title VI address FAA organizational and employee relations issues. Title VII extends and modifies federal insurance and programs limiting air carrier liability for terrorism and war-risk. Title VIII of the bill consists of miscellaneous provisions, including a new pilot program for airports and nearby communities to assist them in redeveloping land near airports into compatible uses. Title VIII also includes provisions to address unique circumstances at specific federally obligated airports. Title IX extends and modifies the authorization for the FAA's research engineering and development programs and establishes funding levels for these programs.

Title X of the bill extends the authorization for the Airport and Airway Trust Fund (Trust Fund) and the aviation excise taxes that finance it until October 1, 2012. Title X also increases the tax rate on general aviation jet fuel from 21.8 cents per gallon to 35.9 cents per gallon and increases the tax rate on general aviation gasoline from 19.3 cents per gallon to 24.1 cents per gallon. The Trust Fund finances all of the FAA's AIP, facilities and equipment and research, engineering and development budget. It also finances a substantial portion of the FAA's operating budget.

### AIP Funding

Subtitle A of Title I, "Authorizations" (in section 101) establishes funding levels for AIP for FYs 2010 through 2012. Total AIP authorized for the three years is \$12.3 billion. Section 102, which authorizes funding for air navigation facilities and equipment, includes specific funding for two programs that will benefit airports – runway incursion prevention programs and installation of runway status lights.

Subtitle D of Title I, "AIP Modifications" includes modifications to the formulas for calculating state apportionment funds, the minimum discretionary fund, calculating apportionment reductions and a new minimum guarantee for airports in Puerto Rico. **Table 1** provides more detailed information about these provisions, as well as the AIP funding levels for each year.

## AIP Eligibility, Grant Assurances and Administrative Provisions

In addition to the formula changes discussed above, Subtitle D includes modifications to AIP provisions that affect project eligibility. Also HR-915 would terminate (purchase of private airport development rights), extend (compatible land-use planning), and modify pilot programs. Other provisions modify grant assurances and requirements for administration of the AIP. These provisions are discussed in **Table 2**, in the order of eligibility, pilot programs, grant assurances and AIP administration. Revisions to grant administrative requirements and assurances that are incorporated into Title IV, because of their link to air service are also discussed in **Table 2**. A provision in Title III, "Safety" addressing Aircraft Rescue and Fire-Fighting staffing requirements is likewise discussed in **Table 2**, as are provisions of Title VIII, "Miscellaneous" addressing various airport specific situations.

## PFC Modifications

Subtitle B of Title I, "Passenger Facility Charges" includes modifications to the passenger facility charge (PFC) program. The changes include an increase in the maximum PFC to \$7.00. Airports that choose to raise their PFC level above \$4.50 could raise it to \$5.00, \$6.00, or \$7.00. Large hub airports charging more than \$4.50 would have to return all of their entitlements. The non-hub streamlining pilot program is made permanent and a pilot program for PFC funding of non-exclusive use airport access projects is included. Subtitle B also includes provisions making contracting requirements currently applicable to the AIP applicable to PFC financed projects, as well. **Table 3** provides detailed information about the PFC provisions in HR 915.

## Environmental Stewardship

Title V of HR 915, "Environmental Stewardship and Streamlining," addresses the FAA's environmental programs. **Table 4** provides detailed information on the environmental provisions in HR 915 that directly affect airports. Among them are the following provisions: expanding eligibility for the AIP noise set-aside; extending a program granting AIP funding for noise compatibility studies and programs carried out by communities near airports; creating various pilot programs to test methods to reduce environmental impacts associated with airports; and phasing out operations by small (under 75,000



pound) Stage 2 aircraft. A new pilot program related to noise land acquisition and disposal included in Title VIII, “Miscellaneous Provisions” is also discussed in **Table 4**.

#### Air Service Provisions Affecting Airports and Their Communities

Title IV of HR 915, “Air Service Improvements” includes provisions governing operations and services of air carriers and foreign air carriers within the United States. **Table 5** provides detailed information on the provisions in Title IV that directly affect airports or the communities that they serve. Among them is a provision increasing the number of slots available at Reagan National Airport for “beyond perimeter” flights. The total number of slots would be kept constant by reducing the number of “within perimeter slots” during early morning and late night hours. There is also a provision requiring air carriers and large airports to adopt contingency plans to address lengthy flight delays. Title IV includes a number of revisions to the Essential Air Service (EAS) Program. Many of these revisions are intended to make it easier for communities to retain subsidized essential air service during periods of extreme fuel price volatility. For example, the Secretary of Transportation would have greater flexibility to renegotiate compensation rates with incumbent carriers and would have the authority to adjust the per passenger subsidy ceiling to account for fuel price increases. Another provision would eliminate an EAS compensation cost sharing pilot program. The EAS provisions in the bill are not individually analyzed in Table 5.

**TABLE 1  
AIP FUNDING**

Section No. & Issue	Provisions	Current Law	Impact on Airports
§101, AIP funding level	FY 2010 -- \$4.0B FY 2011 -- \$4.1B FY2012 -- \$4.2B Includes \$15M in funding each year for Airports Cooperative Research Program and \$19.348M each year for Airport Technology Research	\$3.9B authorized for FY 2009, but actual expenditures limited to \$3.5154B for FY 2009, based on full year appropriation	Increases AIP funding above current appropriated levels initially by almost \$500M in 2010, with \$100M per year increases thereafter. But amounts are subject to reduction in appropriation process.
§102 Facilities & Equipment funding for Airports	\$36M total for runway incursion reduction programs for FYs 2010-2012 \$275M total for runway status lights for FYs 2010-2012	No dedicated funding for these programs	Supplements AIP funds with F & E funding to directly benefit airports
§134 Federal Share	<ul style="list-style-type: none"> <li>• Small hubs growing to medium hub retain 90% Federal share for two years</li> <li>• Small airports receiving subsidized Essential Air Service and located in areas meeting criteria as economically depressed get a 95% Federal share</li> <li>• 90 percent for other small airports</li> <li>• 75% for medium and large hubs</li> </ul>	95% for airports other than large and medium hubs. Seventy-five percent for the latter airports	Vision 100 provided a temporary increase in the Federal share for small airports from 90% to 95%, which was set to automatically expire at the end of FY 2008. Temporary extensions of the AIP have extended the 95% Federal share. This provision would revert the Federal share to 90% for small airports except those receiving subsidized Essential Air Service that are located in designated areas. For those airports receiving grants, the provision would require a doubling of the local matching share. However, the reduction in Federal share will enable the FAA to fund more projects, since the Federal investment in each project will be less.

