

Pub. L. 106-181, set out as a note under section 106 of this title.

EFFECTIVE DATE OF 1994 AMENDMENTS

Amendment by Pub. L. 103-429 effective July 5, 1994, see section 9 of Pub. L. 103-429, set out as a note under section 321 of this title.

Amendment by Pub. L. 103-411 effective on the 180th day following Oct. 25, 1994, see section 3(d) of Pub. L. 103-411, set out as a note under section 1131 of this title.

Amendment by Pub. L. 103-305 effective Jan. 1, 1995, see section 601(d) of Pub. L. 103-305, set out as a note under section 10521 of this title.

TERRITORIAL SEA OF UNITED STATES

For extension of territorial sea of United States, see Proc. No. 5928, set out as a note under section 1331 of Title 43, Public Lands.

DEFINITIONS OF TERMS IN PUB. L. 107-71

Pub. L. 107-71, title I, §133, Nov. 19, 2001, 115 Stat. 636, provided that: "Except as otherwise explicitly provided, any term used in this title [see Tables for classification] that is defined in section 40102 of title 49, United States Code, has the meaning given that term in that section."

DEFINITIONS APPLICABLE TO PUB. L. 106-181

Pub. L. 106-181, §4, Apr. 5, 2000, 114 Stat. 64, provided that: "Except as otherwise provided in this Act [see Tables for classification], the following definitions apply:

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

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

DEFINITIONS APPLICABLE TO PUB. L. 103-305

Pub. L. 103-305, §2, Aug. 23, 1994, 108 Stat. 1570, provided that: "In this Act [see Short Title of 1994 Amendment note set out under section 40101 of this title], the following definitions apply:

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

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

§ 40103. Sovereignty and use of airspace

(a) SOVEREIGNTY AND PUBLIC RIGHT OF TRANSIT.—(1) The United States Government has exclusive sovereignty of airspace of the United States.

(2) A citizen of the United States has a public right of transit through the navigable airspace. To further that right, the Secretary of Transportation shall consult with the Architectural and Transportation Barriers Compliance Board established under section 502 of the Rehabilitation Act of 1973 (29 U.S.C. 792) before prescribing a regulation or issuing an order or procedure that will have a significant impact on the accessibility of commercial airports or commercial air transportation for handicapped individuals.

(b) USE OF AIRSPACE.—(1) The Administrator of the Federal Aviation Administration shall develop plans and policy for the use of the navigable airspace and assign by regulation or order the use of the airspace necessary to ensure the safety of aircraft and the efficient use of airspace. The Administrator may modify or revoke an assignment when required in the public interest.

(2) The Administrator shall prescribe air traffic regulations on the flight of aircraft (including regulations on safe altitudes) for—

(A) navigating, protecting, and identifying aircraft;

(B) protecting individuals and property on the ground;

(C) using the navigable airspace efficiently; and

(D) preventing collision between aircraft, between aircraft and land or water vehicles, and between aircraft and airborne objects.

(3) To establish security provisions that will encourage and allow maximum use of the navigable airspace by civil aircraft consistent with national security, the Administrator, in consultation with the Secretary of Defense, shall—

(A) establish areas in the airspace the Administrator decides are necessary in the interest of national defense; and

(B) by regulation or order, restrict or prohibit flight of civil aircraft that the Administrator cannot identify, locate, and control with available facilities in those areas.

(4) Notwithstanding the military exception in section 553(a)(1) of title 5, subchapter II of chapter 5 of title 5 applies to a regulation prescribed under this subsection.

(c) FOREIGN AIRCRAFT.—A foreign aircraft, not part of the armed forces of a foreign country, may be navigated in the United States as provided in section 41703 of this title.

(d) AIRCRAFT OF ARMED FORCES OF FOREIGN COUNTRIES.—Aircraft of the armed forces of a foreign country may be navigated in the United States only when authorized by the Secretary of State.

