the Administrator under title III of this Act, and in any proceeding conducted by the Administrator under title VI of this Act from which no appeal is provided to the Board. Every vote and official act of the Board and the Agency shall be entered of record, and the proceedings thereof shall be open to the public upon request of any interested party, unless the Board or the Administrator determines that secrecy is requisite on grounds of national defense.

[49 U.S.C. App. 1481]

COMPLAINTS TO AND INVESTIGATIONS BY THE ADMINISTRATOR AND THE BOARD

FILING OF COMPLAINTS AUTHORIZED

Sec. 1002. (a) Any person may file with the Administrator or the Board, as to matters within their respective jurisdictions, a complaint in writing with respect to anything done or omitted to be done by any person in contravention of any provisions of this Act, or of any requirement established pursuant thereto. If the person complained against shall not satisfy the complaint and there shall appear to be any reasonable ground for investigating the complaint, it shall be the duty of the Administrator or the Board to investigate the matters complained of. Whenever the Administrator or the Board is of the opinion that any complaint is true, the facts which warrant an investigation or action, such complaint may be dismissed without hearing. In the case of complaints against a member of the Armed Forces of the United States acting in the performance of such official duties, the Administrator or the Board, as the case may be, shall refer the complaint to the Secretary of the department concerned for action. The Secretary shall, within ninety days after receiving such a complaint, inform the Administrator or the Board of his disposition of the complaint, including a report as to any corrective or disciplinary actions taken.

INVESTIGATIONS ON INITIATIVE OF ADMINISTRATOR OR BOARD

(b) The Administrator or Board, with respect to matters within their respective jurisdictions, is empowered at any time to institute an investigation, on their own initiative, in any case and as to any matter or thing within their respective jurisdictions, concerning which complaint is authorized to be made to or before the Administrator or Board by any provision of this Act, or concerning which any question may arise under any of the provisions of this Act, or relating to the enforcement of any of the provisions of this Act. The Administrator or the Board shall have the same power to proceed with any investigation instituted on their own motion as though it had been appealed to by complaint.

ENTRY OF ORDERS FOR COMPLIANCE WITH ACT

(c) If the Administrator or the Board finds, after notice and hearing, in any investigation instituted upon complaint or upon their own initiative, with respect to matters within their jurisdiction, that any person has failed to comply with any provision of this Act or any requirement established pursuant thereto, the Administrator or the Board shall, subject to section 1102(a) of this Act, issue an appropriate order to compel such person to comply therewith.

POWER TO PRESCRIBE RATES AND PRACTICES OF AIR CARRIERS

(d)(1) Except as provided in paragraph (2) or (4) of this subsection, whenever, after notice and hearing, upon complaint, or upon its own initiative, the Board shall be of the opinion that any individual or joint rate, fare, or charge demanded, charged, collected or received by any air carrier for interstate air transportation of persons, air transportation of property within the State of Alaska, air transportation of property within the State of Hawaii, or overseas air transportation, or any classification, rule, regulation, or practice affecting such rate, fare, or charge, or the value of the service thereunder, is or will be unjust or unreasonable, or unjustly discriminatory, or unduly preferential, or unduly prejudicial, the Board shall determine and prescribe the lawful rate, fare, or charge (or the maximum or minimum, or the maximum and minimum thereof) thereafter to be demanded, charged, collected, or received or the lawful classification, rule, regulation, or practice thereafter to be made effective.

(2) With respect to rates, fares, and charges for overseas air transportation, the Board shall determine and prescribe only a just and reasonable maximum or minimum, or maximum and minimum rate, fare, or charge.

(3) Whenever, after notice and hearing, upon complaint, or upon its own initiative, the Board shall be of the opinion that any individual or joint rate or charge demanded, charged, collected, or received by any air carrier for interstate air transportation of property or any classification, rule, regulation, or practice affecting such rate or charge, or the value of the service thereunder, is or will be unjustly discriminatory, or unduly preferential, or unduly prejudicial, or predatory the Board shall alter such rate, charge, classification, rule, regulation, or practice to the extent necessary to correct such discrimination, preference, prejudice, or predatory practice and make an order that the air carrier or foreign air carrier shall discontinue demanding, charging, collecting, or receiving any such discriminatory, preferential, prejudicial, or predatory rate or charge or enforcing any such discriminatory, preferential, prejudicial, or predatory classification, rule, regulation, or practice.

(4) The Board shall not have authority to find any fare for interstate or overseas air transportation of persons to be unjust or unreasonable on the basis that such fare is too low or too high if—

(A) with respect to any proposed increase filed with the Board on or after July 1, 1979 (other than any proposed increase in any fare filed by any air carrier if such proposed fare is for air transportation between any pair of points and such air carrier provides air transportation to 70 per centum or more of the persons traveling in air transportation between such points on aircraft operated by air carriers with certificates issued under section 401 of this Act), such proposed fare would not be more than 5 per centum higher than the standard in-
Board shall grant, deny, or dismiss such complaint within ninety days after such complaint is filed.

RULE OF Ratemaking

(e) In exercising and performing its power and duties with respect to determining rates, fares, and charges described in paragraph (1) of subsection (d) of this section, the Board shall take into consideration, among other factors—

(1) the criteria set forth in section 102 of this Act;
(2) the need for adequate and efficient transportation of persons and property at the lowest cost consistent with the furnishing of such service;
(3) the effect of prices upon the movement of traffic;
(4) the desirability of a variety of price and service options such as peak and off-peak pricing or other pricing mechanisms to improve economic efficiency and provide low-cost air service; and
(5) the desirability of allowing an air carrier to determine prices in response to particular competitive market conditions on the basis of such air carrier's individual costs.

REMOVAL OF DISCRIMINATION IN FOREIGN AIR TRANSPORTATION

(f) Whenever, after notice and hearing, upon complaint, or upon its own initiative, the Board shall be of the opinion that any individual or joint rate, fare, or charge demanded, charged, collected, or received by any air carrier of foreign air transportation, or any classification, rule, regulation, or practice affecting such rate, fare, or charge, or the value of the service thereunder, is or will be unjustly discriminatory, or unduly preferential, or unduly prejudicial, the Board may alter the same to the extent necessary to correct such discrimination, preference, or prejudice and make an order that the air carrier or foreign air carrier shall discontinue demanding, charging, collecting, or receiving any such discriminatory, preferential, or prejudicial rate, fare, or charge or enforcing any such discriminatory, preferential, or prejudicial classification, rule, regulation, or practice.

