

**§ 41737. Compensation guidelines, limitations, and claims**

(a) COMPENSATION GUIDELINES.—(1) The Secretary of Transportation shall prescribe guidelines governing the rate of compensation payable under this subchapter. The guidelines shall be used to determine the reasonable amount of compensation required to ensure the continuation of air service or air transportation under this subchapter. The guidelines shall—

(A) provide for a reduction in compensation when an air carrier does not provide service or transportation agreed to be provided;

(B) consider amounts needed by an air carrier to promote public use of the service or transportation for which compensation is being paid;

(C) include expense elements based on representative costs of air carriers providing scheduled air transportation of passengers, property, and mail on aircraft of the type the Secretary decides is appropriate for providing the service or transportation for which compensation is being provided;

(D) include provisions under which the Secretary may encourage an air carrier to improve air service for which compensation is being paid under this subchapter by incorporating financial incentives in an essential air service contract based on specified performance goals, including goals related to improving on-time performance, reducing the number of flight cancellations, establishing reasonable fares (including joint fares beyond the hub airport), establishing convenient connections to flights providing service beyond hub airports, and increasing marketing efforts; and

(E) include provisions under which the Secretary may execute a long-term essential air service contract to encourage an air carrier to provide air service to an eligible place if it would be in the public interest to do so.

(2) Promotional amounts described in paragraph (1)(B) of this subsection shall be a special, segregated element of the compensation provided to a carrier under this subchapter.

(b) REQUIRED FINDING.—The Secretary may pay compensation to an air carrier for providing air service or air transportation under this subchapter only if the Secretary finds the carrier is able to provide the service or transportation in a reliable way.

(c) CLAIMS.—Not later than 15 days after receiving a written claim from an air carrier for compensation under this subchapter, the Secretary shall—

(1) pay or deny the United States Government's share of a claim; and

(2) if denying the claim, notify the carrier of the denial and the reasons for the denial.

(d) AUTHORITY TO MAKE AGREEMENTS AND INCUR OBLIGATIONS.—The Secretary may make agreements and incur obligations from the Airport and Airway Trust Fund established under section 9502 of the Internal Revenue Code of 1986 (26 U.S.C. 9502) to pay compensation under this subchapter. An agreement by the Secretary under this subsection is a contractual obligation of the Government to pay the Government's share of the compensation.

(e) ADJUSTMENTS TO ACCOUNT FOR SIGNIFICANTLY INCREASED COSTS.—

(1) IN GENERAL.—If the Secretary determines that air carriers are experiencing significantly increased costs in providing air service or air transportation for which compensation is being paid under this subchapter, the Secretary may increase the rates of compensation payable under this subchapter without regard to any agreement or requirement relating to the renegotiation of contracts or any notice requirement under section 41734.

(2) READJUSTMENT IF COSTS SUBSEQUENTLY DECLINE.—If an adjustment is made under paragraph (1), and total unit costs subsequently decrease to at least the total unit cost reflected in the compensation rate, then the Secretary may reverse the adjustment previously made under paragraph (1) without regard to any agreement or requirement relating to the renegotiation of contracts or any notice requirement under section 41734.

(3) SIGNIFICANTLY INCREASED COSTS DEFINED.—In this subsection, the term “significantly increased costs” means a total unit cost increase (but not increases in individual unit costs) of 10 percent or more in relation to the total unit cost reflected in the compensation rate, based on the carrier's internal audit of its financial statements if such cost increase is incurred for a period of at least 2 consecutive months.

(Pub. L. 103-272, §1(e), July 5, 1994, 108 Stat. 1151; Pub. L. 108-176, title IV, §402(a), Dec. 12, 2003, 117 Stat. 2543; Pub. L. 112-95, title IV, §427(a), Feb. 14, 2012, 126 Stat. 99; Pub. L. 118-63, title V, §561(h), May 16, 2024, 138 Stat. 1216.)