**TABLE 1  
AIP FUNDING (continued)**

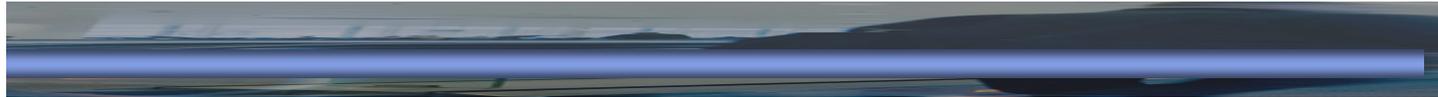
Section No. & Issue	Provisions	Current Law	Impact on Airports
§139 Calculation of State Apportionment Fund	<ul style="list-style-type: none"> <li>• Unassigned State apportionment (allocated by area and population) equals 10% total AIP.</li> <li>• Non-primary airports receive the lesser of \$150,000 or 1/5<sup>th</sup> of NPIAS needs</li> <li>• If unassigned State Apportionment is less than \$300M, individual non-primary entitlements will be reduced on a pro rata basis. This provision would not be triggered unless AIP were funded at a level below \$3.0B</li> </ul>	20% of AIP allocated to non- primary airports, with individual entitlements calculated 1 <sup>st</sup> . Any balance remaining is allocated to states by area and population.	This provision benefits non-primary airports with larger capital needs by assuring a minimum amount available for unassigned state apportionments. Under the current formula each dollar increase in individual non-primary entitlements represented a dollar less available for unassigned state apportionments. So long as AIP remains above \$3.0B, the pro rata reduction trigger will not be tripped. AIP funding has not been below \$3.0 billion since FY 1999.
§140 Reduction in passenger entitlements for airports collecting a PFC	Requires that large hub airports collecting a PFC of more than \$4.50 (\$5.00, \$6.00, or \$7.00) return 100% of AIP passenger entitlements	Medium and large hub airports collecting a \$3.00 PFC or less must return 50% of passenger entitlements. Airports collecting \$4.00 or \$4.50 (the current maximum) must return 75%. (\$4.50 is currently the maximum PFC)	This provision would continue the existing pattern of requiring a higher percentage of passenger entitlements when higher PFCs are imposed, at least for large airports. It would, however be the first time that passenger entitlement turnback requirements differ for medium and large hub airports. For the large hub airports, the net gain from raising the PFC to the maximum proposed to be permitted (\$7.00) should exceed the loss of passenger entitlements from the increased percentage.

**TABLE 1  
AIP FUNDING (continued)**

Section No. & Issue	Provisions	Current Law	Impact on Airports
§141, Minimum Amount for Discretionary Fund	Sets minimum discretionary amount at \$520M. Apportionment and set-aside funds must be reduced on a pro rata basis if needed to meet this minimum.	Current statutory minimum is \$148 million plus amount needed to meet LOI commitments in effect in 1996.	The current minimum is effectively \$148 million. All commitments from LOIs issued before 1997 have been honored. Section 139 brings the statutory minimum in line with the levels of current AIP. The existing minimum was enacted in 1997, when AIP was funded at \$1.45 billion. The increase in the minimum will have no practical affect long as AIP is actually funded at levels that are at least as high as current levels of AIP.
§143, Noise Set-Aside	<ul style="list-style-type: none"> <li>• Noise Set-Aside is established at a fixed \$300 million.</li> <li>• Noise set-aside expanded to cover Water Pollution Control Act mitigation projects required in FAA environmental documents</li> </ul>	<ul style="list-style-type: none"> <li>• Noise-Set Aside is calculated as 35% of discretionary fund.</li> <li>• Eligibility limited to noise compatibility projects and Clean Air Act mitigation projects</li> </ul>	<ul style="list-style-type: none"> <li>• \$300 million noise set-aside is about equal to current level of funding. At levels of AIP proposed in the bill, Noise Set-Aside would increase. According to FAA, it would be difficult for airports to spend more than \$300 million per year on eligible projects. Retaining the existing formula would mean the noise set-aside money would be banked.</li> <li>• Including water projects in eligibility for the set-aside continues the approach of expanding eligibility started in Vision 100 with inclusion of Clean Air Act projects.</li> </ul>

**TABLE 1  
AIP FUNDING (continued)**

Section No. & Issue	Provisions	Current Law	Impact on Airports
§146, Airport Security Consortium Funding	<ul style="list-style-type: none"> <li>• Increases the minimum funding to \$8.5 million of discretionary AIP per year.</li> <li>• Requires eligible consortium to have at least 10 years experience in testing antiterrorist technology.</li> <li>• Provides additional guidance on project eligibility</li> </ul>	Current minimum funding is \$5 million.	<ul style="list-style-type: none"> <li>• The law requires the consortium to include a primary airport sponsor. This sponsor will benefit from the \$3.5 million increase.</li> <li>• Other airports lose access to the \$3.5 million that would otherwise be available for standard AIP projects.</li> </ul>
§151 Puerto Rico minimum apportionment guarantee	Requires FAA to apportion to airports in Puerto Rico at least 1.5 percent of total funds apportioned to airports. In any year in which normal apportionment formulas provide less than this amount, FAA is to supplement the standard apportionment	No minimum guarantee for Puerto Rico airports	The minimum guarantee would have more than doubled the apportioned funds for Puerto Rico Airports in FY 2009, based on a full year authorization, from \$12 million to \$26 million, with a corresponding \$14 million reduction in discretionary funds.
§410, Contract Tower Program	<ul style="list-style-type: none"> <li>• Provides airports currently in program with 18 month grace period after their benefit cost ratio falls below 1, before they must enter the cost sharing program</li> <li>• Allows funds not needed in regular contract tower program to be spent on cost-sharing program and vice-versa</li> <li>• Increases funding for cost-sharing program by \$500,000 per year to a cap of \$10 million</li> <li>• Maximum AIP grant share for construction of contract tower increased to \$2 million</li> </ul>	<ul style="list-style-type: none"> <li>• Airport can be transferred to cost-sharing program as soon as BC ratio falls below 1</li> <li>• No transfer of unused funds between regular program and cost sharing program</li> <li>• Maximum AIP grant share for contract tower construction is \$1.5 million</li> </ul>	Potentially will reduce cost of participating in the contract tower program for those airports with the lowest level of activity. Increased funding for cost-sharing program, if appropriated, may permit FAA to accept more airports into the program.