SUSPENSION OF RATES

(g) Whenever any air carrier shall file with the Board a tariff stating a new individual or joint (between air carriers) rate, fare, or charge for interstate or overseas air transportation or any classification, rule, regulation, or practice affecting such rate, fare, or charge, or the value of the service thereunder, the Board is empowered, upon complaint or upon its own initiative, at once, and, if it so orders, without answer or other formal pleading by the air carrier, but upon reasonable notice, to enter upon a hearing concerning the lawfulness of such rate, fare, or charge, or such classification, rule, regulation, or practice; and pending such hearing and the decision thereon, the Board, by filing with such tariff, and delivering to the air carrier affected thereby at least fifteen days be-

1 Section 1002 (d), (e), (g), (h), (i), and (l) authority terminated January 1, 1985, to the extent provisions relate to interstate and overseas air transportation. Section 1601a(a)(2)(D) of this Act.
transportation of property within the State of Alaska, air transpor-
tation of property within the State of Hawaii, or overseas air trans-
portation, or the classifications, rules, regulations, or practices af-
flecting such rates, fares, or charges, or the value of the service
thereunder, and the terms and conditions under which such trans-
sportation service shall be operated: Provided, That as to joint rates,
fares, and charges for overseas air transportation the Board shall
determine and prescribe at least the maximum or minimum and
minimum joint rates, fares, or charges.

SUSPENSION AND REJECTION OF RATES IN FOREIGN AIR
TRANSPORTATION

(j)(1) Whenever any air carrier or foreign air carrier shall file
with the Board a tariff stating a new individual or joint (between
air carriers, between foreign air carriers, or between an air carrier
or carriers and a foreign air carrier or carriers) rate, fare, or charge
for foreign air transportation or any classification, rule, regulation,
or practice affecting such rate, fare, or charge, or the value of the
service thereunder, the Board is empowered, upon complaint or
upon its own initiative, at once, and, if it so orders, without answer
or other formal pleading by the air carrier or foreign air carrier,
but upon reasonable notice, to enter upon a hearing concerning the
lawfulness of such rate, fare, or charge, or such classification, rule,
regulation, or practice, and pending such hearing and the decision
thereon, or in the case of a tariff filed by a foreign air carrier if
such action is in the public interest, the Board, by filing with such
tariff, and delivering to the air carrier or foreign air carrier affected
thereby, a statement in writing of its reasons for such suspension,
may suspend the operation of such tariff and defer the use of such
rate, fare, or charge, or such classification, rule, regulation, or prac-
tice, for a period or periods not exceeding 365 days in the aggregate
beyond the time when such tariff would otherwise go into effect. If,
after hearing, the Board shall be of the opinion that such rate, fare,
or charge, or such classification, rule, regulation, or practice, is or
will be unjust or unreasonable, or unjustly discriminatory, or undu-
lessly preferential, or unduly prejudicial, or in the case of a tariff
filed by a foreign air carrier if the Board concludes with or without
hearing that such action is in the public interest, the Board may
take action to alter, to cancel such tariff, and prevent the use of
such rate, fare, or charge, or such classification, rule, regulation,
or practice. The Board may at any time rescind the suspension of
such tariff and permit the use of such rate, fare, or charge, or such
classification, rule, regulation, or practice. If the proceeding has
not been concluded and an order made within the period of suspension
or suspensions, or if the Board shall otherwise so direct, the pro-
posed rate, fare, charge, classification, rule, regulation, or practice
shall go into effect subject, however, to being canceled when the
proceeding is concluded. During the period of any suspension or
suspensions, or following rejection or cancellation of a tariff, includ-
ing tariffs which have gone into effect provisionally, the affected air
carrier or foreign air carrier shall maintain in effect and use the
rate, fare, or charge, or the classification, rule, regulation, or prac-
tice affecting such rate, fare, or charge, or the value of service

POWER TO PRESCRIBE DIVISIONS OF RATES

(h) Whenever, after notice and hearing, upon complaint or
upon its own initiative, the Board is of the opinion that the divi-
sions of joint rates, fares, or charges for interstate air transpor-
tation of persons, air transportation of property within the State of
Alaska, air transportation of property within the State of Hawaii,
or overseas or foreign air transportation are or will be unjust,
unreasonable, inequitable, or unduly preferential or prejudicial as
between the air carriers or foreign air carriers parties thereto, the
Board shall prescribe the just, reasonable, and equitable divisions
thereof to be received by the several air carriers. The Board may
require the adjustment of divisions between such air carriers from
the date of filing the complaint or entry of order of investigation,
or such other date subsequent thereto as the Board finds to be just,
reasonable, and equitable.

POWER TO ESTABLISH THROUGH AIR TRANSPORTATION SERVICE

(i) The Board shall, whenever required by the public conven-
ience and necessity, after notice and hearing, upon complaint or
upon its own initiative, establish through service and joint rates,
fares, or charges (or the maxima or minima, or the maxima and
minima thereof) for interstate air transportation of persons, air

\[\text{Sec. 1002}\]

\[\text{FEDERAL AVIATION ACT}\]

\[\text{156}\]

\[\text{transportation of property within the State of Alaska, air transpor-

tation of property within the State of Hawaii, or overseas air trans-

donation, or the classifications, rules, regulations, or practices af-
flecting such rates, fares, or charges, or the value of the service
thereunder, and the terms and conditions under which such trans-
sportation service shall be operated: Provided, That as to joint rates,
fares, and charges for overseas air transportation the Board shall
determine and prescribe only just and reasonable maximum or
minimum and minimum joint rates, fares, or charges.}\n
\[\text{SUSPENSION AND REJECTION OF RATES IN FOREIGN AIR
TRANSPORTATION}\n
\[\text{(j)(1) Whenever any air carrier or foreign air carrier shall file

with the Board a tariff stating a new individual or joint (between

air carriers, between foreign air carriers, or between an air carrier

or carriers and a foreign air carrier or carriers) rate, fare, or charge

for foreign air transportation or any classification, rule, regulation,
or practice affecting such rate, fare, or charge, or the value of the

service thereunder, the Board is empowered, upon complaint or

upon its own initiative, at once, and, if it so orders, without answer

or other formal pleading by the air carrier or foreign air carrier,

but upon reasonable notice, to enter upon a hearing concerning the

lawfulness of such rate, fare, or charge, or such classification, rule,

regulation, or practice, and pending such hearing and the decision

thereon, or in the case of a tariff filed by a foreign air carrier if

such action is in the public interest, the Board, by filing with such
tariff, and delivering to the air carrier or foreign air carrier affected

thereby, a statement in writing of its reasons for such suspension,
may suspend the operation of such tariff and defer the use of such
rate, fare, or charge, or such classification, rule, regulation, or prac-
tice, for a period or periods not exceeding 365 days in the aggregate
beyond the time when such tariff would otherwise go into effect. If,
after hearing, the Board shall be of the opinion that such rate, fare,
or charge, or such classification, rule, regulation, or practice, is or
will be unjust or unreasonable, or unjustly discriminatory, or undu-
lessly preferential, or unduly prejudicial, or in the case of a tariff
filed by a foreign air carrier if the Board concludes with or without
hearing that such action is in the public interest, the Board may
take action to alter, to cancel such tariff, and prevent the use of
such rate, fare, or charge, or such classification, rule, regulation,
or practice. The Board may at any time rescind the suspension of
such tariff and permit the use of such rate, fare, or charge, or such
classification, rule, regulation, or practice. If the proceeding has
not been concluded and an order made within the period of suspension
or suspensions, or if the Board shall otherwise so direct, the pro-
posed rate, fare, charge, classification, rule, regulation, or practice
shall go into effect subject, however, to being canceled when the
proceeding is concluded. During the period of any suspension or
suspensions, or following rejection or cancellation of a tariff, includ-
ing tariffs which have gone into effect provisionally, the affected air
carrier or foreign air carrier shall maintain in effect and use the
rate, fare, or charge, or the classification, rule, regulation, or prac-
tice affecting such rate, fare, or charge, or the value of service

