

(2) temporary air transportation as an air carrier for a limited period.

(3) charter air transportation as a charter air carrier.

(b) FINDINGS REQUIRED FOR ISSUANCE.—(1) Before issuing a certificate under subsection (a) of this section, the Secretary must find that the citizen is fit, willing, and able to provide the transportation to be authorized by the certificate and to comply with this part and regulations of the Secretary.

(2) In addition to the findings under paragraph (1) of this subsection, the Secretary, before issuing a certificate under subsection (a) of this section for foreign air transportation, must find that the transportation is consistent with the public convenience and necessity.

(c) TEMPORARY CERTIFICATES.—The Secretary may issue a certificate under subsection (a) of this section for interstate air transportation (except the transportation of passengers) or foreign air transportation for a temporary period of time (whether the application is for permanent or temporary authority) when the Secretary decides that a test period is desirable—

(1) to decide if the projected services, efficiencies, methods, and prices and the projected results will materialize and remain for a sustained period of time; or

(2) to evaluate the new transportation.

(d) FOREIGN AIR TRANSPORTATION.—The Secretary shall submit each decision authorizing the provision of foreign air transportation to the President under section 41307 of this title.

(Pub. L. 103–272, §1(e), July 5, 1994, 108 Stat. 1119.)

HISTORICAL AND REVISION NOTES

Revised Section	Source (U.S. Code)	Source (Statutes at Large)
41102(a) .....	49 App.:1371(d)(1) (words before 1st comma and after semicolon), (2) (1st–32d words). 49 App.:1371(d)(3) (words before 6th comma). 49 App.:1551(b)(1)(E).	Aug. 23, 1958, Pub. L. 85–726, § 401(d)(1), (2), 72 Stat. 755; Oct. 24, 1978, Pub. L. 95–504, § 8, 92 Stat. 1712; re-stated Feb. 15, 1980, Pub. L. 96–192, § 4, 94 Stat. 37. Aug. 23, 1958, Pub. L. 85–726, 72 Stat. 731, § 401(d)(3); added July 10, 1962, Pub. L. 87–528, § 2, 76 Stat. 143; Oct. 24, 1978, Pub. L. 95–504, § 8, 92 Stat. 1712; re-stated Feb. 15, 1980, Pub. L. 96–192, § 4, 94 Stat. 37. 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.
41102(b)(1) ..	49 App.:1371(d)(1) (words between 1st and last commas), (2) (42d–last words), (3) (words after 7th comma).	
41102(b)(2) ..	49 App.:1551(b)(1)(E). 49 App.:1371(d)(1) (words between last comma and semicolon), (2) (33d–41st words), (3) (words between 6th and 7th commas).	
	49 App.:1551(a)(1)(A).	Aug. 23, 1958, Pub. L. 85–726, 72 Stat. 731, § 1601(a)(1)(A), (B); added Oct. 24, 1978, Pub. L. 95–504, § 40(a), 92 Stat. 1744.
41102(c) .....	49 App.:1551(b)(1)(E). 49 App.:1371(d)(8) (1st sentence).	Aug. 23, 1958, Pub. L. 85–726, 72 Stat. 731, § 401(d)(8) (1st sentence); added Oct. 24, 1978, Pub. L. 95–504, § 13, 92 Stat. 1718.

HISTORICAL AND REVISION NOTES—CONTINUED

Revised Section	Source (U.S. Code)	Source (Statutes at Large)
41102(d) .....	49 App.:1551(a)(1)(B), (b)(1)(E). (no source).	

In this section, the words “citizen of the United States” and “citizen” are substituted for “applicant” 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, and only an air carrier may be a “charter air carrier” as defined in section 40102(a). The word “provide” is substituted for “perform” for consistency in the revised title.

In subsection (a), before clause (1), the words “of public convenience and necessity” are added for clarity. The words “any part of” are substituted for “the whole or any part of” to eliminate unnecessary words. In clauses (2) and (3), the words “In the case of” are omitted as surplus. In clause (3), the words “for such periods” are omitted as surplus.

In subsection (b)(1), the word “comply” is substituted for “conform” for consistency in the revised title. The words “properly” and “requirements” are omitted as surplus. The word “rules” is omitted as being synonymous with “regulations”.

In subsection (b)(2), the words “foreign air transportation” are added because 49 App.:1551(a)(1)(A) provides that 49 App.:1371(d)(1)–(3) no longer applies to interstate or overseas transportation of persons. After January 1, 1985, other interstate and overseas air transportation and the domestic air transportation of mail do not require a certificate of public convenience and necessity. See H. Rept. 98–793, 98th Cong., 2d Sess., p.10 (1984).

In subsection (c), before clause (1), the words “issue a certificate” are substituted for “grant an application” for consistency in this chapter. The words “for interstate air transportation (except the transportation of passengers) or foreign air transportation” are added for clarity and consistency. The word “only” is omitted as surplus. In clause (1), the word “prices” is substituted for “rates, fares, charges” because of the definition of “price” in section 40102(a) of the revised title. The words “in fact” are omitted as surplus. In clause (2), the words “to assess the impact of the new services on the national air route structure, or otherwise” are omitted as surplus.

Subsection (d) is added for clarity.

§ 41103. All-cargo air transportation certificates of air carriers

(a) APPLICATIONS.—A citizen of the United States may apply to the Secretary of Transportation for a certificate authorizing the citizen to provide all-cargo air transportation. The application must contain information and be in the form the Secretary by regulation requires.

