

§ 41102. General, temporary, and charter air transportation certificates of air carriers

(a) ISSUANCE.—The Secretary of Transportation may issue a certificate of public convenience and necessity to a citizen of the United States authorizing the citizen to provide any part of the following air transportation the citizen has applied for under section 41108 of this title:

- (1) air transportation as an air carrier.
- (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—CONTINUED

<i>Revised Section</i>	<i>Source (U.S. Code)</i>	<i>Source (Statutes at Large)</i>
41102(b)(2) ..	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.
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

HISTORICAL AND REVISION NOTES

<i>Revised Section</i>	<i>Source (U.S. Code)</i>	<i>Source (Statutes at Large)</i>
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). 49 App.:1551(b)(1)(E).	