\[\text{POWER TO PRESCRIBE DIVISIONS OF RATES}\n
\[\text{(h) Whenever, after notice and hearing, upon complaint or
upon its own initiative, the Board is of the opinion that the divi-
sions of joint rates, fares, or charges for interstate air transpor-
tation of persons, air transportation of property within the State of
Alaska, air transportation of property within the State of Hawaii,
or overseas or foreign air transportation are or will be unjust,
unreasonable, inequitable, or unduly preferential or prejudicial as
between the air carriers or foreign air carriers parties thereto, the
Board shall prescribe the just, reasonable, and equitable divisions
thereof to be received by the several air carriers. The Board may
require the adjustment of divisions between such air carriers from
the date of filing the complaint or entry of order of investigation,
or such other date subsequent thereto as the Board finds to be just,
reasonable, and equitable.}\n
\[\text{POWER TO ESTABLISH THROUGH AIR TRANSPORTATION SERVICE}\n
\[\text{(i) The Board shall, whenever required by the public conven-
ience and necessity, after notice and hearing, upon complaint or
upon its own initiative, establish through service and joint rates,
fares, or charges (or the maxima or minima, or the maxima and
minima thereof) for interstate air transportation of persons, air
}

\[\text{\textsuperscript{1}}\text{Section 1002(d), (e), (g), (h), and (i) authority terminated January 1, 1985, to the extent pro-
visions relate to interstate and overseas air transportation. Section 1601(a)(9)(D) of this Act.}\]
thereunder which was in effect immediately prior to the filing of the new tariff or such other rate, fare or charge as may be provided for under an applicable intergovernmental agreement or understanding. If the suspension, rejection, or cancellation is of an initial tariff, the affected air carrier or foreign air carrier may file for purposes of operations pending effectiveness of a new tariff, an alternative rate, fare, or charge, or any classification, rule, regulation, or practice affecting such rate, fare, or charge, or the value of service thereunder, that may be currently in effect (and not subject to a suspension order) for any air carrier engaged in the same foreign air transportation.

(2) With respect to any existing tariff of an air carrier or foreign air carrier stating rates, fares, or charges for foreign air transportation, or any classification, rule, regulation, or practice affecting such rate, fare, or charge, or the value of the service thereunder, the Board is empowered, upon complaint or on its own initiative, at once and, if it so orders, without answer or other formal pleading by the air carrier or foreign air carrier, but upon reasonable notice, to enter into a hearing concerning the lawfulness of such rate, fare, or charge, or such classification, rule, regulation, or practice; and pending such hearing and the decision thereon, or in the case of a tariff filed by a foreign air carrier if such action is in the public interest, the Board upon reasonable notice, and by filing with such tariff, and delivering to the air carrier or foreign air carrier affected thereby, a statement in writing of its reasons for such suspension, and the effective date thereof, may suspend the operation of such tariff and defer the use of such rate, fare, or charge, or such classification, rule, regulation, or practice, following the effective date of such suspension, for a period or periods not exceeding 365 days in the aggregate from the effective date of such suspension. If, after hearing, the Board shall be of the opinion that such rate, fare, or charge, or such classification, regulation, or practice, is or will be unjust or unreasonable, or unjustly discriminatory, or unduly preferential, or unduly prejudicial, or in the case of a tariff filed by a foreign air carrier if the Board concludes with or without hearing that such action is in the public interest, the Board may take action to cancel such tariff and prevent the use of such rate, fare, or charge, or such classification, rule, regulation, or practice. If the Board shall not have been concluded with or in the period of suspension or suspensions, the tariff shall again go into effect subject, however, to being canceled when the proceeding is concluded. For the purposes of operation during the period of such suspension, or the period following cancellation of an existing tariff pending effectiveness of a new tariff, the air carrier or foreign air carrier may file a tariff embodying any rate, fare, or charge, or any classification, rule, regulation, or practice affecting such rate, fare, or charge, or the value of service thereunder, that may be currently in effect (and not subject to a suspension order) for any air carrier engaged in the same foreign air transportation.

(3) Whenever the Board finds that the government or aeronautical authorities of any foreign country have refused to permit the charging of rates, fares, or charges contained in a properly filed and published tariff of an air carrier filed under this Act for foreign air transportation to such foreign country, the Board may, without

hearing, (A) suspend the operation of any existing tariff of any foreign air carrier providing services between the United States and such foreign country for a period of periods not exceeding three hundred and sixty-five days in the aggregate from the date of such suspension, and (B) during the period of such suspension or suspensions, order the foreign air carrier to charge rate, fares, or charges which are the same as those contained in a properly filed and published tariff (designated by the Board) of an air carrier filed under this Act for foreign air transportation to such foreign country, and the effective right of an air carrier to start or continue service at the designated rates, fares, or charges to such foreign country shall be a condition to the continuation of service by the foreign air carrier in foreign air transportation to such foreign country.

(4) The provisions of this subsection and compliance with any order of the Board issued pursuant thereto shall be an express condition to the certificates or permits now held or hereafter issued to any air carrier or foreign air carrier, and the maintenance of such service, and if not so maintained in conformity with the requirements of such provisions and such order of the Board shall be a condition to the continuation of the affected service by such air carrier or foreign air carrier.

(5) In exercising and performing its powers and duties under this subsection with respect to the rejection or cancellation of rates for the carriage of persons or property, the Board shall take into consideration, among other factors—

(A) the effect of such rates upon the movement of traffic;

(B) the need in the public interest of adequate and efficient transportation of persons and property by air carriers and foreign air carriers at the lowest cost consistent with the furnishing of such service;

(C) such standards respecting the character and quality of service to be rendered by air carriers and foreign air carriers as may be prescribed by or pursuant to law;

(D) the inherent advantages of transportation by aircraft;

(E) the need of such air carrier and foreign air carrier for revenue sufficient to enable such air carrier and foreign air carrier, under honest, economical, and efficient management, to provide adequate and efficient air carrier and foreign air carrier service;

(F) whether such rates will be predatory or tend to monopolize competition among air carriers and foreign air carriers in foreign air transportation; and

(G) reasonably estimated or foreseeable future costs and revenues for such air carrier or foreign air carrier for a reasonably limited future period during which the rate at issue would be in effect.