**TABLE 2  
ELIGIBILITY, MODIFICATIONS TO SPECIAL PROGRAMS & MISCELLANEOUS ADMINISTRATIVE PROVISIONS**

Section No. & Issue	Provisions	Current Law	Impact on Airports
§131(a)(1), Eligible ARFF equipment	Amends definition of airport development to specify ARFF equipment at airports with scheduled service in 9-seat or larger aircraft	Current statute specifies 20-seat or larger aircraft	This amendment was originally proposed by FAA and described as a technical amendment to bring the definition in line with current practice and current requirements for Part 139. The FAA's current interpretation of eligibility covers 9-seat aircraft.
§131(a)(2), mobile refueler spill containment	Includes construction fuel truck spill containment (within a fuel farm) at non-primary airports on a stand-alone basis in the definition of airport development	<ul style="list-style-type: none"> <li>• Fuel truck Containment project only eligible as part of a project to construct a fuel farm</li> <li>• Fuel farm construction is eligible only at MAP airports or non-primary airports using non-primary entitlements</li> </ul>	<ul style="list-style-type: none"> <li>• Permits fuel spill containment project to be funded on a stand-alone basis</li> <li>• Permits use of AIP discretionary funds for fuel-truck spill containment</li> </ul>



**TABLE 2**

**ELIGIBILITY, MODIFICATIONS TO SPECIAL PROGRAMS & MISCELLANEOUS ADMINISTRATIVE PROVISIONS (continued)**

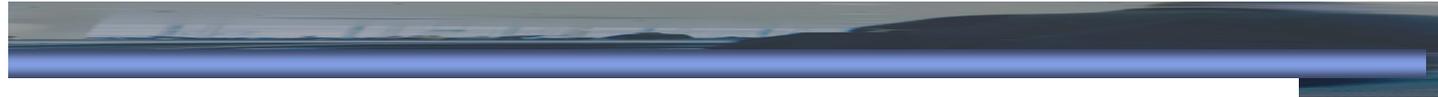
Section No. & Issue	Provisions	Current Law	Impact on Airports
§131(a)(2), preconditioned air and electrical power units at gates	Includes projects to provide preconditioned air and electrical power to aircraft parked at terminal gates in definition of airport development	<ul style="list-style-type: none"> <li>• These projects are treated as terminal development, eligible for passenger entitlements at hub airports</li> <li>• Projects are eligible for discretionary funds under VALE, which is limited to airports in Clean Air Act nonattainment or maintenance areas</li> </ul>	Expands eligibility for discretionary funds for these projects to all sizes of airports regardless of their status under the Clean Air Act.
§131(b), environmental management systems	Adds development of environmental management systems to list of activities within definition of airport planning	No specific reference to environmental management systems. FAA will consider funding such development as an element of a master plan	Permits airports to apply for a planning grant to develop an environmental management system on a stand-alone basis. Currently, the FAA funds EMSs as part of an overall master plan project or under a FAA pilot program.
§132, Solid waste recycling plans	<ul style="list-style-type: none"> <li>• Adds development of solid waste recycling plans to the list of activities within the definition of airport planning.</li> <li>• Requires AIP-funded master plans to address the feasibility of developing a solid waste recycling program</li> </ul>	No specific reference to solid waste recycling in either the definition of a planning project nor in the required elements of an AIP funded master plan	Provides Federal funding for development of recycling plans, but also imposes new requirements on airports to include such plans in a master plan project. Airports will be required to fund the local matching share.



**TABLE 2**

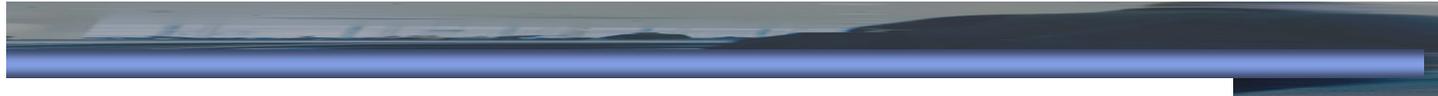
**ELIGIBILITY, MODIFICATIONS TO SPECIAL PROGRAMS & MISCELLANEOUS ADMINISTRATIVE PROVISIONS (continued)**

Section No. & Issue	Provisions	Current Law	Impact on Airports
§135(a), costs incurred before issuance of a grant	<p>Allows discretionary funds to be used for work done before issuance of a grant if:</p> <ul style="list-style-type: none"> <li>• Work is done in same fiscal year &amp; is started before grant due to short construction season;</li> <li>• All AIP administrative requirements are followed;</li> <li>• Airport notifies FAA before work commences; and</li> <li>• Commencement of work does not affect priority.</li> </ul>	<p>Only entitlement funds may be spent on work done before issuance of a grant, unless the work qualifies as project formulation costs</p>	<p>Gives flexibility to northern airports with short construction season to commence work before a grant is issued and use more of the construction season to make progress on a project. Will allow projects in these locations to be completed sooner.</p>
§135(b) relocation of sponsor owned facilities	<p>Allows use of entitlement funds to finance relocation or replacement of sponsor owned facilities if:</p> <ul style="list-style-type: none"> <li>• Relocation is required to meet a change in FAA standards;</li> <li>• The change in standards is beyond the sponsor's control</li> </ul>	<p>AIP funds may be used only for demolition of sponsor-owned facilities. Relocation or reconstruction of only third-party owned facilities is eligible for AIP.</p>	<ul style="list-style-type: none"> <li>• Expands AIP eligibility for relocation of sponsor owned facilities to more closely align with eligibility for relocation of privately owned facilities.</li> <li>• However eligibility is limited to entitlement funds and to projects required due to change in FAA standards</li> <li>• Provision was originally proposed by FAA, and limits were based on sponsor's obligation to operate and maintain the airport safely in accordance with FAA standards.</li> </ul>
§142, Marshall Islands, Micronesia & Palau	<p>Extends eligibility for grants from discretionary fund and small airport fund to airports in Marshall Islands, Micronesia and Palau through 2012.</p>	<p>Eligibility for funding is scheduled to expire in FY 2009.</p>	<p>Provision extends current special eligibility rule. Funds provided to airports under this provision are not available to airports in the United States.</p>



