

(A) provide the carrier an opportunity for an oral evidentiary hearing on the record; or

(B) begin to consider the application under section 41111 of this title.

(2) The Secretary shall modify each term the Secretary finds to be inconsistent with the criteria under section 40101(a) and (b) of this title.

(3) An application under this subsection may not be dismissed under section 41108(b)(1)(C) of this title.

(Pub. L. 103-272, §1(e), July 5, 1994, 108 Stat. 1123; Pub. L. 104-287, §5(70), Oct. 11, 1996, 110 Stat. 3396.)

HISTORICAL AND REVISION NOTES
PUB. L. 103-272

Revised Section	Source (U.S. Code)	Source (Statutes at Large)
41109(a)(1) ..	49 App.:1371(e)(1) (words before semicolon). 49 App.:1551(a)(1)(C).	Aug. 23, 1958, Pub. L. 85-726, §401(e)(1), 72 Stat. 755; restated July 10, 1962, Pub. L. 87-528, §3, 76 Stat. 143. Aug. 23, 1958, Pub. L. 85-726, 72 Stat. 731, §1601(a)(1)(C); added Oct. 24, 1978, Pub. L. 95-504, §40(a), 92 Stat. 1744.
41109(a)(2) ..	49 App.:1371(e)(1) (words after semicolon). 49 App.:1371(e)(4).	Aug. 23, 1958, Pub. L. 85-726, §401(e)(3), (4), 72 Stat. 755; restated July 10, 1962, Pub. L. 87-528, §3, 76 Stat. 143; Oct. 24, 1978, Pub. L. 95-504, §15(a), (b), 92 Stat. 1719.
41109(a)(3) ..	49 App.:1371(e)(2).	Aug. 23, 1958, Pub. L. 85-726, §401(e)(2), 72 Stat. 755; restated July 10, 1962, Pub. L. 87-528, §3, 76 Stat. 143; Feb. 15, 1980, Pub. L. 96-192, §5, 94 Stat. 37.
41109(a)(4) ..	49 App.:1551(b)(1)(E). 49 App.:1371(e)(3).	
41109(b)	49 App.:1551(b)(1)(E). 49 App.:1371(e)(7)(B).	Aug. 23, 1958, Pub. L. 85-726, 72 Stat. 731, §401(e)(7)(B); added Oct. 24, 1978, Pub. L. 95-504, §16, 92 Stat. 1720.
	49 App.:1551(b)(1)(E).	

In subsection (a)(1), the text of 49 App.:1371(e)(1) (words before semicolon related to terminal and intermediate points) is omitted as obsolete because of 49 App.:1551(a)(1)(C) and because interstate and overseas air transportation is no longer regulated. The words “type of” are added for clarity. The word “provided” is substituted for “rendered” for consistency in the revised title.

In subsection (a)(2), the words before clause (A) are added for clarity. Clause (A) is substituted for 49 App.:1371(e)(1) (words after semicolon) for clarity and consistency and to eliminate unnecessary words. In clause (B), the words “may not prescribe a term preventing” are substituted for “No term, condition, or limitation of a certificate shall restrict the right” for clarity and consistency. The word “providing” is substituted for “performing” for consistency in the revised title.

In subsection (a)(3) and (4), the word “places” is substituted for “points”, and the word “provide” is substituted for “engage in”, for consistency in the revised title. The words “terminal and intermediate” are omitted as surplus. The words “between which the air carrier is authorized to provide the transportation” are added for clarity and consistency.

In subsection (a)(3), the words “or routes” are omitted because of 1:1. The words “The Secretary” are added for clarity.

In subsection (a)(4), the words “or areas” are omitted because of 1:1.

In subsection (b), the words “condition, or limitation” are omitted as being included in “term”.

In subsection (b)(1), before clause (A), the word “modify” is substituted for “removal or modification” to eliminate unnecessary words. The word “provide” is substituted for “engage in” for consistency in the revised title. In clause (A), the words “provide the carrier an opportunity” are substituted for “set such application” for consistency in the revised title and with other titles of the United States Code. In clause (B), the words “the simplified procedures established by the Board in regulations pursuant to” are omitted as surplus.

PUB. L. 104-287

This amends 49:41109(a) to clarify the restatement of 49 App.:1371(e) by section 1 of the Act of July 5, 1994 (Public Law 103-272, 108 Stat. 1123).

AMENDMENTS

1996—Subsec. (a)(5). Pub. L. 104-287 added par. (5).

