

§ 9511. Definitions

In this chapter:

(1) The terms “aircraft”, “citizen of the United States”, “civil aircraft”, “person”, and “public aircraft” have the meanings given those terms by section 40102(a) of title 49.

(2) The term “passenger-cargo combined aircraft” means a civil aircraft equipped so that its main deck can be used to carry both passengers and property (including mail) simultaneously.

(3) The term “cargo-capable aircraft” means a civil aircraft equipped so that all or substantially all of the aircraft’s capacity can be used for the carriage of property or mail.

(4) The term “passenger aircraft” means a civil aircraft equipped so that its main deck can be used for the carriage of individuals and cannot be used principally, without major modification, for the carriage of property or mail.

(5) The term “cargo-convertible aircraft” means a passenger aircraft equipped or designed so that all or substantially all of the main deck of the aircraft can be readily converted for the carriage of property or mail.

(6) The term “Civil Reserve Air Fleet” means those aircraft allocated, or identified for allocation, to the Department of Defense under section 101 of the Defense Production Act of 1950 (50 U.S.C. 4511), or made available (or agreed to be made available) for use by the Department of Defense under a contract made under this title, as part of the program developed by the Department of Defense through which the Department of Defense augments its airlift capability by use of civil aircraft.

(7) The term “contractor” means a citizen of the United States (A) who owns or controls, or who will own or control, a new or existing aircraft and who contracts with the Secretary under section 9512 of this title to modify that aircraft by including or incorporating specified defense features in that aircraft and to commit that aircraft to the Civil Reserve Air Fleet, (B) who subsequently obtains ownership or control of a civil aircraft covered by such a contract and assumes all existing obligations under that contract, or (C) who owns or controls, or will own or control, new or existing aircraft and who, by contract, commits some or all of such aircraft to the Civil Reserve Air Fleet.

(8) The term “existing aircraft” means a civil aircraft other than a new aircraft.

(9) The term “new aircraft” means a civil aircraft that a manufacturer has not begun to assemble before the aircraft is covered by a contract under section 9512 of this title.

(10) The term “Secretary” means the Secretary of the Air Force.

(11) The term “defense feature” means equipment or design features included or incorporated in a civil aircraft which ensures the compatibility of such aircraft with the Department of Defense airlift system. Such term includes any equipment or design feature which enables such aircraft to be readily modified for use as an aeromedical aircraft or a cargo-convertible, cargo-capable, or passenger-cargo combined aircraft.

(12) The term “Civil Reserve Air Fleet program” means the program developed by the Department of Defense through which the Department of Defense augments its airlift capability by use of civil aircraft.

(Added Pub. L. 97–86, title IX, §915(2), Dec. 1, 1981, 95 Stat. 1125; amended Pub. L. 100–180, div. A, title XII, §1231(17), Dec. 4, 1987, 101 Stat. 1161; Pub. L. 100–456, div. A, title XII, §1233(k)(2), Sept. 29, 1988, 102 Stat. 2058; Pub. L. 101–189, div. A, title XVI, §1636(a), Nov. 29, 1989, 103 Stat. 1609; Pub. L. 103–272, §5(b)(2), July 5, 1994, 108 Stat. 1373; Pub. L. 103–355, title III, §3031, Oct. 13, 1994, 108 Stat. 3334; Pub. L. 114–92, div. A, title X, §1085(b)(3), Nov. 25, 2015, 129 Stat. 1005; Pub. L. 114–328, div. A, title X, §1081(b)(4)(C), Dec. 23, 2016, 130 Stat. 2419.)

AMENDMENTS

2016—Par. (6). Pub. L. 114–328 substituted “(50 U.S.C. 4511)” for “(50 U.S.C. App. 2071)”.

2015—Par. (12). Pub. L. 114–92 added par. (12).

1994—Pub. L. 103–355, §3031(c), substituted “In this chapter:” for “In this subchapter:” in introductory provisions.

Par. (1). Pub. L. 103–355, §3031(b)(1)(C), which directed substitution of “section 40102 of title 49” for “section 101 of the Federal Aviation Act of 1958 (49 U.S.C. 1301)”, could not be executed because of the intervening amendment by Pub. L. 103–272 which substituted “section 40102(a) of title 49” for “section 101 of the Federal Aviation Act of 1958 (49 U.S.C. 1301)”, see below.