(6) The Board shall not have authority to find any fare for foreign air transportation of persons to be unjust or unreasonable on the basis that such fare is too low or too high—

(A) with respect to any proposed increase filed with the Board on or after the date of enactment of this paragraph, and before the 180th day after such date of enactment, such proposed fare would not be more than the standard foreign fare
level for the same or essentially similar class of service. No such fare shall be suspended, unless the Board determines that it may be unduly preferential, unduly prejudicial, or unjustly discriminatory or that suspension is in the public interest because of unreasonable regulatory actions by a foreign government with respect to fare proposals of an air carrier; or

(B) with respect to any proposed increase filed with the Board after the 180th day after the date of enactment of this paragraph such proposed fare would not be more than 5 percent higher than the standard foreign fare level for the same or essentially similar class of service. No such fare shall be suspended, unless the Board determines that it may be unduly preferential, unduly prejudicial, or unjustly discriminatory or that suspension is in the public interest because of unreasonable regulatory actions by a foreign government with respect to fare proposals of an air carrier; or

(C) with respect to any proposed decrease filed after the date of enactment of this paragraph, the fare would not be more than 50 percent lower than the standard foreign fare level for the same or essentially similar class of service, except that this provision shall not apply to any proposed decrease in any fare if the Board determines that such proposed fare may be predatory or discriminatory or that suspension of such fare is required because of unreasonable regulatory actions by a foreign government with respect to fare proposals by an air carrier.

(7) For purposes of this subsection, "standard foreign fare level" means that fare level (as adjusted only in accordance with paragraph (9) of this subsection) filed for and permitted by the Civil Aeronautics Board to go into effect on or after October 1, 1979 and before the 180th day after the date of enactment of this paragraph (with seasonal fares adjusted by the percentage difference that prevailed between seasons in 1978), or the fare level established under paragraph (8), for each pair of points, for each class of fare existing on that date, and in effect on the effective date of the establishment of each additional class of fare established after October 1, 1979.

(8)(A) The Board is authorized, on the basis of oral evidentiary hearings before an administrative law judge, to determine that a fare between two points on October 1, 1979 is unjust or unreasonable. Such oral evidentiary hearing shall be completed within 180 days of enactment of this section, and the Board may establish such deadlines including the deadline for the judge's decision as the Board may deem necessary to meet such requirement. If the Board determines that such a fare is unjust or unreasonable, the Board shall, on the basis of such hearing record, establish the standard foreign fare level between such points.

(B) Standard foreign fare levels shall not be established under this paragraph for points between which the passengers carried by United States carriers in foreign air transportation are, in the aggregate, more than 25 percent of the total passengers carried by United States air carriers in foreign air transportation during the most recent 12-month period for which data is available.

(C) The establishment of a standard foreign fare level under this paragraph does not permit a reduction in fares.

(D) No standard foreign fare level established under this paragraph shall take effect on or before the 180th day after the date of enactment of this paragraph.

(E) The authority given the Board by subparagraph (A) of this paragraph shall expire on the 180th day after the date of enactment of this paragraph.

(9) The Board shall, within 30 days after the date of enactment of this paragraph, and not less often than every 60 days thereafter with respect to fuel costs and not less often than every 180 days with respect to all other costs adjust each standard foreign fare level for the particular foreign air transportation to which such standard foreign fare level applies by increasing or decreasing such standard foreign fare level, as the case may be, by the percentage change from the last previous period in the actual operating cost per available seat mile. In determining the standard foreign fare level, the Board shall make no adjustment to costs actually incurred. In establishing standard foreign fare levels and making the adjustments called for in this paragraph, the Board may use all relevant or appropriate information reasonably available to it.

(10) The Board may by rule increase the percentage specified in paragraph (6)(C) of this subsection.

**DEFINITIONS**

(k)(1) For purposes of this section, the term "interstate air transportation of property" means—

(A) the carriage by aircraft of property as a common carrier for compensation or hire in commerce between a place in any State of the United States, or the District of Columbia, and a place in any other State of the United States, or the District of Columbia (other than the carriage by aircraft of property by a common carrier between any pair of points both of which are within the State of Alaska or Hawaii if such carriage is part of the continuous carriage of such property and another common carrier provides, as part of such continuous carriage, the carriage by aircraft of such property between any pair of points one of which is within the State of Alaska or Hawaii and the other of which is not within the same State); or between places in the same State of the United States (other than the State of Alaska or Hawaii) through the airspace over any place outside thereof; or between places in the same territory or possession of the United States, or the District of Columbia;

(B) the carriage by aircraft of property as a common carrier for compensation or hire, in commerce between a place in any State of the United States or the District of Columbia and any place in the Commonwealth of Puerto Rico or the Virgin Islands or between a place in the Commonwealth of Puerto Rico and a place in the Virgin Islands;

whether such commerce moves wholly by aircraft or partly by aircraft and partly by other forms of transportation.
(2) For purposes of this section, the term "overseas air transportation" means—

(A) the carriage by aircraft of persons as a common carrier for compensation or hire in commerce between a place in any State of the United States, or the District of Columbia, and any place in a territory or possession of the United States; or between a place in a territory or possession of the United States, and a place in any other territory or possession of the United States;

(B) the carriage by aircraft of property as a common carrier for compensation or hire in commerce between a place in any State of the United States, or the District of Columbia, and any place in a territory or possession of the United States (other than the Commonwealth of Puerto Rico and the Virgin Islands); or between a place in a territory or possession of the United States (other than the Commonwealth of Puerto Rico and the Virgin Islands), and a place in any other territory or possession of the United States (other than the Commonwealth of Puerto Rico and the Virgin Islands);

whether such commerce moves wholly by aircraft or partly by aircraft and partly by other forms of transportation.

(3) For purposes of this section, the term "air transportation of property within the State of Alaska" means the carriage by aircraft of property (A) by a common carrier for compensation or hire in commerce between any pair of points both of which are within the State of Alaska if such carriage is part of the continuous carriage of such property and another common carrier provides, as part of such continuous carriage, the carriage by aircraft of such property between any pair of points one of which is within the State of Alaska and the other of which is not within such State, or (B) by a common carrier for compensation or hire in commerce between places in the State of Alaska through the airspace over any place outside thereof, whether such commerce moves wholly by aircraft or partly by aircraft and partly by other forms of transportation.

(4) For purposes of this section, the term "air transportation of property within the State of Hawaii" means the carriage by aircraft of property (A) by a common carrier for compensation or hire in commerce between any pair of points both of which are within the State of Hawaii if such carriage is part of the continuous carriage of such property and another common carrier provides, as part of such continuous carriage, the carriage by aircraft of such property between any pair of points one of which is within the State of Hawaii and the other of which is not within such State, or (B) by a common carrier for compensation or hire in commerce between places in the State of Hawaii through the airspace over any place outside thereof, whether such commerce moves wholly by aircraft or partly by aircraft and partly by other forms of transportation.

[49 U.S.C. App. 1482]

SEC. 1003. (a) The Board and the Interstate Commerce Commission shall direct their respective chairmen to designate, from time to time, a like number of members of each to act as a joint board to consider and pass upon matters referred to such board as provided in subsection (c) of this section.