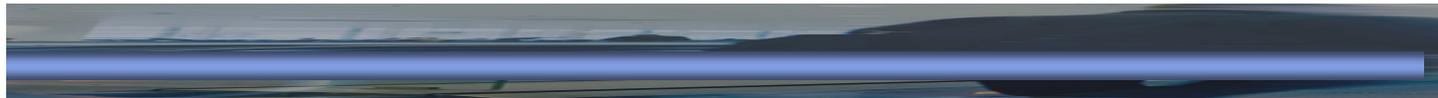
**TABLE 2**  
**ELIGIBILITY, MODIFICATIONS TO SPECIAL PROGRAMS & MISCELLANEOUS ADMINISTRATIVE PROVISIONS (continued)**

Section No. & Issue	Provisions	Current Law	Impact on Airports
§149, Metropolitan Washington Airports Authority	Repeals cut-off dates for FAA's authority to approve new AIP grants or PFC applications for MWAAs	FAA's authority to issue new grants or approve new PFC applications for MWAAs expires in FY 2009	Eliminates unique restrictions on MWAAs' ability to apply for and receive AIP grants and PFC approval. MWAAs' airports would be treated like any other commercial service airport in the national system.
§152, Terminal Development	Consolidates provisions on terminal development eligibility & funding into a single section, §47119. Complements amendments to §47102, definitions that add terms dealing with terminal development	Terminal development addressed in §47110(d) and §47119.	These provisions were originally proposed by the FAA in the Administration's bill during the last Congress and described as technical in nature. Referenced amendments to §47102 clarify status of access roadways and walkways to passenger terminals as terminal development
§145, Airport Privatization Program	Requires approval of 75% of air carriers for sponsor to use privatization proceeds off airport or to raise rates above inflation rate. Terminates all eligibility for AIP entitlement and discretionary funds	Approval required from 65% of carriers. Privatized airports eligible for AIP entitlement funds at standard Federal share and eligible for discretionary funds at reduced 40% share	<ul style="list-style-type: none"> <li>• Increased threshold for carrier approval makes diversion of privatization proceeds more difficult</li> <li>• Elimination of all AIP eligibility reduces the financial attractiveness of privatization transactions.</li> </ul>
§147, Purchase of Development Rights for Privately owned airports	Adds a sunset date of September 30, 2008 to section 47138, which creates a pilot program allowing AIP funding for public agency purchase of development rights of privately-owned public-use airports	No sunset date for the program	Provision is not likely to have any practical effect on airports. No public agency successfully applied for participation in the pilot during its existence.



**TABLE 2**  
**ELIGIBILITY, MODIFICATIONS TO SPECIAL PROGRAMS & MISCELLANEOUS ADMINISTRATIVE PROVISIONS (continued)**

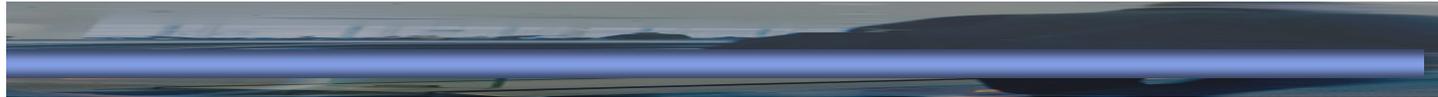
Section No. & Issue	Provisions	Current Law	Impact on Airports
§148, Compatible land-use programs for state and local noise compatibility programs	Extends pilot program for AIP funding state and local airport noise compatibility programs through the end of FY 2012	Current expiration date for pilot program is FY 2009	This pilot program allows communities near airports that are without Part 150 programs or that may have outdated programs to develop noise compatibility programs similar to Part 150 programs. Airport operator cooperation is required. This program has had successful participation. Extension continues to provide an alternative source of sponsorship for AIP funded noise compatibility programs to airport operators themselves.
§133(a) assurance on maintaining airport layout plans	Amends assurance to exclude relocation of airport owned facilities financed with an AIP grant	Costs of alterations of airfield to correct non-standard conditions depicted on airport layout plans must be borne by the sponsor	Provision assures that use of AIP funds to relocate or replace airport-owned facilities (under section 135(b) of the bill) does not violate AIP grant assurances. The assurance amended by this provision (relating to maintaining up-to-date approved ALPs) requires a sponsor to bear all costs of correcting a condition that is inconsistent with FAA standards.



**TABLE 2**

**ELIGIBILITY, MODIFICATIONS TO SPECIAL PROGRAMS & MISCELLANEOUS ADMINISTRATIVE PROVISIONS (continued)**

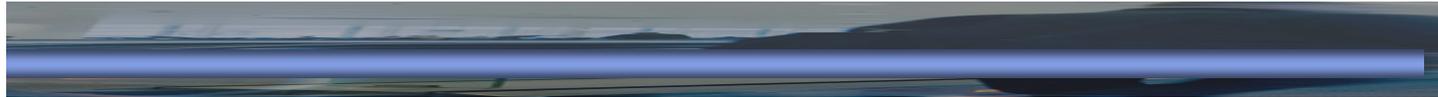
Section No. & Issue	Provisions	Current Law	Impact on Airports
§133(b), assurance on disposal of noise land	Revises assurance requiring disposal of AIP funded noise land to permit the federal share of proceeds to be used, in order of priority on the following projects: 1. An approved noise compatibility project 2. Another environmental mitigation project eligible for funding from the noise set aside 3. An airport development or planning project 4. Transfer to another airport for an approved noise compatibility project 5. Payment to the FAA for deposit in the Airport and Airway Trust Fund	Federal share of proceeds must be applied to an approved noise compatibility project or returned to the FAA for deposit in the Trust Fund	Provides greater flexibility in how Federal share of proceeds from disposal of noise land may be used, thereby making it easier for the funds to be retained at the airport.
§136 Use of small businesses owned by disabled veterans	Requires AIP funded construction contracts include a preference for use of small businesses owned and controlled by disabled veterans.	No provision regarding contracting with businesses owned by disabled veterans	Extends existing preference for employment of disabled and Vietnam-era veterans to include the use of businesses owned by disabled veterans.