HISTORICAL AND REVISION NOTES

Revised Section	Source (U.S. Code)	Source (Statutes at Large)
41737(a) .....	49 App.:1389(f).	Aug. 23, 1958, Pub. L. 85-726, 72 Stat. 731, §419(e)(2)-(g); added Oct. 24, 1978, Pub. L. 95-504, §33(a), 92 Stat. 1732; Dec. 8, 1983, Pub. L. 98-213, §10, 97 Stat. 1461; Oct. 4, 1984, Pub. L. 98-443, §9(r), 98 Stat. 1708; restated Dec. 30, 1987, Pub. L. 100-223, §202(a)(1), (2), (b)(1), 101 Stat. 1507, 1515.
41737(b) .....	49 App.:1389(e)(2).	Aug. 23, 1958, Pub. L. 85-726, 72 Stat. 731, §419(l); added Nov. 5, 1990, Pub. L. 101-508, §9113(b)(1), 104 Stat. 1388-363.
41737(c) .....	49 App.:1389(g).	
41737(d) .....	49 App.:1389(l).	

In subsection (a)(1), before clause (A), the word “prescribe” is substituted for “establish” to eliminate an executed word. The words “air service or air transportation under this subchapter” are substituted for “air service under this section” for consistency with the source provisions restated in sections 41733, 41735, and 41736 of the revised title. In clause (C), the words “the service or transportation for which compensation is being provided” are substituted for “such service” for clarity.

In subsection (a)(2), the words “compensation provided to a carrier under this subchapter” are substituted for “required compensation” for clarity.

In subsection (b), the words “air service or air transportation” are substituted for “air service” for consistency with the source provisions restated in sections 41733, 41735, and 41736 of the revised title.

In subsection (d)(2), the reference to fiscal year 1992 is omitted as obsolete.

**Editorial Notes**

AMENDMENTS

2024—Subsec. (d). Pub. L. 118–63 struck out par. (1) designation before “The Secretary” and par. (2) which read as follows: “Not more than \$38,600,000 is available to the Secretary out of the Fund for each of the fiscal years ending September 30, 1993–1998, to incur obligations under this section. Amounts made available under this section remain available until expended.”

2012—Subsec. (a)(1)(D), (E). Pub. L. 112–95 added subpars. (D) and (E).

2003—Subsec. (e). Pub. L. 108–176 added subsec. (e).

**Statutory Notes and Related Subsidiaries**

EFFECTIVE DATE OF 2003 AMENDMENT

Pub. L. 108–176, title IV, § 402(b), Dec. 12, 2003, 117 Stat. 2543, provided that: “The amendment made by subsection (a) [amending this section] shall take effect 30 days after the date of enactment of this Act [Dec. 12, 2003].”

EMERGENCY ACROSS-THE-BOARD ADJUSTMENT TO COMPENSATION FOR SIGNIFICANTLY INCREASED COSTS

Pub. L. 112–95, title IV, § 426(a), Feb. 14, 2012, 126 Stat. 98; Pub. L. 115–254, div. B, title V, § 539(s)(1), Oct. 5, 2018, 132 Stat. 3371, provided that: “Subject to the availability of funds, the Secretary of Transportation may increase the rates of compensation payable to air carriers under subchapter II of chapter 417 of title 49, United States Code, to compensate such carriers for increased aviation fuel costs without regard to any agreement or requirement relating to the renegotiation of contracts or any notice requirement under section 41734 of such title.”

DEADLINE FOR ISSUANCE OF REVISED GUIDANCE

Pub. L. 112–95, title IV, § 427(b), Feb. 14, 2012, 126 Stat. 99, provided that: “Not later than 1 year after the date of enactment of this Act [Feb. 14, 2012], the Secretary of Transportation shall issue revised guidelines governing the rate of compensation payable under subchapter II of chapter 417 that incorporate the amendments made by this section [amending this section].”

**§ 41738. Fitness of air carriers**

Notwithstanding section 40109(a) and (c)–(h) of this title, an air carrier may provide air service to an eligible place or air transportation to a place designated under section 41736 of this title only when the Secretary of Transportation decides that—

(1) the carrier is fit, willing, and able to perform the service or transportation; and

(2) aircraft used to provide the service or transportation, and operations related to the service or transportation, conform to the safety standards prescribed by the Administrator of the Federal Aviation Administration.

