

WAIS Document RetrievalFrom the U.S. Code Online via GPO Access  
[wais.access.gpo.gov]  
[Laws in effect as of January 7, 2003]  
[Document not affected by Public Laws enacted between  
January 7, 2003 and December 19, 2003]  
[CITE: 49USC41102]

TITLE 49--TRANSPORTATION

SUBTITLE VII--AVIATION PROGRAMS

PART A--AIR COMMERCE AND SAFETY

subpart ii--economic regulation

CHAPTER 411--AIR CARRIER CERTIFICATES

Sec. 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, Sec. 1(e), July 5, 1994, 108 Stat. 1119.)

Historical and Revision Notes

-----  
-----

Revised Section  
Source (Statutes at Large)

Source (U.S. Code)

-----  
-----

41102(a).....	49 App.:1371(d)(1) (words	Aug.
23, 1958, Pub. L. 85-726, Sec.	before 1st comma and after	401(d)
(1), (2), 72 Stat. 755; Oct. 24,	semicolon), (2) (1st-32d	1978,
Pub. L. 95-504, Sec. 8, 92	words).	Stat.
1712; restated Feb. 15, 1980,		Pub.
L. 96-192, Sec. 4, 94 Stat. 37.	49 App.:1371(d)(3) (words	Aug.
23, 1958, Pub. L. 85-726, 72 Stat.	before 6th comma).	731,
Sec. 401(d)(3); added July 10,		1962,
Pub. L. 87-528, Sec. 2, 76		Stat.
143; Oct. 24, 1978, Pub. L. 95-		504,
Sec. 8, 92 Stat. 1712; restated		Feb.
15, 1980, Pub. L. 96-192, Sec.		4, 94
Stat. 37.	49 App.:1551(b)(1)(E).	Aug.
23, 1958, Pub. L. 85-726, 72 Stat.		731,
Sec. 1601(b) (1)(E); added Oct.		4,
1984, Pub. L. 98-443, Sec. 3(e),		98
Stat. 1704.	49 App.:1371(d)(1) (words	
41102(b)(1).....	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).	
23, 1958, Pub. L. 85-726, 72 Stat.	49 App.:1551(a)(1)(A).	Aug.
Sec. 1601(a) (1)(A), (B); added		731,
24, 1978, Pub. L. 95-504, Sec.		Oct.
92 Stat. 1744.		40(a),
41102(c).....	49 App.:1551(b)(1)(E).	
23, 1958, Pub. L. 85-726, 72 Stat.	49 App.:1371(d)(8) (1st	Aug.
Sec. 401(d)(8) (1st sentence);	sentence).	731,
Oct. 24, 1978, Pub. L. 95-504,		added
13, 92 Stat. 1718.		Sec.
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.

#### Section Referred to in Other Sections

This section is referred to in sections 40109, 40118, 41104, 41105, 41106, 41107, 41108, 41109, 41110, 41111, 41112, 41113, 41307, 41312, 41505, 41709, 41713, 41762, 44901, 44915, 46301, 46316, 47102 of this title; title 22 section 3650; title 29 section 1301; title 39 section 5402.