§ 40102. Definitions

(a) General Definitions.—In this part—

(1) "aeronautics" means the science and art of flight.
(2) "air carrier" means a citizen of the United States undertaking by any means, directly or indirectly, to provide air transportation.
(3) "air commerce" means foreign air commerce, interstate air commerce, the transportation of mail by aircraft, the operation of aircraft within the limits of a Federal airway, or the operation of aircraft that directly affects, or may endanger safety in, foreign or interstate air commerce.
(4) "air navigation facility" means a facility used, available for use, or designed for use, in aid of air navigation, including—
   (A) a landing area;
   (B) a light;
   (C) apparatus or equipment for distributing weather information, signaling, radio-directional finding, or radio or other electromagnetic communication; and
   (D) another structure or mechanism for guiding or controlling flight in the air or the landing and takeoff of aircraft.
(5) "air transportation" means foreign air transportation, interstate air transportation, or the transportation of mail by aircraft.
(6) "aircraft" means any contrivance invented, used, or designed to navigate, or fly in, the air.
(7) "aircraft engine" means an engine used, or intended to be used, to propel an aircraft, including a part, appurtenance, and accessory of the engine, except a propeller.
(8) "airman" means an individual—
   (A) in command, or as pilot, mechanic, or member of the crew, who navigates aircraft when under way;
   (B) except to the extent the Administrator of the Federal Aviation Administration may provide otherwise for individuals employed outside the United States, who is directly in charge of inspecting, maintaining, overhauling, or repairing aircraft, aircraft engines, propellers, or appliances; or
   (C) who serves as an aircraft dispatcher or air traffic control-tower operator.

(b) Definitions of Terms in Pub. L. 107–71

(a) Nothing in this order shall be construed to impair or otherwise affect:
   (i) authority granted by law to a department or agency, or the head thereof; or
   (ii) functions of the Director of the Office of Management and Budget relating to budget, administrative, or legislative proposals.
(b) This order shall be implemented consistent with applicable law and subject to the availability of appropriations.
(c) This order is not intended to, and does not, create any right or benefit, substantive or procedural, enforceable at law or in equity, by any party against the United States, its departments, agencies, instrumentalities, or entities, its officers, employees, or agents, or any other person.

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(19) "conveyance" means an instrument, including a conditional sales contract, affecting title to, or an interest in, property.

(20) "Federal airway" means a part of the navigable airspace that the Administrator designates as a Federal airway.

(21) "foreign air carrier" means a person, not a citizen of the United States, undertaking by any means, directly or indirectly, to provide foreign air transportation.

(22) "foreign air commerce" means the transportation of passengers or property by aircraft for compensation, the transportation of mail by aircraft, or the operation of aircraft in furthering a business or vocation, between a place in the United States and a place outside the United States when any part of the transportation or operation is by aircraft.

(23) "foreign air transportation" means the transportation of passengers or property by aircraft as a common carrier for compensation, or the transportation of mail by aircraft, between a place in the United States and a place outside the United States when any part of the transportation is by aircraft.

(24) "interstate air commerce" means the transportation of passengers or property by aircraft for compensation, the transportation of mail by aircraft, or the operation of aircraft in furthering a business or vocation—

(A) between a place in—

(i) a State, territory, or possession of the United States and a place in the District of Columbia or another State, territory, or possession of the United States;
(ii) a State and another place in the same State through the airspace over a place outside the State;
(iii) the District of Columbia and another place in the District of Columbia; or
(iv) a territory or possession of the United States and another place in the same territory or possession; and

(B) when any part of the transportation or operation is by aircraft.

(25) "interstate air transportation" means the transportation of passengers or property by aircraft as a common carrier for compensation, or the transportation of mail by aircraft—

(A) between a place in—

(i) a State, territory, or possession of the United States and a place in the District of Columbia or another State, territory, or possession of the United States;
(ii) Hawaii and another place in Hawaii through the airspace over a place outside Hawaii;
(iii) the District of Columbia and another place in the District of Columbia; or
(iv) a territory or possession of the United States and another place in the same territory or possession; and

(B) when any part of the transportation is by aircraft.

(26) "intrastate air carrier" means a citizen of the United States undertaking by any means to provide only intrastate air transportation.

(27) "intrastate air transportation" means the transportation by a common carrier of passengers or property for compensation, entirely in the same State, by turbojet-powered aircraft capable of carrying at least 30 passengers.

