

public convenience and necessity. The Secretary may make that decision when issuing, amending, or modifying the certificate. This subsection does not apply to a certificate issued under section 41102 to a citizen of the United States who, before July 1, 1977—

(1) maintained a principal place of business in Alaska; and

(2) conducted air transport operations between places in Alaska with aircraft with a certificate for gross takeoff weight of more than 40,000 pounds.

(d) **SUSPENSIONS.**—(1) The Secretary shall suspend for not more than 30 days any part of the certificate of a charter air carrier if the Secretary decides that the failure of the carrier to comply with the requirements described in sections 41110(e) and 41112 of this title, or a regulation or order of the Secretary under section 41110(e) or 41112, requires immediate suspension in the interest of the rights, welfare, or safety of the public. The Secretary may act under this paragraph without notice or a hearing.

(2) The Secretary shall begin immediately a hearing to decide if the certificate referred to in paragraph (1) of this subsection should be amended, modified, suspended, or revoked. Until the hearing is completed, the Secretary may suspend the certificate for additional periods totaling not more than 60 days. If the Secretary decides that the carrier is complying with the requirements described in sections 41110(e) and 41112 of this title and regulations and orders under sections 41110(e) and 41112, the Secretary immediately may end the suspension period and proceeding begun under this subsection. However, the Secretary is not prevented from imposing a civil penalty on the carrier for violating the requirements described in section 41110(e) or 41112 or a regulation or order under section 41110(e) or 41112.

(Pub. L. 103–272, §1(e), July 5, 1994, 108 Stat. 1120; Pub. L. 106–181, title VII, §723, Apr. 5, 2000, 114 Stat. 165; Pub. L. 106–528, §8(c), Nov. 22, 2000, 114 Stat. 2522; Pub. L. 108–176, title VIII, §822, Dec. 12, 2003, 117 Stat. 2594.)

HISTORICAL AND REVISION NOTES

Revised Section	Source (U.S. Code)	Source (Statutes at Large)
41104(a)	49 App.:1371(n)(2), (4).	Aug. 23, 1958, Pub. L. 85-726, 72 Stat. 731, §401(n)(2)-(4); added July 10, 1962, Pub. L. 87-528, §4, 76 Stat. 145; restated Oct. 24, 1978, Pub. L. 95-504, §20(b), 92 Stat. 1721.
	49 App.:1551(a)(1)(E) (related to 49 App.:1371(n)(4)).	Aug. 23, 1958, Pub. L. 85-726, 72 Stat. 731, §1601(a)(1)(E) (related to §401(n)(4)); added Oct. 24, 1978, Pub. L. 95-504, §40(a), 92 Stat. 1744.
	49 App.:1551(b)(1)(E).	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.
41104(b)	49 App.:1371(n)(3).	
41104(c)	49 App.:1551(b)(1)(E).	
	49 App.:1371(n)(5).	Aug. 23, 1958, Pub. L. 85-726, 72 Stat. 731, §401(n)(5); added July 10, 1962, Pub. L. 87-528, §4, 76 Stat. 145; Oct. 24, 1978, Pub. L. 95-504, §20(c), 92 Stat. 1722.
	49 App.:1371(n)(6).	Aug. 23, 1958, Pub. L. 85-726, 72 Stat. 731, §401(n)(6); added July 10, 1962, Pub. L. 87-528, §4, 76 Stat. 145.
	49 App.:1551(b)(1)(E).	

In subsection (a), the word “rule” is omitted as being synonymous with “regulation”. The words “charter air transportation” are substituted for “charter trips” for consistency in this part. The text of 49 App.:1371(n)(4) and 1551(n)(1)(E) (related to 49 App.:1371(n)(4)) is omitted because inclusive tour charters have been abolished and charter air carriers have received authority to sell public charter flights directly to the public.