**TABLE 2**

**ELIGIBILITY, MODIFICATIONS TO SPECIAL PROGRAMS & MISCELLANEOUS ADMINISTRATIVE PROVISIONS (continued)**

Section No. & Issue	Provisions	Current Law	Impact on Airports
§137 DBE revisions	<ul style="list-style-type: none"> <li>• Includes extensive Congressional findings of continuing discrimination and its negative impacts</li> <li>• Requires Department of Transportation to increase the personal net worth cap for DBE firms to reflect changes in the CPI since 1989. Also requires annual adjustments for CPI changes and exclusion of amounts held in retirement accounts from calculation</li> <li>• Requires Secretary to adopt regulations to prohibit excessive, unreasonable or discriminatory bonding requirements for AIP and PFC funded projects</li> </ul>	No provisions regarding periodic adjustment	In the short-run, pool of qualified DBE firms may expand when initial inflation adjustment is calculated. In the long run, the annual adjustment could make some firms ineligible during periods of deflation.



**TABLE 2**

**ELIGIBILITY, MODIFICATIONS TO SPECIAL PROGRAMS & MISCELLANEOUS ADMINISTRATIVE PROVISIONS (continued)**

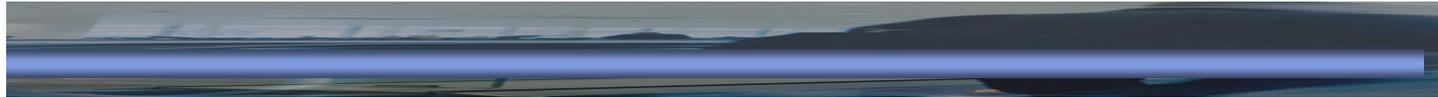
Section No. & Issue	Provisions	Current Law	Impact on Airports
§138 Uniform certification training for airport concession DBE programs	Requires FAA to develop and offer uniform certification training programs as follows: <ul style="list-style-type: none"> <li>• Training is mandatory for either the official who certifies compliance with the concession DBE assurance or who determines whether a firm meets the DOT DBE qualifications</li> <li>• Training may be offered by third parties</li> <li>• Authorizes sums necessary to carry out the program</li> <li>• FAA must submit a report to Congress on the results of the mandatory training</li> </ul>	No uniform certification training requirement	While the costs of developing the program will be borne by the FAA, the wording of the law could leave airports with the responsibility of the costs of attendance in the training.
§408 Competition Plans	Eliminates requirement to include information on air fare levels and patterns of air service	Competition plans must include information on these subjects	Will reduce the burden of completing and submitting a competition plan or plan update.
§409 Competitive Access Reports	Extends requirement for certain airports to file Competitive Access Reports after denying access to a carrier until the end of FY 2012	Requirement for reports expires at the end of FY 2009	No change. Provision extends existing requirement.



**TABLE 2**

**ELIGIBILITY, MODIFICATIONS TO SPECIAL PROGRAMS & MISCELLANEOUS ADMINISTRATIVE PROVISIONS (continued)**

Section No. & Issue	Provisions	Current Law	Impact on Airports
§804, Clarification of air carrier fee disputes	Amends §47129, establishing expedited procedures to resolve airport fee disputes to explicitly include foreign air carriers	§47129 refers to air carriers	DOT had interpreted §47129 to include foreign air carriers, but a U.S. Court of Appeals decision limited its scope to disputes involving U.S. air carriers. This provision effectively reverses the court decision and restores DOT's historic interpretation.
§805, NPIAS Study and Report to Congress	Requires FAA to conduct a study and report to Congress on the NPIAS report, including the criteria for including airports in the NPIAS and a comparison of changes in airport capital needs from 2003 to 2008 with amounts actually provided to airports. Report is due to Congress three years after start of study	N/A	Impact cannot be determined until report is issued.
§821 Study on alleviating congestion	Requires GAO to conduct a study of alternative measures to alleviate congestion in airspace and at airports during peak periods, including: <ul style="list-style-type: none"> <li>• Reducing flight schedules and staggering flights</li> <li>• Developing incentives for carriers to reduce flights</li> <li>• Imposing slots and quotas at airports.</li> </ul> Report is due 18 months after enactment	N/A	Impact cannot be determined until report is issued.



**TABLE 2**

**ELIGIBILITY, MODIFICATIONS TO SPECIAL PROGRAMS & MISCELLANEOUS ADMINISTRATIVE PROVISIONS (continued)**

Section No. & Issue	Provisions	Current Law	Impact on Airports
§826 Prohibition on use of funds for naming projects	Prohibits use of funds authorized in bill for the naming, renaming or designation of a project after a sitting Congressman, Senator, Delegate or Resident Commissioner	No provision	Impact is unclear, since provision does not prohibit expenditure of local funds.
§§ 810, 811, 814, 831 Provisions affecting specific airports	Provisions facilitate the transfer, sale or closure of all or parts of the Lost Nation Airport in Ohio, Pollock Airport in Louisiana, Merrill Field in Alaska and St. George Airport in Utah	Sale, transfer or closure are restricted or financially burdensome to affected communities	These airport specific provisions will have no impact beyond the airports listed in each provision.
§829 College Point Marine Transfer Station	Directs FAA to determine that construction of the proposed College Point Marine Transfer Station (for waste disposal) would constitute a hazard to air navigation	No airport specific requirements for hazard determination	Would prevent construction of transfer station, but would not affect airports.
§831 Santa Monica Airport	Establishes sense of Congress that FAA should enter into good faith negotiations with Santa Monica Airport to resolve RSA issues	Santa Monica's efforts to address non-standards RSAs are evaluated under ANCA and AIP grant assurances	Impact depends on results of negotiations, but would be specific to Santa Monica Airport.

