

## HISTORICAL AND REVISION NOTES—CONTINUED

Revised Section	Source (U.S. Code)	Source (Statutes at Large)
41105(b) .....	49 App.:1371(h)(2), (3).	Aug. 23, 1958, Pub. L. 85-726, 72 Stat. 731, §401(h)(2), (3); added Nov. 5, 1990, Pub. L. 101-508, §9127(2), 104 Stat. 1388-371.

## AMENDMENTS

1996—Subsec. (b). Pub. L. 104-287 substituted “Transportation and Infrastructure” for “Public Works and Transportation”.

**§ 41106. Airlift service**

(a) INTERSTATE TRANSPORTATION.—(1) Except as provided in subsection (d) of this section, the transportation of passengers or property by CRAF-eligible aircraft in interstate air transportation obtained by the Secretary of Defense or the Secretary of a military department through a contract for airlift service in the United States may be provided only by an air carrier that—

(A) has aircraft in the civil reserve air fleet or offers to place the aircraft in that fleet; and

(B) holds a certificate issued under section 41102 of this title.

(2) The Secretary of Transportation shall act as expeditiously as possible on an application for a certificate under section 41102 of this title to provide airlift service.

(b) TRANSPORTATION BETWEEN THE UNITED STATES AND FOREIGN LOCATIONS.—Except as provided in subsection (d), the transportation of passengers or property by CRAF-eligible aircraft between a place in the United States and a place outside the United States obtained by the Secretary of Defense or the Secretary of a military department through a contract for airlift service shall be provided by an air carrier referred to in subsection (a).

(c) TRANSPORTATION BETWEEN FOREIGN LOCATIONS.—The transportation of passengers or property by CRAF-eligible aircraft between two places outside the United States obtained by the Secretary of Defense or the Secretary of a military department through a contract for airlift service shall be provided by an air carrier referred to in subsection (a) whenever transportation by such an air carrier is reasonably available.

(d) EXCEPTION.—When the Secretary of Defense decides that no air carrier holding a certificate under section 41102 is capable of providing, and willing to provide, the airlift service, the Secretary of Defense may make a contract to provide the service with an air carrier not having a certificate.

(e) CRAF-ELIGIBLE AIRCRAFT DEFINED.—In this section, “CRAF-eligible aircraft” means aircraft of a type the Secretary of Defense has determined to be eligible to participate in the civil reserve air fleet.

(Pub. L. 103-272, §1(e), July 5, 1994, 108 Stat. 1121; Pub. L. 106-398, §1 [[div. A], title III, §385(a), (b)], Oct. 30, 2000, 114 Stat. 1654, 1654A-87; Pub. L. 112-81, div. A, title III, §365, Dec. 31, 2011, 125 Stat. 1380.)

## HISTORICAL AND REVISION NOTES

Revised Section	Source (U.S. Code)	Source (Statutes at Large)
41106 .....	49 App.:1371(o).  49 App.:1551(b)(1)(E).	Aug. 23, 1958, Pub. L. 85-726, 72 Stat. 731, §401(o); added July 12, 1976, Pub. L. 94-353, §18(a), 90 Stat. 883. Aug. 23, 1958, Pub. L. 85-726, 72 Stat. 731, §1601(b)(1)(E); added Oct. 4, 1984, Pub. L. 98-443, §3(e), 98 Stat. 1704.

In subsection (a), before clause (1), the word “passengers” is substituted for “persons” for consistency in the revised title. The words “Secretary of Defense” are substituted for “Department of Defense” because of 10:113(a). The words “an air carrier” are substituted for “carriers” for clarity.

In subsection (b), the words “to provide the service” are added for clarity.

## AMENDMENTS

2011—Subsecs. (a)(1), (b). Pub. L. 112-81, §365(a)(1), substituted “CRAF-eligible aircraft” for “transport category aircraft”.

Subsec. (c). Pub. L. 112-81, §365(a), substituted “CRAF-eligible aircraft” for “transport category aircraft” and “referred to in subsection (a)” for “that has aircraft in the civil reserve air fleet”.

Subsec. (e). Pub. L. 112-81, §365(b), added subsec. (e).