Pub. L. 103–355, §3031(b)(1)(A), (B), inserted “‘civil aircraft,’” before “‘person,’” and substituted “‘meanings’” for “‘meaning’”.

Pub. L. 103–272 substituted “section 40102(a) of title 49” for “section 101 of the Federal Aviation Act of 1958 (49 U.S.C. 1301)”.

Par. (6). Pub. L. 103–355, §3031(b)(2), (3), redesignated par. (7) as (6) and struck out former par. (6) which read as follows: “The term ‘civil aircraft’ means an aircraft other than a public aircraft.”

Par. (7). Pub. L. 103–355, §3031(b)(3), redesignated par. (8) as (7). Former par. (7) redesignated (6).

Par. (8). Pub. L. 103–355, §3031(b)(3), redesignated par. (9) as (8). Former par. (8) redesignated (7).

Pub. L. 103–355, §3031(a)(1), inserted “under section 9512 of this title” after “and who contracts with the Secretary” in subpar. (A) and added subpar. (C).

Pars. (9), (10). Pub. L. 103–355, §3031(b)(3), redesignated pars. (10) and (11) as (9) and (10), respectively. Former par. (9) redesignated (8).

Par. (11). Pub. L. 103–355, §3031(b)(3), (4), redesignated par. (12) as (11), substituted “compatibility” for “interoperability”, and inserted “an aeromedical aircraft or” before “a cargo-convertible”. Former par. (11) redesignated (10).

Par. (12). Pub. L. 103–355, §3031(b)(3), redesignated par. (12) as (11).

1989—Par. (2). Pub. L. 101–189, §1636(a)(1), amended par. (2) generally. Prior to amendment, par. (2) read as follows: “The term ‘cargo air service’ means the carriage of property or mail on the main deck of a civil aircraft.”

Par. (5). Pub. L. 101–189, §1636(a)(2), amended par. (5) generally. Prior to amendment, par. (5) read as follows: “The term ‘cargo-convertible feature’ means equipment or design features included or incorporated in a passenger aircraft that can readily enable all or substantially all of that aircraft’s main deck to be used for the carriage of property or mail.”

Par. (8)(A). Pub. L. 101–189, §1636(a)(3), substituted “a new or existing aircraft and who contracts with the Secretary to modify that aircraft by including or incorporating specified defense features” for “a civil aircraft and who contracts with the Secretary of the Air Force to modify that aircraft by including or incorporating

cargo-convertible features suitable for defense purposes”.

Par. (12). Pub. L. 101-189, §1636(a)(4), added par. (12).

1988—Par. (1). Pub. L. 100-456 substituted “The terms” for “The term”.

1987—Pars. (1) to (11). Pub. L. 100-180 inserted “The term” after each par. designation, and revised first word in quotes in pars. (1) to (6) and (8) to (10) to make initial letter of each word lowercase.

EFFECTIVE DATE OF 1994 AMENDMENT

For effective date and applicability of amendment by Pub. L. 103-355, see section 10001 of Pub. L. 103-355, set out as a note under section 2302 of this title.

§ 9511a. Civil Reserve Air Fleet contracts: payment rate

(a) **AUTHORITY.**—The Secretary of Defense shall determine a fair and reasonable rate of payment for airlift services provided to the Department of Defense by air carriers who are participants in the Civil Reserve Air Fleet program.

(b) **REGULATIONS.**—The Secretary of Defense shall prescribe regulations for purposes of subsection (a). The Secretary may exclude from the applicability of those regulations any airlift services contract made through the use of competitive procedures.

(c) **COMMITMENT OF AIRCRAFT AS A BUSINESS FACTOR.**—The Secretary may, in determining the quantity of business to be received under an airlift services contract for which the rate of payment is determined in accordance with subsection (a), use as a factor the relative amount of airlift capability committed by each air carrier to the Civil Reserve Air Fleet.