THROUGH SERVICE AND JOINT RATES

(b) Air carriers may establish reasonable through service and joint rates, fares, and charges with other common carriers; except that with respect to transportation of property, air carriers not directly engaged in the operation of aircraft in air transportation (other than companies engaged in the air express business) may not establish joint rates or charges, under the provisions of this subsection, with common carriers subject to the Interstate Commerce Act. In case of through service by air carriers and common carriers subject to the Interstate Commerce Act, it shall be the duty of the carriers parties thereto to establish just and reasonable rates, fares, or charges and just and reasonable classification, rules, regulations, and practices affecting such rates, fares, or charges, or the value of the service thereunder, and if joint rates, fares, or charges shall have been established with respect to such through service, just, reasonable, and equitable divisions of such joint rates, fares, or charges as between the carriers participating therein. Any air carrier, and any common carrier subject to the Interstate Commerce Act, which is participating in such through service and joint rates, fares, or charges, shall include in its tariffs, filed with the Civil Aeronautics Board or the Interstate Commerce Commission, as the case may be, a statement showing such through service and joint rates, fares, or charges.

JURISDICTION OF BOARDS

(c) Matters relating to such through service and joint rates, fares, or charges may be referred by the Board or the Interstate Commerce Commission, upon complaint or upon its own initiative, to a joint board created as provided in subsection (a). Complaints may be made to the Interstate Commerce Commission or the Board with respect to any matter which may be referred to a joint board under this subsection.

POWER OF BOARDS

(d) With respect to matters referred to any joint board as provided in subsection (c), if such board finds, after notice and hearing, that any such joint rate, fare, or charge, or classification, rule, regulation, or practice, affecting such joint rate, fare, or charge or the value of the service thereunder is or will be unjust, unreasonable, unjustly discriminatory, or unduly preferential or prejudicial, or that any division of any such joint rate, fare, or charge, is or will
be unjust, unreasonable, inequitable, or unduly preferential or prejudicial as between the carriers parties thereto, it is authorized and directed to take the same action with respect thereto as the Board is empowered to take with respect to any joint rate, fare, or charge, between air carriers, or any divisions thereof, or any classification, rule, regulation, or practice affecting such joint rate, fare, or charge or the value of the service thereunder.

JUDICIAL ENFORCEMENT AND REVIEW

(e) Orders of the joint boards shall be enforceable and reviewable as provided in this Act with respect to orders of the Board.

[49 U.S.C. App. 1483]

EVIDENCE

POWER TO TAKE EVIDENCE

SEC. 1004. (a) Any member or examiner of the Board, when duly designated by the Board for such purpose, may hold hearings, sign and issue subpoenas, administer oaths, examine witnesses, and receive evidence at any place in the United States designated by the Board. In all cases heard by an examiner or a single member the Board shall hear or receive argument on request of either party.

POWER TO ISSUE SUBPENA

(b) For the purposes of this Act the Board shall have the power to require by subpoena the attendance and testimony of witnesses and the production of all books, papers, and documents relating to any matter under investigation. Witnesses summoned before the Board shall be paid the same fees and mileage that are paid witnesses in the courts of the United States.

ENFORCEMENT OF SUBPENA

(c) The attendance of witnesses, and the production of books, papers, and documents, may be required from any place in the United States, at any designated place of hearing. In case of disobedience to a subpoena, the Board, or any party to a proceeding before the Board, may invoke the aid of any court of the United States in requiring attendance and testimony of witnesses and the production of such books, papers, and documents under the provisions of this section.

CONTEMPT

(d) Any court of the United States within the jurisdiction of which an inquiry is carried on may, in case of contumacy or refusal to obey a subpoena issued to any person, issue an order requiring such person to appear before the Board (and produce books, papers, or documents if so ordered) and give evidence touching the matter in question; and any failure to obey such order of the court may be punished by such court as a contempt thereof.

165

DEPOSITION

(e) The Board may order testimony to be taken by deposition in any proceeding or investigation pending before it, at any stage of such proceeding or investigation. Such depositions may be taken before any person designated by the Board and having power to administer oaths. Reasonable notice must first be given in writing by the party or his attorney proposing to take such deposition to the opposite party or his attorney of record, which notice shall state the name of the witness and the time and place of the taking of his deposition. Any person may be compelled to appear and depose, and to produce books, papers, or documents, in the same manner as witnesses may be compelled to appear and testify and produce like documentary evidence before the Board, as hereinbefore provided.

METHOD OF TAKING DEPOSITIONS

(f) Every person deposing as herein provided shall be cautioned and shall be required to swear (or affirm, if he so requests) to testify the whole truth, and shall be carefully examined. His testimony shall be reduced to writing by the person taking the deposition, or under his direction, and shall, after it has been reduced to writing, be subscribed by the deponent. All depositions shall be promptly filed with the Board.

FOREIGN DEPOSITIONS

(g) If a witness whose testimony may be desired to be taken by deposition be in a foreign country, the deposition may be taken, provided the laws of the foreign country so permit, by a consular officer or other person commissioned by the Board, or agreed upon by the parties by stipulation in writing to be filed with the Board, or may be taken under letters rogatory issued by a court of competent jurisdiction at the request of the Board.

FEES

(h) Witnesses whose depositions are taken as authorized in this Act, and the persons taking the same, shall severally be entitled to the same fees as are paid for like services in the courts of the United States: Provided, That with respect to commissions or letters rogatory issued at the initiative of the Board, executed in foreign countries, the Board shall pay such fees, charges, or expenses incidental thereto as may be found necessary, in accordance with regulations on the subject to be prescribed by the Board.

[49 U.S.C. App. 1484]

ORDERS, NOTICES, AND SERVICE

EFFECTIVE DATE OF ORDERS; EMERGENCY ORDERS

SEC. 1005. (a) Except as otherwise provided in this Act, all orders, rules, and regulations of the Board or the Administrator shall take effect within such reasonable time as the Board or Administrator may prescribe, and shall continue in force until their further order, rule, or regulation, or for a specified period of time, as shall
be prescribed in the order, rule, or regulation: Provided, That whenever the Administrator is of the opinion that an emergency requiring immediate action exists in respect of safety in air commerce, the Administrator is authorized, either upon complaint or his own initiative without complaint, at once, if he so orders, without answer or other form of pleading by the interested person or persons, and with or without notice, hearing, or the making or filing of a report, to make such just and reasonable orders, rules, or regulations, as may be essential in the interest of safety in air commerce to meet such emergency: Provided further, That the Administrator shall immediately initiate proceedings relating to the matters embraced in any such order, rule, or regulation, and shall, insofar as practicable, give preference to such proceedings over all others under this Act.