2000—Subsec. (a). Pub. L. 106-398, §1 [[div. A], title III, §385(a)(1), (b)], in heading substituted “Interstate Transportation” for “General” and in introductory provisions of par. (1), substituted “Except as provided in subsection (d) of this section,” for “Except as provided in subsection (b) of this section,” and struck out “of at least 31 days” after “through a contract”.

Subsecs. (b) to (d). Pub. L. 106-398, §1 [[div. A], title III, §385(a)(2), (3)], added subsecs. (b) and (c) and redesignated former subsec. (b) as (d).

## EFFECTIVE DATE OF 2000 AMENDMENT

Pub. L. 106-398, §1 [[div. A], title III, §385(c)], Oct. 30, 2000, 114 Stat. 1654, 1654A-87, provided that: “The amendments made by this section [amending this section] shall take effect on October 1, 2000.”

**§ 41107. Transportation of mail**

When the United States Postal Service finds that the needs of the Postal Service require the transportation of mail by aircraft in foreign air transportation or between places in Alaska, in addition to the transportation of mail authorized under certificates in effect, the Postal Service shall certify that finding to the Secretary of Transportation with a statement about the additional transportation and facilities necessary to provide the additional transportation. A copy of each certification and statement shall be posted for at least 20 days in the office of the Secretary. After notice and an opportunity for a hearing, the Secretary shall issue a new certificate under section 41102 of this title, or amend or modify an existing certificate under section 41110(a)(2)(A) of this title, to provide the additional transportation and facilities if the Secretary finds the additional transportation is required by the public convenience and necessity.

(Pub. L. 103-272, §§1(e), 4(k)(1), July 5, 1994, 108 Stat. 1121, 1370; Pub. L. 106-31, title VI, §6003, May 21, 1999, 113 Stat. 113.)

HISTORICAL AND REVISION NOTES  
PUB. L. 103-272, §1(e)

Revised Section	Source (U.S. Code)	Source (Statutes at Large)
41107 .....	49 App.:1371(m). 49 App.:1551(a)(4)(A) (related to 49 App.:1371(m)), (b)(1)(E).	Aug. 23, 1958, Pub. L. 85-726, §401(m), 72 Stat. 757. Aug. 23, 1958, Pub. L. 85-726, 72 Stat. 731, §1601(a)(4)(A) (related to §401(m)), (b)(1)(E); added Oct. 4, 1984, Pub. L. 98-443, §3(c), (e), 98 Stat. 1703, 1704.

The words “from time to time” are omitted as surplus. The words “United States Postal Service” and “Postal Service” are substituted for “Postmaster General” in section 401(m) of the Federal Aviation Act of 1958 (Public Law 85-726, 72 Stat. 757) because of sections 4(a) and 6(o) of the Postal Reorganization Act (Public Law 91-375, 84 Stat. 773, 783). The words “in foreign air transportation or between places in Alaska” are substituted for “between any points within the United States or between the United States and foreign countries” for consistency in the revised title and because 49 App.:1551(a)(4)(A) provides that 49 App.:1371(m) no longer applies to interstate or overseas air transportation (except transportation of mail between 2 places in Alaska). In addition, Congress did not intend to maintain the regulation of domestic air transportation of mail. See section 40102(a) of the revised title defining “air transportation” to mean interstate or foreign air transportation or the transportation of mail by aircraft. The word “currently” is omitted as surplus. The words “opportunity for a” are added for consistency in the revised title and with other titles of the United States Code. The words “or certificates” are omitted as surplus because of 1:1. The word “modify” is added for consistency in the revised title.

PUB. L. 103-272, §4(k)

Revised Section	Source (U.S. Code)	Source (Statutes at Large)
41107 .....	49 App.:1551(a)(8).  49 App.:1551(b)(3).	Aug. 23, 1958, Pub. L. 85-726, 72 Stat. 731, §1601(a)(8); added Oct. 4, 1984, Pub. L. 98-443, §3(c), 98 Stat. 1704; Sept. 30, 1988, Pub. L. 100-457, §346 (related to §1601(a)(8) of Federal Aviation Act of 1958), 102 Stat. 2155. Aug. 23, 1958, Pub. L. 85-726, 72 Stat. 731, §1601(b)(3); added Oct. 4, 1984, Pub. L. 98-443, §3(f), 98 Stat. 1704; Sept. 30, 1988, Pub. L. 100-457, §346 (related to §1601(b)(3) of Federal Aviation Act of 1958), 102 Stat. 2155.