(28) "landing area" means a place on land or water, including an airport or intermediate landing field, used, or intended to be used, for the takeoff and landing of aircraft, even when facilities are not provided for sheltering, servicing, or repairing aircraft, or for receiving or discharging passengers or cargo.

(29) "large hub airport" means a commercial service airport (as defined in section 47102) that has at least 1.0 percent of the passenger boardings.

(30) "mail" means United States mail and foreign transit mail.

(31) "medium hub airport" means a commercial service airport (as defined in section 47102) that has less than 0.25 percent but less than 1.0 percent of the passenger boardings.

(32) "navigable airspace" means airspace above the minimum altitudes of flight prescribed by regulations under this subpart and subpart III of this part, including airspace needed to ensure safety in the takeoff and landing of aircraft.

(33) "navigate aircraft" and "navigation of aircraft" include piloting aircraft.

(34) "nonhub airport" means a commercial service airport (as defined in section 47102) that has less than 0.05 percent of the passenger boardings.

(35) "operate aircraft" and "operation of aircraft" mean using aircraft for the purposes of air navigation, including—

(A) the navigation of aircraft; and

(B) causing or authorizing the operation of aircraft with or without the right of legal control of the aircraft.

(36) "passenger boardings"—

(A) means, unless the context indicates otherwise, revenue passenger boardings in the United States in the prior calendar year on an aircraft in service in air commerce, as the Secretary determines under regulations the Secretary prescribes; and

(B) includes passengers who continue on an aircraft in international flight that stops at an airport in the 48 contiguous States, Alaska, or Hawaii for a nontraffic purpose.

(37) "person", in addition to its meaning under section 1 of title 1, includes a governmental authority and a trustee, receiver, assignee, and other similar representative.

(38) "predatory" means a practice that violates the antitrust laws as defined in the first section of the Clayton Act (15 U.S.C. 12).

(39) "price" means a rate, fare, or charge.

(40) "propeller" includes a part, appurtenance, and accessory of a propeller.

(41) "public aircraft" means any of the following:

(A) Except with respect to an aircraft described in subparagraph (E), an aircraft used only for the United States Government, except as provided in section 40125(b).

(B) An aircraft owned by the Government and operated by any person for purposes re-
lated to crew training, equipment development, or demonstration, except as provided in section 40125(b).

(C) An aircraft owned and operated by the government of a State, the District of Columbia, or a territory or possession of the United States or a political subdivision of one of these governments, except as provided in section 40125(b).

(D) An aircraft exclusively leased for at least 90 continuous days by the government of a State, the District of Columbia, or a territory or possession of the United States or a political subdivision of one of these governments, except as provided in section 40125(b).

(E) An aircraft owned or operated by the armed forces or chartered to provide transportation or other commercial air service to the armed forces under the conditions specified by section 40125(c). In the preceding sentence, the term “other commercial air service” means an aircraft operation that (i) is within the United States territorial airspace; (ii) the Administrator of the Federal Aviation Administration determines is to be installed at a later time in an aircraft, aircraft engine or propeller, aircraft engine (except a propeller), propeller, or appliance, that is to be installed at a later time in an aircraft, aircraft engine, propeller, or appliance.

(44) “State authority” means an authority of a State designated under State law—

(A) to receive notice required to be given a State authority under subpart II of this part; or

(B) as the representative of the State before the Secretary of Transportation in any matter about which the Secretary is required to consult with or consider the views of a State authority under subpart II of this part.

(45) “Ticket agent” means a person (except an air carrier, a foreign air carrier, or an employee of an air carrier or foreign air carrier) that as a principal or agent sells, offers for sale, negotiates for, or holds itself out as selling, providing, or arranging for, air transportation.

(46) “United States” means the States of the United States, the District of Columbia, and the territories and possessions of the United States, including the territorial sea and the overlying airspace.

(47) “Air traffic control system” means the combination of elements used to safely and efficiently monitor, direct, control, and guide the aircraft in the United States and United States-assigned airspace, including—

(A) allocated electromagnetic spectrum and physical, real, personal, and intellectual property assets making up facilities, equipment, and systems employed to detect, track, and guide aircraft movement;

(B) laws, regulations, orders, directives, agreements, and licenses;

(C) published procedures that explain required actions, activities, and techniques used to ensure adequate aircraft separation; and

(D) trained personnel with specific technical capabilities to satisfy the operational, engineering, management, and planning requirements for air traffic control.

(b) LIMITED DEFINITION.—In subpart II of this part, “control” means control by any means.