DESIGNATION OF AGENT FOR SERVICE

(b) It shall be the duty of every air carrier and foreign air carrier to designate in writing an agent upon whom service of all notices and process and all orders, decisions, and requirements of the Board and the Administrator may be made for and on behalf of said carrier, and to file such designation with the Administrator and in the office of the secretary of the Board, which designation may from time to time be changed by like writing similarly filed. Service of all notices and process and orders, decisions, and requirements of the Administrator or the Board may be made upon such carrier by service upon such designated agent at his office or usual place of residence with like effect as if made personally upon such carrier, and in default of such designation of such agent, service of any notice or other process in any proceedings before said Administrator or Board or of any order, decision, or requirements of the Administrator or Board, may be made by posting such notice, process, order, requirement, or decision in the office of the Administrator or with the secretary of the Board.

OTHER METHODS OF SERVICE

(c) Service of notices, processes, orders, rules, and regulations upon any person may be made by personal service, or upon an agent designated in writing for the purpose, or by registered or certified mail addressed to such person or agent. Whenever service is made by registered or certified mail, the date of mailing shall be considered as the time when service is made.

SUSPENSION OR MODIFICATION OF ORDER

(d) Except as otherwise provided in this Act, the Administrator or the Board is empowered to suspend or modify their orders upon such notice and in such manner as they shall deem proper.

COMPLIANCE WITH ORDER REQUIRED

(e) It shall be the duty of every person subject to this Act, and its agents and employees, to observe and comply with any order, rule, regulation, or certificate issued by the Administrator or the Board under this Act affecting such person so long as the same shall remain in effect.

FORM AND SERVICE OF ORDERS

(f) Every order of the Administrator or the Board shall set forth the findings of fact upon which it is based, and shall be served upon the parties to the proceeding and the persons affected by such order.

[49 U.S.C. App. 1485]

JUDICIAL REVIEW OF ORDERS

ORDERS OF BOARD AND ADMINISTRATOR SUBJECT TO REVIEW

SEC. 1006. (a) Any order, affirmative or negative, issued by the Board or Administrator under this Act, except any order in respect of any foreign air carrier subject to the approval of the President as provided in section 801 of this Act, shall be subject to review by the courts of appeals of the United States or the United States Court of Appeals for the District of Columbia upon petition, filed within sixty days after the entry of such order, by any person disclosing a substantial interest in such order. After the expiration of said sixty days a petition may be filed only by leave of court upon a showing of reasonable grounds for failure to file the petition theretofore.

VENUE

(b) A petition under this section shall be filed in the court for the circuit wherein the petitioner resides or has his principal place of business or in the United States Court of Appeals for the District of Columbia.

[NOTICE TO BOARD OR ADMINISTRATOR; FILING OF TRANSCRIPT] 1

(c) A copy of the petition shall, upon filing, be forthwith transmitted to the Board or Administrator by the clerk of the court, and the Board or Administrator shall therewith file in the court the record, if any, upon which the order complained of was entered, as provided in section 2112 of title 28, United States Code.

[POWER OF COURT] 2

(d) Upon transmittal of the petition to the Board or Administrator, the court shall have exclusive jurisdiction to affirm, modify, or set aside the order complained of, in whole or in part, and if need be, to order further proceedings by the Board or Administrator. Upon good cause shown and after reasonable notice to the Board or Administrator, interlocutory relief may be granted by stay of the order or by such mandatory or other relief as may be appropriate.

1 Subsection heading not reinserted by amendment of subsection. Public Law 86–546, section
2 Subsection heading not reinserted by amendment of subsection. Public Law 87–225, section
FINDINGS OF FACT CONCLUSIVE

(e) The findings of facts by the Board or Administrator, if supported by substantial evidence, shall be conclusive. No objection to an order of the Board or Administrator shall be considered by the court unless such objection shall have been urged before the Board or Administrator or, if it was not so urged, unless there were reasonable grounds for failure to do so.

CERTIFICATION OR CERTIORARI

(f) The judgment and decree of the court affirming, modifying, or setting aside any such order of the Board or Administrator shall be subject only to review by the Supreme Court of the United States upon certification or certiorari as provided in section 1254 of title 28, United States Code.

[49 U.S.C. App. 1486]

JUDICIAL ENFORCEMENT

JURISDICTION OF COURT

SEC. 1007. (a) If any person violates any provision of this Act, or any rule, regulation, requirement, or order thereunder, or any term, condition, or limitation of any certificate or permit issued under this Act, the Board or Administrator, as the case may be, their duly authorized agents, or, in the case of a violation of section 1114 of this Act, the Attorney General, or, in the case of a violation of section 40(a) of this Act, any party in interest, may apply to the district court of the United States, for any district wherein such person carries on his business or wherein the violation occurred, for the enforcement of such provision of this Act, or of such rule, regulation, requirement, order, term, condition or limitation; and such court shall have jurisdiction to enforce obedience thereto by a writ of injunction or other process, mandatory or otherwise, restraining such person, his officers, agents, employees, and representatives, from further violation of such provision of this Act or of such rule, regulation, requirement, order, term, condition, or limitation, and requiring their obedience thereto.

APPLICATION FOR ENFORCEMENT

(b) Upon the request of the Board or Administrator, any district attorney of the United States to whom the Board or Administrator may apply is authorized to institute in the proper court and to prosecute under the direction of the Attorney General all necessary proceedings for the enforcement of the provisions of this Act or any rule, regulation, requirement, or order thereunder, or any term, condition, or limitation of any certificate or permit, and for the punishment of all violations thereof, and the costs and expenses of such prosecutions shall be paid out of the appropriations for the expenses of the courts of the United States.

[49 U.S.C. App. 1487]

SEC. 1008. Upon request of the Attorney General, the Board or Administrator, as the case may be, shall have the right to participate in any proceeding in court under the provisions of this Act.

[49 U.S.C. App. 1488]

JOINER OF PARTIES

SEC. 1009. In any proceeding for the enforcement of the provisions of this Act, or any rule, regulation, requirement, or order thereunder, or any term, condition, or limitation of any certificate or permit, whether such proceedings be instituted before the Board or be begun originally in any court of the United States, it shall be lawful to include as parties, or to permit the intervention of, all persons interested in or affected by the matter under consideration; and inquiries, investigations, orders, and decrees may be made with reference to all such parties in the same manner, to the same extent, and subject to the same provisions of law as they may be made with respect to the persons primarily concerned.

[49 U.S.C. App. 1489]

TIME REQUIREMENTS

SEC. 1010. In the case of any application or other written document submitted to the Board under section 408, 409, 412, or 416 of this Act on or after the one-hundred-eightieth day after the date of enactment of this section, the Board shall—

(1) if the Board orders an evidentiary hearing, issue a final order or decision with respect to such written document, not later than the last day of the twelfth month which begins after the submission of such document, except in the case of an application submitted under section 408 of this Act, the Board shall issue its final order or decision not later than the last day of the sixth month after submission; or

(2) if the Board does not order an evidentiary hearing, issue a final order or decision with respect to such document, not later than the last day of the sixth month which begins after the date of the submission of such document.

[49 U.S.C. App. 1490]

TITLE XI—MISCELLANEOUS

SEC. 1101. HAZARDS TO SAFE AND EFFICIENT AIRCOMMERCE AND THE PRESERVATION OF NAVIGABLE AIRSPACE AND AIRPORT TRAFFIC CAPACITY.