Section 4(k) reflects amendments to the restatement required by section 1601(a)(8) of the Federal Aviation Act of 1958 (Public Law 85-726, 72 Stat. 731), as added by section 3(c) of the Civil Aeronautics Board Sunset Act of 1984 (Public Law 98-443, 98 Stat. 1704), and section 1601(b)(3) of the Federal Aviation Act of 1958 (Public Law 85-726, 72 Stat. 731), as added by section 3(f) of the Civil Aeronautics Board Sunset Act of 1984 (Public Law 98-443, 98 Stat. 1704). Section 1601(a)(8) provides that the authority under 49 App.:1371(l) and (m) and 1375(b)-(d) as those sections relate to transportation of mail by aircraft between places in Alaska (restated in sections 41107 and 41901-41903 of the revised title) ceases on January 1, 1999. Section 1601(b)(3) transfers the authority for prescribing rates for transportation of mail between places in Alaska from the Secretary of Transportation to the Postal Service effective January 1, 1999.

AMENDMENTS

1999—Pub. L. 106-31 repealed Pub. L. 103-272, §4(k). See 1994 Amendment note below.

1994—Pub. L. 103-272, §4(k)(1), which directed the amendment of this section by substituting “foreign air

transportation,” for “foreign air transportation or between places in Alaska,” effective Jan. 1, 1999, was repealed by Pub. L. 106-31, §6003, effective Dec. 31, 1998.

EFFECTIVE DATE OF 1999 AMENDMENT

Pub. L. 106-31, title VI, §6003, May 21, 1999, 113 Stat. 113, provided that the amendment made by section 6003 is effective Dec. 31, 1998.

EFFECTIVE DATE OF 1994 AMENDMENT

Pub. L. 103-272, §4(k), July 5, 1994, 108 Stat. 1370, which provided that the amendments made by that section (amending this section and sections 41901, 41902, and 41903 of this title) were effective Jan. 1, 1999, was repealed by Pub. L. 106-31, title VI, §6003, May 21, 1999, 113 Stat. 113, effective Dec. 31, 1998.

§ 41108. Applications for certificates

(a) FORM, CONTENTS, AND PROOF OF SERVICE.—To be issued a certificate of public convenience and necessity under section 41102 of this title, a citizen of the United States must apply to the Secretary of Transportation. The application must—

- (1) be in the form and contain information required by regulations of the Secretary; and
- (2) be accompanied by proof of service on interested persons as required by regulations of the Secretary and on each community that may be affected by the issuance of the certificate.

(b) NOTICE, RESPONSE, AND ACTIONS ON APPLICATIONS.—(1) When an application is filed, the Secretary shall post a notice of the application in the office of the Secretary and give notice of the application to other persons as required by regulations of the Secretary. An interested person may file a response with the Secretary opposing or supporting the issuance of the certificate. Not later than 90 days after the application is filed, the Secretary shall—

- (A) provide an opportunity for a public hearing on the application;
- (B) begin the procedure under section 41111 of this title; or
- (C) dismiss the application on its merits.

(2) An order of dismissal issued by the Secretary under paragraph (1)(C) of this subsection is a final order and may be reviewed judicially under section 46110 of this title.

(3) If the Secretary provides an opportunity for a hearing under paragraph (1)(A) of this subsection, an initial or recommended decision shall be issued not later than 150 days after the date the Secretary provides the opportunity. The Secretary shall issue a final order on the application not later than 90 days after the decision is issued. However, if the Secretary does not act within the 90-day period, the initial or recommended decision on an application to provide—

- (A) interstate air transportation is a final order and may be reviewed judicially under section 46110 of this title; and
- (B) foreign air transportation shall be submitted to the President under section 41307 of this title.

(4) If the Secretary acts under paragraph (1)(B) of this subsection, the Secretary shall issue a final order on the application not later than 180 days after beginning the procedure on the application.