(b) ISSUANCE.—Not later than 180 days after an application for a certificate is filed under this section, the Secretary shall issue the certificate to a citizen of the United States authorizing the citizen, as an air carrier, to provide any part of the all-cargo air transportation applied for unless the Secretary finds that the citizen is not fit, willing, and able to provide the all-cargo air transportation to be authorized by the certificate and to comply with regulations of the Secretary.

(c) TERMS.—The Secretary may impose terms the Secretary considers necessary when issuing a certificate under this section. However, the Secretary may not impose terms that restrict the places served or prices charged by the holder of the certificate.

(d) EXEMPTIONS AND STATUS.—A citizen issued a certificate under this section—

(1) is exempt in providing the transportation under the certificate from the requirements of—

(A) section 41101(a)(1) of this title and regulations or procedures prescribed under section 41101(a)(1); and

(B) other provisions of this part and regulations or procedures prescribed under those provisions when the Secretary finds under regulations of the Secretary that the exemption is appropriate; and

(2) is an air carrier under this part except to the extent the carrier is exempt under this section from a requirement of this part.

(Pub. L. 103-272, §1(e), July 5, 1994, 108 Stat. 1119; Pub. L. 103-429, §6(49), Oct. 31, 1994, 108 Stat. 4384.)

HISTORICAL AND REVISION NOTES  
PUB. L. 103-272

Revised Section	Source (U.S. Code)	Source (Statutes at Large)
41103(a) .....	49 App.:1388(a)(4).  49 App.:1551(b)(1)(E).	Aug. 23, 1958, Pub. L. 85-726, 72 Stat. 731, §418(a)(4); added Nov. 9, 1977, Pub. L. 95-163, §17(a), 91 Stat. 1285; Mar. 14, 1978, Pub. L. 95-245, §1, 92 Stat. 156. 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.
41103(b) .....	49 App.:1388(b)(1)(B).  49 App.:1551(b)(1)(E).	Aug. 23, 1958, Pub. L. 85-726, 72 Stat. 731, §418(b)(1)(B); added Nov. 9, 1977, Pub. L. 95-163, §17(a), 91 Stat. 1285; Mar. 14, 1978, Pub. L. 95-245, §3, 92 Stat. 156.
41103(c) .....	49 App.:1388(b)(2).  49 App.:1551(b)(1)(E).	Aug. 23, 1958, Pub. L. 85-726, 72 Stat. 731, §418(b)(2), (c), (d); added Nov. 9, 1977, Pub. L. 95-163, §17(a), 91 Stat. 1285.
41103(d)(1) ..	49 App.:1388(c). 49 App.:1551(b)(1)(E).	
41103(d)(2) ..	49 App.:1388(d).	

In subsection (a), the words “After the three hundred and sixty-fifth day which begins after November 9, 1977” are omitted as executed. The words “under this section” are omitted as surplus. The words “authorizing the citizen” are added for clarity and consistency in this chapter.

In subsection (b), the words “pursuant to paragraph (4) of subsection (a) of this section” are omitted as surplus. The word “citizen” is substituted for “applicant” 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 and only an air carrier can provide all-cargo air transportation. The words “to provide” are added for clarity and consistency in this subchapter. The word “rules” is omitted as being synonymous with “regulations”. The word “promulgated” is omitted as surplus.

In subsection (c), the words “reasonable”, “and limitations”, and “and conditions” are omitted as surplus. The word “places” is substituted for “points” for consistency in the revised title.

PUB. L. 103-429

This amends 49:41103(a) to make the term consistent throughout subtitle VII of title 49.

**Editorial Notes**

AMENDMENTS

1994—Subsec. (a). Pub. L. 103-429 substituted “all-cargo” for “all-property”.

**Statutory Notes and Related Subsidiaries**

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.

**§ 41104. Additional limitations and requirements of charter air carriers**

(a) RESTRICTIONS.—The Secretary of Transportation may prescribe a regulation or issue an order restricting the marketability, flexibility, accessibility, or variety of charter air transportation provided under a certificate issued under section 41102 of this title only to the extent required by the public interest. A regulation prescribed or order issued under this subsection may not be more restrictive than a regulation related to charter air transportation that was in effect on October 1, 1978.

(b) SCHEDULED OPERATIONS.—

(1) IN GENERAL.—Except as provided in paragraphs (3) and (4), an air carrier, including an indirect air carrier, may not provide, in aircraft designed for more than 9 passenger seats, regularly scheduled charter air transportation, for which the public is provided in advance a schedule containing the departure location, departure time, and arrival location of the flight, to or from an airport that—

(A) does not have an airport operating certificate issued under part 139 of title 14, Code of Federal Regulations (or any subsequent similar regulation); or

(B) has an airport operating certificate issued under part 139 of title 14, Code of Federal Regulations (or any subsequent similar regulation) if the airport—

(i) is a reliever airport (as defined in section 47102) and is designated as such in the national plan of integrated airports maintained under section 47103; and

(ii) is located within 20 nautical miles (22 statute miles) of 3 or more airports that each annually account for at least 1 percent of the total United States passenger enplanements and at least 2 of which are operated by the sponsor of the reliever airport.

(2) DEFINITION.—In this paragraph, the term “regularly scheduled charter air transportation” does not include operations for which the departure time, departure location, and arrival location are specifically negotiated with the customer or the customer’s representative.

(3) EXCEPTION.—This subsection does not apply to any airport in the State of Alaska or to any airport outside the United States.

(4) WAIVERS.—The Secretary may waive the application of paragraph (1)(B) in cases in which the Secretary determines that the public interest so requires.

(c) ALASKA.—An air carrier holding a certificate issued under section 41102 of this title may provide charter air transportation between places in Alaska only to the extent the Secretary decides the transportation is required by public convenience and necessity. The Secretary may make that decision when issuing, amend-