**TABLE 3  
PASSENGER FACILITY CHARGE (PFC) PROVISIONS**

Section No. & Issue	Provisions	Current Law	Impact on Airports
§111(a),(d), change in statutory references for PFC	Restates all references in the statute to “passenger facility charge” and adds definition of “passenger facility charge.”	References are to “passenger facility fee”	No practical impact. Returns statutory references to “passenger facility charge” which was the statutory term used when Congress first authorized PFCs in 1990.
§111(b), increase in PFC levels	Authorizes FAA to approve PFCs in amounts of: <ul style="list-style-type: none"> <li>• \$5.00;</li> <li>• \$6.00; or</li> <li>• \$7.00</li> </ul>	Current maximum PFC is \$4.50.	The provision would increase the maximum PFC airports can collect by 56 percent over the current maximum. For an airport currently collecting \$3.00, a \$7.00 PFC would represent a 133 percent increase. Supporters of the PFC increase point out that the increase would do little more than compensate for the effects of inflation since the maximum PFC level was set at \$4.50. Large hub airports imposing a PFC of \$5 or more would be required to return 100% of their passenger entitlements, as opposed to 75% of entitlements, if they collect a only \$4.50 PFC.

**TABLE 3  
PASSENGER FACILITY CHARGE (PFC) PROVISIONS (continued)**

Section No. & Issue	Provisions	Current Law	Impact on Airports
§111(c)	Eliminates expiration date for PFC non-hub pilot program	Pilot program expires on September 30, 2009	Provision makes permanent a pilot program that reduces the administrative burden of PFC applications for non-hub airports. The expedited procedures permit non-hub airport PFC requests to be processed by the FAA in 30 days.
§112, PFC eligibility for bicycle storage facilities	<ul style="list-style-type: none"> <li>• Makes construction of secure bicycle storage facilities for passengers eligible, if the project complies with applicable security requirements.</li> <li>• Requires FAA to submit a report to Congress on use of bicycles by passengers and airport employees</li> </ul>	Not eligible as a stand-alone project, but may be an allowable PFC cost if part of a larger project	Enables use of PFCs by those airports that desire to build bicycle storage facilities.
§113 Qualifications based selections	Requires, for PFC funded airside projects, use of qualifications based selection for the procurement of various consulting services, including: <ul style="list-style-type: none"> <li>• Engineering</li> <li>• Architectural services and design</li> <li>• Planning</li> <li>• Program or project management</li> </ul>	No requirement	Requirement currently exists for AIP funded projects. This provision would be the first time contracting requirements for AIP funded projects are extended to locally funded projects.



**TABLE 3  
PASSENGER FACILITY CHARGE (PFC) PROVISIONS (continued)**

Section No. & Issue	Provisions	Current Law	Impact on Airports
§114, intermodal ground access pilot program	<p>Permits use of PFCs for intermodal ground access facilities at no more than five airports under the following conditions:</p> <ul style="list-style-type: none"> <li>• Project must be owned by the public agency;</li> <li>• Project must be directly and substantially related to the movement of passengers or property in air transportation; and</li> <li>• PFC funding is limited to the pro rata share of costs in proportion to the share of total ridership on the project that use it for airport access, with the FTA's ridership projections to be used for projects funded in part by the FTA.</li> </ul>	PFCs may be used only for exclusive airport use ground access projects	For airports choosing to participate in the pilot program, this provision provides greater flexibility in using PFCs to fund ground access projects. PFCs would be subject to the same "directly and substantially related" test that governs the use of airport revenue. Airports would be able to use PFCs to finance a portion of ground access projects that also provide general transit services, rather than designing and constructing an exclusive-use airport system. Thus airports would benefit from cost sharing and access to Federal surface transportation funding.

**TABLE 3  
PASSENGER FACILITY CHARGE (PFC) PROVISIONS (continued)**

Section No. & Issue	Provisions	Current Law	Impact on Airports
§115, DBE participation in contracts and business opportunities funded by PFCs and in airport concessions	Requires DOT to apply the DBE requirements of 49 CFR Part 23 (Airport Concessions) and Part 26 (DOT Financial Assistance Programs) to airports imposing PFCs. DOT shall issue regulations including: <ul style="list-style-type: none"> <li>• Goal setting requirements to ensure that contracts, subcontracts and business opportunities are awarded consistent with the level of DBE participation that would be expected in the absence of discrimination</li> <li>• An assurance that public agencies will not discriminate in the award or performance of any PFC-financed contract</li> <li>• A requirement that public agencies take all reasonable and necessary steps to ensure non-discrimination.</li> </ul>	No DBE participation requirement for PFC funded projects	Imposes requirements for use of DBEs and non-discrimination on projects funded exclusively with PFCs or PFCs and other local airport revenue.  For projects where PFCs serve as local match to AIP, DBE requirements were already in place due to AIP funding.



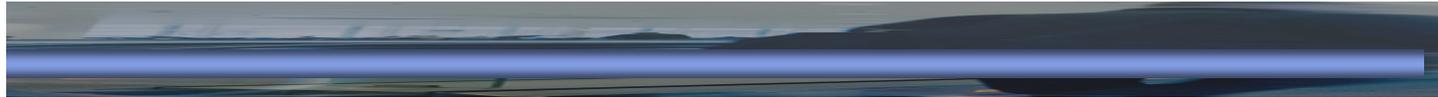
**TABLE 3  
PASSENGER FACILITY CHARGE (PFC) PROVISIONS (continued)**

Section No. & Issue	Provisions	Current Law	Impact on Airports
§116, Report to Congress on impacts of accommodating connecting passengers	Requires FAA to conduct a study and report to Congress on: <ul style="list-style-type: none"> <li>• The impacts to airports of accommodating connecting traffic</li> <li>• The treatment under the PFC program of airports with a majority of connecting traffic</li> </ul> The report to Congress must include recommendations on whether different levels of PFCs should be imposed on connecting passengers vs. O & D passengers.	N/A	Impact on airports will depend on the findings and recommendations of the report and any legislation that might be enacted based on the report. The requirement for the study and report arose from Congressional concerns over the impact of the higher PFC levels included in section 111 on passengers who rely on connecting service to access the national air transportation system.