In subsection (b), before clause (1), the words “Notwithstanding any other provision of this subchapter” are omitted as surplus. The words “An air carrier holding” are added for clarity. The words “State of” are omitted as surplus. The word “modifying” is added for consistency in the revised title. The words “citizen of the United States” are substituted for “person” for clarity and consistency because only a citizen of the United States may be an “air carrier” as defined in section 40102(a) of the revised title.

In subsection (c), the words “the requirements described in” are added for clarity.

In subsection (c)(1), the text of 49 App.:1371(n)(6) is omitted as surplus because of 49:322(a).

In subsection (c)(2), the word “amended” is added for consistency in the revised title.

AMENDMENTS

2003—Subsec. (b)(1). Pub. L. 108–176, §822(a), inserted a comma after “regularly scheduled charter air transportation”, substituted “paragraphs (3) and (4)” for “paragraph (3)” and “flight, to or from an airport that—” for “flight unless such air transportation is to and from an airport that has an airport operating certificate issued under part 139 of title 14, Code of Federal Regulations (or any subsequent similar regulation).”, and added subpars. (A) and (B).

Subsec. (b)(4). Pub. L. 108–176, §822(b), added par. (4).

2000—Subsec. (b). Pub. L. 106–181, §723(2), added subsec. (b). Former subsec. (b) redesignated (c).

Subsec. (b)(1). Pub. L. 106–528, §8(c)(1), added par. (1) and struck out heading and text of former par. (1). Text read as follows: “An air carrier, including an indirect air carrier, which operates aircraft designed for more than nine passenger seats, may not provide regularly scheduled charter air transportation for which the general public is provided in advance a schedule containing the departure location, departure time, and arrival location of the flights to or from an airport that is not located in Alaska and that does not have an operating certificate issued under part 139 of title 14, Code of Federal Regulations (or any subsequent similar regulations).”

Subsec. (b)(3). Pub. L. 106–528, §8(c)(2), added par. (3).

Subsecs. (c), (d). Pub. L. 106–181, §723(1), redesignated subsecs. (b) and (c) as (c) and (d), respectively.

EFFECTIVE DATE OF 2003 AMENDMENT

Amendment by Pub. L. 108–176 applicable only to fiscal years beginning after Sept. 30, 2003, except as otherwise specifically provided, see section 3 of Pub. L. 108–176, set out as a note under section 106 of this title.

EFFECTIVE DATE OF 2000 AMENDMENTS

Amendment by Pub. L. 106–528 effective 30 days after Nov. 22, 2000, see section 9 of Pub. L. 106–528, set out as a note under section 106 of this title.

Amendment by Pub. L. 106–181 applicable only to fiscal years beginning after Sept. 30, 1999, see section 3 of Pub. L. 106–181, set out as a note under section 106 of this title.

§ 41105. Transfers of certificates

(a) **GENERAL.**—A certificate issued under section 41102 of this title may be transferred only when the Secretary of Transportation approves the transfer as being consistent with the public interest.

(b) **CERTIFICATION TO CONGRESS.**—When a certificate is transferred, the Secretary shall cer-

tify to the Committee on Commerce, Science, and Transportation of the Senate and the Committee on Transportation and Infrastructure of the House of Representatives that the transfer is consistent with the public interest. The Secretary shall include with the certification a report analyzing the effects of the transfer on—

- (1) the viability of each carrier involved in the transfer;
- (2) competition in the domestic airline industry; and
- (3) the trade position of the United States in the international air transportation market.

(Pub. L. 103–272, §1(e), July 5, 1994, 108 Stat. 1121; Pub. L. 104–287, §5(9), Oct. 11, 1996, 110 Stat. 3389.)

HISTORICAL AND REVISION NOTES

Revised Section	Source (U.S. Code)	Source (Statutes at Large)
41105(a)	49 App.:1371(h)(1).	Aug. 23, 1958, Pub. L. 85–726, §401(h)(1), 72 Stat. 756; Nov. 5, 1990, Pub. L. 101–508, §9127(1), 104 Stat. 1388–371.
	49 App.:1551(b)(1)(E).	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.
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 re-

ferred 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).	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.
	49 App.:1551(b)(1)(E).	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