In subsection (a)(2), the words “by any means” are substituted for “whether . . . or by lease or any other arrangement” to eliminate unnecessary words. The word “provide” is substituted for “engage” for consistency in the revised title.

In subsection (a)(3), the words “navigation” are omitted as being included in the definition of “operation of aircraft” in this subsection.

In subsection (a)(4)(D), the words “having a similar purpose” are omitted as surplus.

In subsection (a)(5), the words “or carriage” are substituted for “carriage and persons”, respectively, for consistency in the revised title.

In subsection (a)(6), the words “now known or hereafter” are omitted as surplus.

In subsection (a)(7), the words “of the engine” are substituted for “thereof” for clarity.

In subsection (a)(8)(A), the words “as the person” are omitted for consistency in the revised title.

In subsection (a)(9), the words “in addition to its” are omitted as surplus.

In subsection (a)(10), the word “transpor-
In subsection (a)(36), the text of 49 App.:1301(34) (1st sentence) is omitted as obsolete. Reference to the Canal Zone is omitted because of the Panama Canal Act of 1977. The text of 49 App.:1301(34) (last sentence) is omitted because of 48:734.

Subsection (a)(37)(A)(i) is substituted for “used exclusively in the service of any government” and “For purposes of this paragraph,” used exclusively in the service of means, for other than the Federal Government” for clarity and to eliminate unnecessary words.

Subsection (a)(37)(A)(ii) is substituted for “used exclusively in the service of any government or of any political subdivision thereof, including the government of any State, Territory, or possession of the United States” and “For purposes of this paragraph,” used exclusively in the service of means, for other than the Federal Government, an aircraft which is owned and operated by a governmental entity for other than commercial purposes or which is exclusively leased by such governmental entity for not less than 90 continuous days” for clarity and to eliminate unnecessary words.

In subsection (a)(37)(B), the words “transporting passengers or property” are substituted for “engaged in carrying persons or property” for consistency in the revised title.

In subsection (a)(38), the words “that is to be installed at a later time” are substituted for “maintained for installation or use . . . but which at the time are not installed therein or attached thereto” to eliminate unnecessary words.

In subsection (a)(39), the word “authority” is substituted for “agency” and “entity” for consistency in the revised title. Before subclause (A), the words “department, agency, officer, or other” are omitted as being included in “authority.”

In subsection (a)(40), the words “furnishes, contracts” are omitted as surplus. The words “furnishes, contracts” are omitted as being included in “authority.”

In subsection (a)(41), the words “States of the United States” are substituted for “several States,” and the word “sea” is substituted for “waters,” for consistency in the revised title and with other titles of the Code.

Subsection (b) is substituted for 49 App.:1338 to eliminate unnecessary words.

PUB. L. 103–429

This makes a conforming amendment for consistency with the style of title 49.

AMENDMENTS

2008—Subsec. (a)(41)(E). Pub. L. 110–181 inserted “or other commercial air service” after “transportation” and inserted at end “In the preceding sentence, the term ‘other commercial air service’ means an aircraft operation that (i) is within the United States territorial airspace; (ii) the Administrator of the Federal Aviation Administration determines is available for compensation or hire to the public; and (iii) must comply with all applicable civil aircraft rules under title 14, Code of Federal Regulations.”

2003—Subsec. (a)(15)(C). Pub. L. 108–176, § 407, inserted “which is under the actual control of citizens of the United States” before “and in which”.

Subsec. (a)(29) to (47). Pub. L. 108–176, §229(a), added paras. (29), (31), (34), (36), and (42) and redesignated former paras. (29), (30), (31), (32), (33), (34), (35), (36), (37), (38), (39), (40), (41), (43), (44), (45), (46), and (47), respectively.

2000—Subsec. (a)(37). Pub. L. 100–181, § 702(a), amended par. (37) generally, revising and restating provisions defining “public aircraft” to include references to qualifications found in section 40125(b) and (c).


Subsec. (a)(35). Pub. L. 103–305 struck out “for air transportation” after “charge”.

Subsec. (a)(37)(B). Pub. L. 103–411 added subpar. (B) and struck out former subpar. (B) which read as follows: “does not include a government-owned aircraft transporting passengers or property for commercial purposes.”

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 AMENDMENT


EFFECTIVE DATE OF 1994 AMENDMENTS


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.


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 publicly 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

Section 2 of Pub. L. 103–305 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 TRANSPORT.—(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