**TABLE 4  
ENVIRONMENTAL STEWARDSHIP PROVISIONS AFFECTING AIRPORTS**

Section No. & Issue	Provisions	Current Law	Impact on Airports
§502, Environmental reviews in block grant states	<ul style="list-style-type: none"> <li>• Changes requirement for issuance of regulations to govern program to a requirement for guidance</li> <li>• Requires explicit finding that state will comply with NEPA and other environmental laws before FAA can approve a block grant application</li> <li>• Requires federal agencies to coordinate with block grant states on environmental findings and use the state's environmental analysis if it is adequate</li> </ul>	Current law does not specifically address environmental analysis responsibilities under NEPA and other statutes for projects funded with AIP block grants.	The provision will clarify that the block grant state is responsible for NEPA compliance and that other Federal agencies are to rely on block grant state environmental analysis. The lack of clarity has in the past led to litigation and led some agencies to insist that FAA duplicate environmental analysis already completed by block grant states. Changing the requirement for regulations to a requirement for guidance will facilitate changes to the program that benefit block grant states.
§503, Airport funding of special studies or reviews	<p>Permits FAA to accept airport funds, including entitlements for additional staff or consultants to perform the following:</p> <ul style="list-style-type: none"> <li>• Conduct special environmental studies related to a federally funded project</li> <li>• Conduct special studies to support approved Part 150 noise compatibility measures</li> <li>• Conduct special studies to support environmental mitigation measures in an EIS ROD or EA FONSI</li> </ul>	FAA may accept funds from airports only to facilitate processing and reviews of NEPA documents	Expands on airports' current ability to fund supplemental FAA staff or consulting work to expedite NEPA reviews other types of environmental reviews. Ability to use entitlement funds under AIP would reduce the financial burden on airports.



**TABLE 4  
ENVIRONMENTAL STEWARDSHIP PROVISIONS AFFECTING AIRPORTS (continued)**

Section No. & Issue	Provisions	Current Law	Impact on Airports
§504, Grant eligibility for assessment of flight procedures	Permits grants from noise set-aside to be used to finance environmental assessments of new or modified flight procedures included in Part 150 Noise Compatibility Plans. Also permits airport operators to finance additional FAA staff to perform the assessments	Environmental assessments would have to be financed by the Air Traffic Organization	By removing cost of environmental assessments for Part 150 flight procedures from ATO budgetary constraints, the provision may enable airports to accelerate evaluation of these procedures.
§505 Determination of fair market value of residential properties	For residential property acquisition funded with AIP, the FMV determination shall not reflect the impact of the project on FMV under Part 150,	No provision	Impact will depend on specific circumstances of airports and properties appraised.



**TABLE 4**  
**ENVIRONMENTAL STEWARDSHIP PROVISIONS AFFECTING AIRPORTS (continued)**

Section No. & Issue	Provisions	Current Law	Impact on Airports
§506, Soundproofing and acquisition of residential properties	Permits the FAA to issue noise compatibility grants for residential sound proofing without the need for a Part 150 Noise Compatibility Program if: <ul style="list-style-type: none"> <li>• The properties are within noise contours prepared in accordance with FAA standards</li> <li>• The properties cannot be removed from the contours within 5 years</li> <li>• Local governments with land-use control authority have taken appropriate action, including zoning, to assure compatible use</li> </ul> FAA is to establish criteria, subject to GAO review, to determine which properties within 65 DNL contour suffer greatest noise impact, and is to give priority in funding to those properties	Residential soundproofing cannot be funded out of with noise compatibility grants in the absence of an approved NCP, except as a mitigation measure in a NEPA document.	Permits airports without Part 150 NCPs to access AIP noise set-aside for residential soundproofing.



**TABLE 4**  
**ENVIRONMENTAL STEWARDSHIP PROVISIONS AFFECTING AIRPORTS (continued)**

Section No. & Issue	Provisions	Current Law	Impact on Airports
§508, Prohibition on Stage 2 Aircraft of 75,000 lbs or less.	Prohibits operation within the 48 contiguous states of Stage 2 Aircraft weighing 75,000 pounds or less after 12/31/2013. Provision includes various exceptions including flights to facilitate sale or lease of aircraft, performance of heavy maintenance and emergency relief efforts	There is no federal prohibition on operations. Individual airport proprietors may prohibit operations at their airport provided they comply with the requirements of ANCA and Part 161 and comply with their grant assurance obligations to provide access on reasonable terms without unjust discrimination	Provision will give noise relief for airports with operations of under 75,000 Stage 2 aircraft without the cost and burden of the procedures required under Part 161 and without the risk of a complaint or investigation of possible violation of grant assurances.





**TABLE 4  
ENVIRONMENTAL STEWARDSHIP PROVISIONS AFFECTING AIRPORTS (continued)**

Section No. & Issue	Provisions	Current Law	Impact on Airports
§509, Environmental mitigation pilot program	<p>New pilot program permits FAA to issue up to six grants for environmental mitigation demonstration projects under the conditions below. Projects are also eligible for PFCs</p> <ul style="list-style-type: none"> <li>• Grant funds must come from noise set-aside</li> <li>• Project must measurably reduce or mitigate aviation impacts on noise, air quality or water quality in the vicinity of the airport</li> <li>• FAA is to give priority to projects that will have the greatest benefit</li> <li>• Federal share is 50%</li> <li>• Maximum amount for individual grant is \$2.5 million</li> <li>• Project must be carried out by a consortium that can include a business, university or federal laboratory in addition to a public agency</li> <li>• Project must demonstrate techniques or technologies that have been proven in the laboratory</li> </ul>	No provision	Provides AIP funding on a test basis for new mitigation measures whose practical application has not yet been shown. Provision would require the airport sponsor to team with another entity to obtain the FAA funding