(e) NO EXCLUSIVE RIGHTS AT CERTAIN FACILITIES.—A person does not have an exclusive right to use an air navigation facility on which Government money has been expended. However, providing services at an airport by only one fixed-based operator is not an exclusive right if—

(1) it is unreasonably costly, burdensome, or impractical for more than one fixed-based operator to provide the services; and

(2) allowing more than one fixed-based operator to provide the services requires a reduction in space leased under an agreement existing on September 3, 1982, between the operator and the airport.

(Pub. L. 103-272, §1(e), July 5, 1994, 108 Stat. 1101.)

HISTORICAL AND REVISION NOTES

Revised Section	Source (U.S. Code)	Source (Statutes at Large)
40103(a)(1) ..	49 App.:1508(a) (1st sentence).	Aug. 23, 1958, Pub. L. 85-726, §§307(a), (c), (d), 308(a) (3d sentence), 1108(a), 1201, 1202, 72 Stat. 749, 750, 751, 798, 800.
40103(a)(2) ..	49 App.:1304. 49 App.:1551(b)(1)(E).	Aug. 23, 1958, Pub. L. 85-726, §104, 72 Stat. 740; Oct. 4, 1984, Pub. L. 98-443, §14, 98 Stat. 1711. Aug. 28, 1958, Pub. L. 85-726, 72 Stat. 731, §1601(b)(1)(E); added Oct. 4, 1984, Pub. L. 98-443, §3(e), 98 Stat. 1704.
40103(b)(1) ..	49 App.:1348(a). 49 App.:1655(c)(1).	Oct. 15, 1966, Pub. L. 89-670, §6(c)(1), 80 Stat. 938; Jan. 12, 1983, Pub. L. 97-449, §7(b), 96 Stat. 2444.
40103(b)(2) ..	49 App.:1348(c). 49 App.:1655(c)(1).	
40103(b)(3) ..	49 App.:1521.	

HISTORICAL AND REVISION NOTES—CONTINUED

Revised Section	Source (U.S. Code)	Source (Statutes at Large)
40103(b)(4) ..	49 App.:1522.	
40103(c)	49 App.:1655(c)(1).	
40103(d)	49 App.:1348(d). (no source).	
40103(e)	49 App.:1508(a) (last sentence).	
	49 App.:1349(a) (3d sentence).	
	49 App.:1349(a) (last sentence).	Aug. 23, 1958, Pub. L. 85-726, 72 Stat. 731, §308(a) (last sentence); added Sept. 3, 1982, Pub. L. 97-248, § 524(a)(1), 96 Stat. 695.

In subsection (a)(1), the word “has” is substituted for “is declared to possess and exercise complete and” to eliminate surplus words. The word “national” is omitted as surplus. The text of 49 App.:1508(a) (1st sentence words after 1st comma) is omitted as surplus.

In subsection (a)(2), the words “of the United States” are omitted for consistency in the revised title and because of the definition of “navigable airspace” in section 40102(a) of the revised title. The words “or amending” are omitted as surplus.

In subsection (b), the word “Administrator” in section 307(a), (c), and (d) of the Federal Aviation Act of 1958 (Public Law 85-726, 72 Stat. 749, 750) is retained on authority of 49:106(g).

In subsection (b)(1) and (3)(B), the word “rule” is omitted as being synonymous with “regulation”.

In subsection (b)(1), the words “under such terms, conditions, and limitations as he may deem” are omitted as surplus. The words “In the exercise of his authority under section 1348(a) of this Appendix” in 49 App.:1522 are omitted as unnecessary because of the restatement.

In subsection (b)(2), before clause (A), the word “shall” is substituted for “is further authorized and directed” for consistency in the revised title and to eliminate unnecessary words.

In subsection (b)(3), before clause (A), the words “In the exercise of his authority under section 1348(a) of this Appendix” in 49 App.:1522 are omitted as surplus. The word “navigable” is added for clarity and consistency. In clause (A), the words “such zones or” are omitted as surplus.