(d) **INAPPLICABLE PROVISIONS OF LAW.**—An airlift services contract for which the rate of payment is determined in accordance with subsection (a) shall not be subject to the provisions of section 2306a of this title or to the provisions of subsections (a) and (b) of section 1502 of title 41.

(Added Pub. L. 112-81, div. A, title III, §366(a), Dec. 31, 2011, 125 Stat. 1380.)

INITIAL REGULATIONS

Pub. L. 112-81, div. A, title III, §366(c), Dec. 31, 2011, 125 Stat. 1381, provided that: “Regulations shall be prescribed under section 9511a(b) of title 10, United States Code, as added by subsection (a), not later than 180 days after the date of the enactment of this Act [Dec. 31, 2011].”

§ 9512. Contracts for the inclusion or incorporation of defense features

(a) **AUTHORITY TO CONTRACT.**—Subject to the provisions of chapter 137 of this title, and to the extent that funds are otherwise available for obligation, the Secretary—

(1) may contract with any citizen of the United States for the inclusion or incorporation of defense features in any new or existing aircraft to be owned or controlled by that citizen; and

(2) may contract with United States aircraft manufacturers for the inclusion or incorporation of defense features in new aircraft to be operated by a United States air carrier.

(b) **COMMITMENT TO CIVIL RESERVE AIR FLEET.**—Each contract entered into under this section shall provide—

(1) that any aircraft covered by the contract shall be committed to the Civil Reserve Air Fleet;

(2) that, so long as the aircraft is owned or controlled by a contractor, the contractor shall operate the aircraft for the Department of Defense as needed during any activation of the Civil Reserve Air Fleet, notwithstanding any other contract or commitment of that contractor; and

(3) that the contractor operating the aircraft for the Department of Defense shall be paid for that operation at fair and reasonable rates.

(c) **TERMS AND REQUIRED REPAYMENT.**—Each contract entered into under subsection (a) shall include a provision that requires the contractor to repay to the United States a percentage (to be established in the contract) of any amount paid by the United States to the contractor under the contract with respect to any aircraft if—

(1) the aircraft is destroyed or becomes unusable, as defined in the contract;

(2) the defense features specified in the contract are rendered unusable or are removed from the aircraft;

(3) control over the aircraft is transferred to any person that is unable or unwilling to assume the contractor's obligations under the contract; or

(4) the registration of the aircraft under section 44103 of title 49 is terminated for any reason not beyond the control of the contractor.

(d) **AUTHORITY TO CONTRACT AND PAY DIRECTLY.**—(1) A contract under subsection (a) for the inclusion or incorporation of defense features in an aircraft may include a provision authorizing the Secretary—

(A) to contract, with the concurrence of the contractor, directly with another person for the performance of the work necessary for the inclusion or incorporation of defense features in such aircraft; and

(B) to pay such other person directly for such work.

(2) A contract entered into pursuant to paragraph (1) may include such specifications for work and equipment as the Secretary considers necessary to meet the needs of the United States.

(e) **EXCLUSIVITY OF COMMITMENT TO CIVIL RESERVE AIR FLEET.**—Notwithstanding section 101 of the Defense Production Act of 1950 (50 U.S.C. 4511), each aircraft covered by a contract entered into under this section shall be committed exclusively to the Civil Reserve Air Fleet for use by the Department of Defense as needed during any activation of the Civil Reserve Air Fleet unless the aircraft is released from that use by the Secretary of Defense.

(Added Pub. L. 97-86, title IX, §915(2), Dec. 1, 1981, 95 Stat. 1126; amended Pub. L. 98-525, title XIV, §1405(57), Oct. 19, 1984, 98 Stat. 2626; Pub. L. 101-189, div. A, title XVI, §1636(b), Nov. 29, 1989, 103 Stat. 1609; Pub. L. 103-272, §5(b)(3), July 5, 1994, 108 Stat. 1373; Pub. L. 103-355, title III, §3032(1)-(8), Oct. 13, 1994, 108 Stat. 3334, 3335; Pub. L. 104-106, div. A, title X, §1087, Feb. 10, 1996, 110 Stat. 458; Pub. L. 114-328, div. A, title X, §1081(b)(4)(D), Dec. 23, 2016, 130 Stat. 2419.)