**TABLE 4  
ENVIRONMENTAL STEWARDSHIP PROVISIONS AFFECTING AIRPORTS (continued)**

Section No. & Issue	Provisions	Current Law	Impact on Airports
§510, Aircraft queue management pilot program	Creates a pilot program at up to five airports to test air traffic flow tools and procedures to better manage air traffic flow on the ground and reduce emissions. Program will be funded out of facilities and equipment account. FAA is to give priority to airports where environmental benefits would be the greatest	No provision	Airports in the pilot program may benefit from reduced ground flow delays and reduced emissions. If procedures prove effective, other airports may eventually benefit as well.
§515, Port Authority of New York and New Jersey Airport Noise Compatibility Study	Establishes sense of the House of Representatives that the Port Authority of New York and New Jersey should conduct a Part 150 airport noise compatibility planning study for its airports. The Port Authority should focus on the impacts on neighborhoods surrounding LaGuardia and Kennedy airports	No provision	Impact limited to the Port Authority airports.
§516, GAO study on FAA and Massport compliance with NEPA record of decision	Directs GAO to report on whether Massport and the FAA are complying with the requirements of the Record of Decision approving the new runway for Boston Logan International Airport. Report is due one year from enactment	No provision	Impact limited to Logan.

**TABLE 4  
ENVIRONMENTAL STEWARDSHIP PROVISIONS AFFECTING AIRPORTS (continued)**

Section No. & Issue	Provisions	Current Law	Impact on Airports
§517 Westchester County Airport nighttime restrictions	Directs FAA to conduct rulemaking on whether Westchester County Airport may restrict flights between midnight and 6:30 am. NPRM is to be issued within 180 days of enactment and final rule issued within 16 months after close of comment period.	Local flight restrictions are subject to ANCA and grant assurance requiring access on reasonable terms without unjust discrimination.	May facilitate imposition of flight restrictions at Westchester County Airport.
§518 Aviation Noise Complaints	Requires large hub airports to post a phone number for the public to submit aviation noise complaints within three months after enactment. Large hub airports are to submit reports of noise complaints to FAA annually after posting the phone number and FAA is to make the information available by print and electronic means	No provision	Imposes a new reporting burden on large hub airports. The requirement to publish a phone number for reporting noise complaints will have no impact on those airports that already provide a phone number for noise complaints as a result of a Part 150 program or local community relation initiatives.
§817, Pilot program for joint compatible land-use redevelopment	Creates a pilot program permitting use of AIP and PFC funds at up to four airports to support joint efforts to assemble parcels for redevelopment where some but not all of the parcels were acquired through Part 150 programs. Provision limits grants to \$5M per airport. Pilot program terminates at the end of FY 2012.	Grant funds cannot be used to acquire parcels not required for noise compatibility, except for “rounding out” blocks or neighborhoods or avoiding uneconomic remnants.	May accelerate the disposal and redevelopment of grant funded noise land and could result in a higher disposal price, with Federal share of same being applied to other noise compatibility, environmental or development projects.



**TABLE 5  
AIR SERVICE IMPROVEMENT PROVISIONS AFFECTING AIRPORTS AND COMMUNITIES**

Section No. & Issue	Provisions	Current Law	Impact on Airports
§403, Flight operations at Reagan National	Increases the number of “beyond perimeter” slots from 24 to 34. To accommodate these slots, a total of 10 “available” slots shall be reduced in the early morning and late night hours. The Secretary is give priority to new entrants and limited incumbents	“Beyond perimeter” slots limited to 24.	Airports selected for these new slots will gain service to National. However, there will be a corresponding reduction in access to Reagan National in early morning and late night hours.
§406, SCASDP	<ul style="list-style-type: none"> <li>• Extends authorization for program through 2012.</li> <li>• Adds a new factor for priority consideration: cooperation among multiple communities to submit a regional or multistate proposal</li> </ul>	SCASDP authorization lapses at end of FY 2009. Consortia of communities are eligible to participate, but do not receive priority consideration.	Extends program and Federal assistance for air service development projects.

**TABLE 5**  
**AIR SERVICE IMPROVEMENT PROVISIONS AFFECTING**  
**AIRPORTS AND COMMUNITIES (continued)**

Section No. & Issue	Provisions	Current Law	Impact on Airports
§407, Emergency Contingency Plans	<p>Air carriers serving medium and large hub airports with scheduled service in aircraft with more than 30 seats must develop emergency contingency plans within 90 days. All medium and large hub airports must also develop plans. Airport plans must address:</p> <ul style="list-style-type: none"> <li>• How the airport will provide for deplanement of passengers following “excessive delays”</li> <li>• How the airport will provide for gate sharing and make facilities available</li> <li>• If the airport serves international flights, how the airport will be used to process passengers</li> </ul> <p>Plans must be approved by the Secretary who may establish minimum standards for plans. Non-compliance with the plan could lead to civil penalties. Airports must update plans every five years.</p>	No provision	Medium and large hub airports will bear the cost of developing the plans, including submittal for FAA approval and the costs of implementing and updating the plans. Failure to follow the plan could lead to a civil penalty proceeding.



**TABLE 5  
AIR SERVICE IMPROVEMENT PROVISIONS AFFECTING  
AIRPORTS AND COMMUNITIES (continued)**

Section No. & Issue	Provisions	Current Law	Impact on Airports
§423 Schedule Reductions	FAA shall convene a voluntary schedule reduction meeting for any airport if FAA determines that scheduled operations will exceed hourly maximum arrival and departure rate and the excess operations will have a significant negative effect on national or regional airspace. If a voluntary agreement is not reached, the FAA shall act to ensure the reduction is made.	Voluntary schedule reduction meeting process only available for "severely congested airports" to address schedules during peak hours. There is no express authority for FAA to act in the absence of voluntary agreements.	FAA's authority to limit flights at congested airports, if excess flights adversely affect the airspace system is enhanced.



For more information about Unison Consulting, visit us at [www.unison-ucg.com](http://www.unison-ucg.com) .