EFFECTIVE DATE OF 1996 AMENDMENT

Amendment by Pub. L. 104-287 effective July 5, 1994, see section 8(1) of Pub. L. 104-287, set out as a note under section 5303 of this title.

§ 41110. Effective periods and amendments, modifications, suspensions, and revocations of certificates

(a) GENERAL.—(1) Each certificate issued under section 41102 of this title is effective from the date specified in it and remains in effect until—

(A) the Secretary of Transportation suspends or revokes the certificate under this section;

(B) the end of the period the Secretary specifies for an air carrier having a certificate of temporary authority issued under section 41102(a)(2) of this title; or

(C) the Secretary certifies that transportation is no longer being provided under a certificate.

(2) On application or on the initiative of the Secretary and after notice and an opportunity for a hearing or, except as provided in paragraph (4) of this subsection, under section 41111 of this title, the Secretary may—

(A) amend, modify, or suspend any part of a certificate if the Secretary finds the public convenience and necessity require amendment, modification, or suspension; and

(B) revoke any part of a certificate if the Secretary finds that the holder of the certificate intentionally does not comply with this chapter, sections 41308-41310(a), 41501, 41503, 41504, 41506, 41510, 41511, 41701, 41702, 41705-41709, 41711, 41712, and 41731-41742, chapter 419, subchapter II of chapter 421, and section 46301(b) of this title, a regulation or order of the Secretary under any of those provisions, or a term of its certificate.

(3) The Secretary may revoke a certificate under paragraph (2)(B) of this subsection only if the holder of the certificate does not comply, within a reasonable time the Secretary specifies, with an order to the holder requiring compliance.

(4) A certificate to provide foreign air transportation may not be amended, modified, suspended, or revoked under section 41111 of this title if the holder of the certificate requests an

oral evidentiary hearing or the Secretary finds, under all the facts and circumstances, that the hearing is required in the public interest.

(b) ALL-CARGO AIR TRANSPORTATION.—The Secretary may order that a certificate issued under section 41103 of this title authorizing all-cargo air transportation is ineffective if, after notice and an opportunity for a hearing, the Secretary finds that the transportation is not provided to the minimum extent specified by the Secretary.

(c) FOREIGN AIR TRANSPORTATION.—(1) Notwithstanding subsection (a)(2)–(4) of this section, after notice and a reasonable opportunity for the affected air carrier to present its views, but without a hearing, the Secretary may suspend or revoke the authority of an air carrier to provide foreign air transportation to a place under a certificate issued under section 41102 of this title if the carrier—

(A) notifies the Secretary, under section 41734(a) of this title or a regulation of the Secretary, that it intends to suspend all transportation to that place; or

(B) does not provide regularly scheduled transportation to the place for 90 days immediately before the date the Secretary notifies the carrier of the action the Secretary proposes.

(2) Paragraph (1)(B) of this subsection does not apply to a place provided seasonal transportation comparable to the transportation provided during the prior year.

(d) TEMPORARY CERTIFICATES.—On application or on the initiative of the Secretary, the Secretary may—

(1) review the performance of an air carrier issued a certificate under section 41102(c) of this title on the basis that the air carrier will provide innovative or low-priced air transportation under the certificate; and

(2) amend, modify, suspend, or revoke the certificate or authority under subsection (a)(2) or (c) of this section if the air carrier has not provided, or is not providing, the transportation.

(e) CONTINUING REQUIREMENTS.—(1) To hold a certificate issued under section 41102 of this title, an air carrier must continue to be fit, willing, and able to provide the transportation authorized by the certificate and to comply with this part and regulations of the Secretary.

(2) After notice and an opportunity for a hearing, the Secretary shall amend, modify, suspend, or revoke any part of a certificate issued under section 41102 of this title if the Secretary finds that the air carrier—

(A) is not fit, willing, and able to provide the transportation authorized by the certificate and to comply with this part and regulations of the Secretary; or

(B) does not file reports necessary for the Secretary to decide if the carrier is complying with the requirements of clause (A) of this paragraph.

(f) ILLEGAL IMPORTATION OF CONTROLLED SUBSTANCES.—The Secretary—

(1) in consultation with appropriate departments, agencies, and instrumentalities of the United States Government, shall reexamine immediately the fitness of an air carrier that—

(A) violates the laws and regulations of the United States related to the illegal importation of a controlled substance; or

(B) does not adopt available measures to prevent the illegal importation of a controlled substance into the United States on its aircraft; and

(2) when appropriate, shall amend, modify, suspend, or revoke the certificate of the carrier issued under this chapter.

(g) RESPONSES.—An interested person may file a response with the Secretary opposing or supporting the amendment, modification, suspension, or revocation of a certificate under subsection (a) of this section.