In subsection (b)(4), the words “the military exception” are substituted for “any exception relating to military or naval functions” to eliminate unnecessary words and because “naval” is included in “military”. The words “applies to a regulation prescribed under” are substituted for “In the exercise of the rulemaking authority . . . the Secretary of Transportation shall be subject to” to eliminate unnecessary words and because “rules” and “regulations” are synonymous.

Subsection (c) is added for clarity.

In subsection (d), the words “including the Canal Zone” are omitted because of the Panama Canal Treaty of 1977.

In subsection (e), before clause (1), the words “any landing area” are omitted as being included in the definition of “air navigation facility” in section 40102(a) of the revised title. The word “only” is added for clarity. In clause (2), the words “on September 3, 1982” are added for clarity.

REGULATIONS

Pub. L. 85-726, title VI, §613(a), (b), as added by Pub. L.101-508, title IX, §9124, Nov. 5, 1990, 104 Stat. 1388-370, provided that:

“(a) NATIONAL DISASTER AREAS.—Before the 180th day following the date of the enactment of this section [Nov. 5, 1990], the Administrator, for safety and humanitarian reasons, shall issue such regulations as may be necessary to prohibit or otherwise restrict aircraft overflights of any inhabited area which has been declared a national disaster area in the State of Hawaii.

“(b) EXCEPTIONS.—Regulations issued pursuant to subsection (a) shall not be applicable in the case of air-

craft overflights involving an emergency or a legitimate [sic] scientific purpose.”

NATIONAL AIRSPACE REDESIGN

Pub. L. 106-181, title VII, §736, Apr. 5, 2000, 114 Stat. 171, provided that:

“(a) FINDINGS.—Congress makes the following findings:

“(1) The national airspace, comprising more than 29 million square miles, handles more than 55,000 flights per day.

“(2) Almost 2,000,000 passengers per day traverse the United States through 20 major en route centers, including more than 700 different sectors.

“(3) Redesign and review of the national airspace may produce benefits for the travelling public by increasing the efficiency and capacity of the air traffic control system and reducing delays.

“(4) Redesign of the national airspace should be a high priority for the Federal Aviation Administration and the air transportation industry.

“(b) REDESIGN.—The Administrator [of the Federal Aviation Administration], with advice from the aviation industry and other interested parties, shall conduct a comprehensive redesign of the national airspace system.

“(c) REPORT.—Not later than December 31, 2000, the Administrator shall transmit to the Committee on Commerce, Science, and Transportation of the Senate and the Committee on Transportation and Infrastructure of the House of Representatives a report on the Administrator’s comprehensive national airspace redesign. The report shall include projected milestones for completion of the redesign and shall also include a date for completion.

“(d) AUTHORIZATION.—There is authorized to be appropriated to the Administrator to carry out this section \$12,000,000 for each of fiscal years 2000, 2001, and 2002.”

§ 40104. Promotion of civil aeronautics and safety of air commerce

(a) DEVELOPING CIVIL AERONAUTICS AND SAFETY OF AIR COMMERCE.—The Administrator of the Federal Aviation Administration shall encourage the development of civil aeronautics and safety of air commerce in and outside the United States. In carrying out this subsection, the Administrator shall take action that the Administrator considers necessary to establish, within available resources, a program to distribute civil aviation information in each region served by the Administration. The program shall provide, on request, informational material and expertise on civil aviation to State and local school administrators, college and university officials, and officers of other interested organizations.

(b) INTERNATIONAL ROLE OF THE FAA.—The Administrator shall promote and achieve global improvements in the safety, efficiency, and environmental effect of air travel by exercising leadership with the Administrator’s foreign counterparts, in the International Civil Aviation Organization and its subsidiary organizations, and other international organizations and fora, and with the private sector.

(c) AIRPORT CAPACITY ENHANCEMENT PROJECTS AT CONGESTED AIRPORTS.—In carrying out subsection (a), the Administrator shall take action to encourage the construction of airport capacity enhancement projects at congested airports as those terms are defined in section 47176.¹

¹ See References in Text note below.