(a) NOTICE OF CONSTRUCTION.—The Secretary of Transportation (hereinafter in this section referred to as the “Secretary”) shall, by rules and regulations, or by order where necessary, require all persons to give adequate public notice, in the form and manner prescribed by the Secretary, of the construction or alteration, or the establishment or expansion, or of the proposed construction or alteration, or of the proposed establishment or expansion.

1 So in original. See section 38(a) of Public Law 95–504.
the United States and any foreign country or foreign countries, and shall take into consideration any applicable laws and requirements of foreign countries and the Board shall not, in exercising and performing its powers and duties with respect to certificates of convenience and necessity, restrict compliance by any air carrier with any obligation, duty, or liability imposed by any foreign country. Provided, That this section shall not apply to any obligation, duty, or liability arising out of a contract or other agreement, heretofore or hereafter entered into between an air carrier, or any officer or representative thereof, and any foreign country, if such contract or agreement is disapproved by the Board as being contrary to the public interest.

GOALS FOR INTERNATIONAL AVIATION POLICY

(b) In formulating United States international air transportation policy, the Congress intends that the Secretary of State, the Secretary of Transportation, and the Civil Aeronautics Board shall develop a negotiating policy which emphasizes the greatest degree of competition that is compatible with a well-functioning international air transportation system. This includes, among other things:

1. the strengthening of the competitive position of United States air carriers to at least assure equality with foreign air carriers, including the attainment of opportunities for United States air carriers to maintain and increase their profitability, in foreign air transportation;
2. freedom of air carriers and foreign air carriers to offer fares and rates which correspond with consumer demand;
3. the fewest possible restrictions on charter air transportation;
4. the maximum degree of multiple and permissive international authority for United States air carriers so that they will be able to respond quickly to shifts in market demand;
5. the elimination of operational and marketing restrictions to the greatest extent possible;
6. the integration of domestic and international air transportation;
7. an increase in the number of nonstop United States gateway cities;
8. opportunities for carriers of foreign countries to increase their access to United States points if exchanged for benefits of similar magnitude for United States carriers or the traveling public with permanent linkage between rights granted and rights given away;
9. the elimination of discrimination and unfair competitive practices faced by United States airlines in foreign air transportation, including excessive landing and user fees, unreasonable ground handling requirements, undue restrictions on operations, prohibitions against change of gauge, and similar restrictive practices; and
10. the promotion, encouragement, and development of civil aeronautics and a viable, privately owned United States air transport industry.

INTERNATIONAL AGREEMENTS

ACTIONS OF THE BOARD AND OF THE SECRETARY OF TRANSPORTATION

Sec. 1102. (a) In exercising and performing their powers and duties under this Act, the Board and the Administrator shall do so consistently with any obligation assumed by the United States in any treaty, convention, or agreement that may be in force between

171 FEDERAL AVIATION ACT

Sec. 1102

ACTION OF THE BOARD AND OF THE SECRETARY OF TRANSPORTATION

Sec. 1102. (b) In exercising and performing their powers and duties under this Act, the Board and the Administrator shall do so consistently with any obligation assumed by the United States in any treaty, convention, or agreement that may be in force between

171 FEDERAL AVIATION ACT

Sec. 1102

ACTION OF THE BOARD AND OF THE SECRETARY OF TRANSPORTATION

Sec. 1102. (b) In exercising and performing their powers and duties under this Act, the Board and the Administrator shall do so consistently with any obligation assumed by the United States in any treaty, convention, or agreement that may be in force between
FUNCTIONS WITH AFFECTED GROUPS

(c) To assist in developing and implementing such an international aviation negotiating policy, the Secretaries of State and Transportation and the Civil Aeronautics Board shall consult, to the maximum extent practicable, with the Secretary of Commerce, the Secretary of Defense, airport operators, scheduled air carriers, charter air carriers, airline labor, consumer interest groups, travel agents and tour organizers, and other groups, institutions, and government agencies affected by international aviation policy concerning both broad policy goals and individual negotiations.

OBSERVER STATUS FOR CONGRESSIONAL REPRESENTATIVES

(d) The President shall grant to at least one representative of each House of Congress the privilege to attend international aviation negotiations as an observer if such privilege is requested in advance in writing.

[49 U.S.C. App. 1502]

NATURE AND USE OF DOCUMENTS FILED

SEC. 1103. The copies of tariffs and of all contracts, agreements, understandings, and arrangements filed with the Board as herein provided, and the statistics, tables, and figures contained in the annual or other reports of air carriers and other persons made to the Board as required under the provisions of this Act shall be preserved as public records (except as otherwise provided in this Act) in the custody of the secretary of the Board, and shall be received as prima facie evidence of what they purport to be for the purpose of investigations by the Board and in all judicial proceedings; and copies of, and extracts from, any of such tariffs, contracts, agreements, understandings, arrangements, or reports, certified by the secretary of the Board, under the seal of the Board, shall be received in evidence with like effect as the originals.

[49 U.S.C. App. 1503]

WITHHOLDING OF INFORMATION

SEC. 1104. Any person may make written objection to the public disclosure of information contained in any application, report, or document filed pursuant to provisions of this Act or of any information obtained by the Board, the Secretary of State, or the Secretary of Transportation pursuant to the provisions of this Act on the grounds that such objection. Any information contained in such application, report, or document, or any such other information obtained by the Board, the Secretary of State, or the Secretary of Transportation, shall be withheld from public disclosure by the Board, the Secretary of State, or the Secretary of Transportation, as the case may be, if disclosure of such information would prejudice the formulation and presentation of the United States in international negotiations or adversely affect the competitive position of any air carrier in foreign air transportation. The Board, the Secretary of State, or the Secretary of Transportation, as the case may be, shall be responsible for classified information in accordance with appropriate law, except that nothing in this section shall authorize the withholding of information by the Board, the Secretary of State, or the Secretary of Transportation from the duly authorized committees of Congress.

[49 U.S.C. App. 1504]

COOPERATION WITH GOVERNMENT AGENCIES

SEC. 1105. The Board and the Administrator may avail themselves of the assistance of the National Aeronautics and Space Administration and any research or technical agency of the United States on matters relating to aircraft fuel and oil and to the design, materials, workmanship, construction, performance, maintenance, and operation of aircraft, aircraft engines, propellers, appliances, and air navigation facilities. The Board may avail itself of the assistance of the Federal Bureau of Investigation and of any investigatory or intelligence agency of the United States in the investigation of the activities of any person in connection with an aircraft accident. The Board may avail itself of the assistance of any medical agency of the United States in the conduct of such autopsies or tests on the remains of deceased persons aboard the aircraft at the time of the accident, who die as a result of the accident, as may be necessary to aid the Board in the investigation of an aircraft accident. Each such agency is authorized to conduct such scientific and technical researches, investigations, and tests as may be necessary to aid the Board and Administrator in the exercise and performance of their powers and duties. Nothing contained in this Act shall be construed to authorize the duplication of the laboratory research activities of any existing governmental agency.