(Pub. L. 103–272, § 1(e), July 5, 1994, 108 Stat. 1123; Pub. L. 103–429, § 6(50), Oct. 31, 1994, 108 Stat. 4384.)

HISTORICAL AND REVISION NOTES
PUB. L. 103–272

Revised Section	Source (U.S. Code)	Source (Statutes at Large)
41110(a)(1) ..	49 App.:1371(f). 49 App.:1551(b)(1)(E).	Aug. 23, 1958, Pub. L. 85–726, § 401(f), 72 Stat. 755; Oct. 24, 1978, Pub. L. 95–504, §§ 10(b), 17, 92 Stat. 1716, 1720. 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.
41110(a)(2)–(4).	49 App.:1371(g)(1).	Aug. 23, 1958, Pub. L. 85–726, § 401(g), 72 Stat. 756; Oct. 24, 1978, Pub. L. 95–504, § 18, 92 Stat. 1720; restated Feb. 15, 1980, Pub. L. 96–192, § 6, 94 Stat. 37.
41110(b)	49 App.:1551(b)(1)(E). 49 App.:1388(b)(4).	Aug. 23, 1958, Pub. L. 85–726, 72 Stat. 731, § 418(b)(4); added Nov. 9, 1977, Pub. L. 95–163, § 17(a), 91 Stat. 1285.
41110(c)	49 App.:1551(b)(1)(E). 49 App.:1371(g)(3).	
41110(d)	49 App.:1551(b)(1)(E). 49 App.:1371(d)(8) (last sentence). 49 App.:1551(a)(1)(B).	Aug. 23, 1958, Pub. L. 85–726, 72 Stat. 731, § 401(d)(8) (last sentence); added Oct. 24, 1978, Pub. L. 95–504, § 13, 92 Stat. 1719. Aug. 23, 1958, Pub. L. 85–726, 72 Stat. 731, § 1601(a)(1)(B); added Oct. 24, 1978, Pub. L. 95–504, § 40(a), 92 Stat. 1744.
41110(e)	49 App.:1551(b)(1)(E). 49 App.:1371(r) (related to certificate).	Aug. 23, 1958, Pub. L. 85–726, 72 Stat. 731, § 401(r) (related to certificate); added Oct. 24, 1978, Pub. L. 95–504, § 20(d)(1), 92 Stat. 1722.
41110(f)	49 App.:1551(b)(1)(E). 49 App.:1371a (related to certificate).	Aug. 15, 1985, Pub. L. 99–88, § 100 (1st complete par. related to certificate on p. 352), 99 Stat. 352.
41110(g)	49 App.:1371(g)(2). 49 App.:1551(b)(1)(E).	

In subsection (a)(1)(C), the words “transportation is no longer being provided under a certificate” are substituted for “operation thereunder has ceased” and “operations thereunder have ceased” for clarity and consistency.

In subsections (a)(2) and (e), the words “opportunity for a” are added for consistency in the revised title and with other titles of the United States Code.

In subsection (a)(2), before clause (A), the word “application” is substituted for “petition or complaint” for consistency in the revised title and with other titles of the Code and to eliminate unnecessary words. The words “except as provided in paragraph (4) of this subsection” are added for clarity. The words “the simplified procedures under” are omitted as surplus. In clause (A), the word “alter” is omitted as surplus. In

clause (B), the reference to 49 App.:1372 is omitted from the cross-references of “this subchapter” because 49 App.:1372 is concerned with foreign air carrier permits and not relevant to air carrier certificate revocation. The word “rule” is omitted as being synonymous with “regulation”. The words “condition, or limitation” are omitted as surplus.

In subsection (a)(3), the words “to the provision, or to the order (other than an order issued in accordance with this sentence), rule, regulation, term, condition, or limitation found by the Board to have been violated” are omitted as surplus.

In subsection (a)(4), the word “provide” is substituted for “engage in” for consistency in the revised title. The words “altered” and “the simplified procedures of” are omitted as surplus.

In subsection (b), the words “to the extent of such service” are omitted as surplus. The word “provided” is substituted for “performed” for consistency in the revised title.

In subsection (c)(1), the word “place” is substituted for “point” for consistency in the revised title. In clause (A), the cross-reference is to section 41734(a) of the revised title for clarity because 49 App.:1371(j) is obsolete. The comparable provision is 49 App.:1389(b)(2), restated as section 41734(a). The words “provided by that carrier” are omitted as surplus. In clause (B), the word “immediately” is added for clarity.