(Pub. L. 103–272, § 1(e), July 5, 1994, 108 Stat. 1152.)

HISTORICAL AND REVISION NOTES

<i>Revised Section</i>	<i>Source (U.S. Code)</i>	<i>Source (Statutes at Large)</i>
41738 .....	49 App.:1389(e)(1).	Aug. 23, 1958, Pub. L. 85–726, 72 Stat. 731, § 419(e)(1); added Oct. 24, 1978, Pub. L. 95–504, § 33(a), 92 Stat. 1732; Dec. 8, 1983, Pub. L. 98–213, § 10, 97 Stat. 1461; Oct. 4, 1984, Pub. L. 98–443, § 9(r), 98 Stat. 1708; restated Dec. 30, 1987, Pub. L. 100–223, § 202(a)(1), (2), (b)(1), 101 Stat. 1507, 1515.

In this section, before clause (1), the words “air transportation to a place” are substituted for “service to a point” for consistency with the source provisions restated in sections 41733, 41735, and 41736 of the revised title. In clauses (1) and (2), the words “service or transportation” are substituted for “such service” for consistency with the source provisions restated in sections 41733, 41735, and 41736 of the revised title.

**§ 41739. Air carrier obligations**

If at least 2 air carriers make an agreement to operate under or use a single carrier designator code to provide air transportation, the carrier whose code is being used shares responsibility with the other carriers for the quality of transportation provided the public under the code by the other carriers.

(Pub. L. 103–272, § 1(e), July 5, 1994, 108 Stat. 1152.)

HISTORICAL AND REVISION NOTES

<i>Revised Section</i>	<i>Source (U.S. Code)</i>	<i>Source (Statutes at Large)</i>
41739 .....	49 App.:1389(i).	Aug. 23, 1958, Pub. L. 85–726, 72 Stat. 731, § 419(i); added Oct. 24, 1978, Pub. L. 95–504, § 33(a), 92 Stat. 1732; Dec. 8, 1983, Pub. L. 98–213, § 10, 97 Stat. 1461; Oct. 4, 1984, Pub. L. 98–443, § 9(r), 98 Stat. 1708; restated Dec. 30, 1987, Pub. L. 100–223, § 202(a)(1), (2), (b)(1), 101 Stat. 1507, 1516.

The words “quality of transportation” are substituted for “quality of service” for clarity and consistency in this section.

**[§ 41740. Repealed. Pub. L. 118–63, title V, § 561(i), May 16, 2024, 138 Stat. 1216]**

Section, Pub. L. 103–272, § 1(e), July 5, 1994, 108 Stat. 1152; Pub. L. 108–176, title IV, § 403, Dec. 12, 2003, 117 Stat. 2543, related to joint proposals by 2 or more air carriers for providing air service or air transportation under this subchapter.

**§ 41741. Insurance**

The Secretary of Transportation may pay an air carrier compensation under this subchapter only when the carrier files with the Secretary an insurance policy or self-insurance plan approved by the Secretary. The policy or plan must be sufficient to pay for bodily injury to, or death of, an individual, or for loss of or damage to property of others, resulting from the operation of aircraft, but not more than the amount of the policy or plan limits.

(Pub. L. 103–272, § 1(e), July 5, 1994, 108 Stat. 1152.)

HISTORICAL AND REVISION NOTES

<i>Revised Section</i>	<i>Source (U.S. Code)</i>	<i>Source (Statutes at Large)</i>
41741 .....	49 App.:1389(h).	Aug. 23, 1958, Pub. L. 85–726, 72 Stat. 731, § 419(h); added Oct. 24, 1978, Pub. L. 95–504, § 33(a), 92 Stat. 1732; Dec. 8, 1983, Pub. L. 98–213, § 10, 97 Stat. 1461; Oct. 4, 1984, Pub. L. 98–443, § 9(r), 98 Stat. 1708; restated Dec. 30, 1987, Pub. L. 100–223, § 202(a)(1), (2), (b)(1), 101 Stat. 1507, 1516.

The words “The Secretary of Transportation may pay . . . only when” are substituted for “An air carrier