In subsection (d)(2), the words “alter” and “the procedures prescribed in” are omitted as surplus.

In subsections (e) and (f)(2), the word “amend” is added for consistency.

In subsection (e), before clause (1), the words “The requirement that each applicant for a certificate or any other authority . . . shall be a continuing requirement applicable to each such air carrier with respect to the transportation authorized by the Board” are omitted as surplus. The words “by order” are omitted as unnecessary because of 5:ch. 5, subch. II. In clause (1), the word “provide” is substituted for “perform” for consistency in the revised title. The word “properly” is omitted as surplus. The word “comply” is substituted for “conform to” for consistency in the revised title. The word “rules” is omitted as being synonymous with “regulations”. The word “requirements” is omitted as surplus.

In subsection (f), before clause (1), the words “Notwithstanding any other provision of law” are omitted as surplus. The words “on and after August 15, 1985” are omitted as executed. In clause (1), before subclause (A), the words “law enforcement and other” are omitted as surplus. The words “departments, agencies, and instrumentalities of the United States Government” are substituted for “agencies” for consistency in the revised title and with other titles of the Code. The words “an air carrier” are substituted for “any carrier” for clarity. In clause (2), the words “of public convenience and necessity” are omitted as surplus. The words “issued under this chapter” are added for clarity.

In subsection (g), the word “response” is substituted for “protest or memorandum” to eliminate unnecessary words. The word “alteration” is omitted as surplus.

PUB. L. 103-429

This amends 49:41110(e) to clarify the restatement of 49 App.:1371(r) (related to certificate) by section 1 of the Act of July 5, 1994 (Public Law 103-272, 108 Stat. 1124).

AMENDMENTS

1994—Subsec. (e). Pub. L. 103-429 reenacted heading without change and amended text generally. Prior to amendment, text read as follows: “After notice and an opportunity for a hearing, the Secretary shall amend, modify, suspend, or revoke any part of a certificate issued under section 41102 of this title if the Secretary finds that the air carrier—

“(1) is not fit, willing, and able to continue to provide the transportation authorized by the certificate and to comply with this part and regulations of the Secretary; or

“(2) does not file reports necessary for the Secretary to decide if the carrier is complying with the requirements of clause (1) of this subsection.”

EFFECTIVE DATE OF 1994 AMENDMENT

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.

§ 41111. Simplified procedure to apply for, amend, modify, suspend, and transfer certificates

(a) GENERAL REQUIREMENTS.—(1) The Secretary of Transportation shall prescribe regulations that simplify the procedure for—

(A) acting on an application for a certificate to provide air transportation under section 41102 of this title; and

(B) amending, modifying, suspending, or transferring any part of that certificate under section 41105 or 41110(a) or (c) of this title.

(2) Regulations under this section shall provide for notice and an opportunity for each interested person to file appropriate written evidence and argument. An oral evidentiary hearing is not required to be provided under this section.

(b) WHEN SIMPLIFIED PROCEDURE USED.—The Secretary may use the simplified procedure to act on an application for a certificate to provide air transportation under section 41102 of this title, or to amend, modify, suspend, or transfer any part of that certificate under section 41105 or 41110(a) or (c) of this title, when the Secretary decides the use of the procedure is in the public interest.

(c) CONTENTS.—(1) To the extent the Secretary finds practicable, regulations under this section shall include each standard the Secretary will apply when—

(A) deciding whether to use the simplified procedure; and

(B) making a decision on an action in which the procedure is used.

(2) The regulations may provide that written evidence and argument may be filed under section 41108(b) of this title as a part of a response opposing or supporting the issuance of a certificate.

(Pub. L. 103-272, §1(e), July 5, 1994, 108 Stat. 1125.)

HISTORICAL AND REVISION NOTES

Revised Section	Source (U.S. Code)	Source (Statutes at Large)
41111(a)	49 App.:1371(p)(1) (1st, 2d sentences). 49 App.:1551(b)(1)(E).	Aug. 23, 1958, Pub. L. 85-726, 72 Stat. 731, §401(p); added Oct. 24, 1978, Pub. L. 95-504, §21(a)(1), 92 Stat. 1723. 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.
41111(b)	49 App.:1371(p)(2) (1st sentence).	
41111(c)	49 App.:1551(b)(1)(E). 49 App.:1371(p)(1) (last sentence), (2) (last sentence). 49 App.:1551(b)(1)(E).	

In this section, the words “acting on” and “act on” are substituted for “disposition of” for consistency.

In subsection (a)(1)(A), the word “provide” is substituted for “engage in” for consistency in the revised title.