[49 U.S.C. App. 1505]

REMEDIES NOT EXCLUSIVE

SEC. 1106. Nothing contained in this Act shall in any way abridge or alter the remedies now existing at common law or by statute, but the provisions of this Act are in addition to such remedies.

[49 U.S.C. App. 1506]

PUBLIC USE OF FACILITIES

SEC. 1107. (a) Air navigation facilities owned or operated by the United States may be made available for public use under such conditions and to such extent as the head of the department or other agency having jurisdiction thereof deems advisable and may by regulation prescribe.

(b) The head of any Government department or other agency having jurisdiction over any airport or emergency landing field owned or operated by the United States may provide for the sale to any aircraft of fuel, oil, equipment, and supplies, and the furnishing to it of mechanical service, temporary shelter, and other assistance under such regulations as the head of the department or agency may prescribe, but only if such action is by reason of an emergency necessary to the continuance of such aircraft on its course to the nearest airport operated by private enterprise. All such articles shall be sold and such assistance furnished at the fair
market value prevailing locally as ascertained by the head of such department or agency. All amounts received under this subsection shall be covered into the Treasury; but that part of such amounts which, in the judgment of the head of the department or agency, is equivalent to the cost of the fuel, oil, equipment, supplies, services, shelter, or other assistance so sold or furnished shall be credited to the appropriation from which such cost was paid, and the balance, if any, shall be credited to miscellaneous receipts.

FOREIGN AIRCRAFT

SEC. 1108. (a) The United States of America is hereby declared to possess and exercise complete and exclusive national sovereignty in the airspace of the United States, including the airspace above all inland waters and the airspace above those portions of the adjacent marginal high seas, bays, and lakes, over which by international law or treaty the United States enjoys national jurisdiction. Aircraft of the armed forces of any foreign nation shall not be navigated in the United States, including the Canal Zone, except in accordance with an authorization granted by the Secretary of State.

(b) Foreign aircraft, which are not a part of the armed forces of a foreign nation, may be navigated in the United States by airmen holding certificates or licenses issued or rendered valid by the United States or by the nation in which the aircraft is registered if such foreign nation grants a similar privilege with respect to aircraft of the United States and only if such navigation is authorized by treaty, order, or regulation issued by the Board and in accordance with the terms, conditions, and limitations thereof. The Board shall issue such permits, orders, or regulations to such extent only as it shall find such action to be in the interest of the public: Provided, however, That in exercising its powers, the Board shall do so consistently with any treaty, convention, or agreement which may be in force between the United States and any foreign country or countries. Foreign civil aircraft permitted to navigate in the United States under this subsection shall be authorized by the Board to engage in air commerce within the United States except that they shall not take off at any point within the United States, persons, property, or mail carried for compensation or hire are an designated as public airports (as defined in the Airport and Airway Improvement Act of 1982) as he deems necessary, after consultation with the Administrator of the Federal Aviation Agency, to be necessary for the performance of such duty. In acquiring any such space, the head of such department or agency shall act through the Administrator of General Services in accordance with the procedures established by law which are generally applicable to the acquisition of space to be used by departments and agencies of the Federal Government.

[49 U.S.C. App. 1507]

APPLICATION OF EXISTING LAWS RELATING TO FOREIGN COMMERCE

SEC. 1109. (a) Except as specifically provided in the Act entitled "An Act to authorize the President to proclaim regulations for preventing collisions at sea", approved October 11, 1951 (Public Law 172, Eighty-second Congress; 65 Stat. 406), the navigation and shipping laws of the United States, including any definition of "ves- sel" or "vehicle" found therein and including the rules for the prevention of collisions, shall not be construed to apply to seaplanes or other aircraft or to the navigation of vessels in relation to seaplanes or other aircraft.

(b) The Secretary of the Treasury is authorized to (1) designate places in the United States as ports of entry for civil aircraft arriving in the United States from any place outside thereof and for merchandise carried on such aircraft, (2) detail to ports of entry for civil aircraft such officers and employees of the customs service as he may deem necessary, and to confer or impose upon any officer or employee of the United States stationed at any such port of entry (with the consent of the head of the Government department or other agency under whose jurisdiction the officer or employee is serving) any of the powers, privileges, or duties conferred or imposed upon officers or employees of the customs service, and (3) by regulation to provide for the application to civil air navigation of the laws and regulations relating to the administration of the customs laws to such extent and upon such conditions as he deems necessary.

(c) The Secretary of the Treasury is authorized by regulation to provide for the application to civil aircraft of the laws and regulations relating to the entry and clearance of vessels to such extent and upon such conditions as he deems necessary.

(d) The Secretary of Agriculture is authorized by regulation to provide for the application to civil air navigation of the laws and regulations related to animal and plant quarantine, including the importation, exportation, transportation, and quarantine of animals, plants, animal and plant products, insects, bacterial and fun- gus cultures, viruses, and serums, to such extent and upon such conditions as he deems necessary.

(e) There are authorized to be appropriated such sums as may be necessary to enable the head of any department or agency of the Federal Government charged with any duty of inspection, collection of taxes or duties, or other similar function, with respect to persons or property moving in air commerce, to acquire such space at public airports (as defined in the Airport and Airway Improvement Act of 1982) as he determines, after consultation with the Administrator of the Federal Aviation Agency, to be necessary for the performance of such duty. In acquiring any such space, the head of such department or agency shall act through the Administrator of General Services in accordance with the procedures established by law which are generally applicable to the acquisition of space to be used by departments and agencies of the Federal Gov- ernment.

[49 U.S.C. App. 1508]
REPORTING TRANSFER OF OWNERSHIP

(f) Any person having an ownership interest in any aircraft for which a certificate of registration has been issued under this Act shall, upon the sale, conditional sale, transfer, or conveyance of such ownership interest, file with the Secretary of the Treasury within 15 days after such sale, conditional sale, transfer or conveyance such notice as the Secretary of the Treasury may by regulation require. The filing of a notice under this subsection shall not relieve any person from the filing requirements under section 501 or 503 of this Act.

[49 U.S.C. App. 1509]

GEOGRAPHICAL EXTENSION OF JURISDICTION

SEC. 1110. Whenever the President determines that such action would be in the national interest, he may, to the extent, in the manner, and for such periods of time as he may consider necessary, extend the application of this Act to any areas of land or water outside of the United States and the overlying airspace thereof in which the Federal Government of the United States, under international treaty, agreement or other lawful arrangement has the necessary legal authority to take such action.

[49 U.S.C. App. 1510]

AUTHORITY TO REFUSE TRANSPORTATION

SEC. 1111. (a) The Administrator shall, by regulation, require any air carrier, intrastate air carrier, or foreign air carrier to refuse to transport—

(1) any person who does not consent to a search of his person, as prescribed in section 315(a) of this Act, to determine whether he is unlawfully carrying a dangerous weapon, explosive, or other destructive substance, or

(2) any property of any person who does not consent to a search or inspection of such property to determine whether it unlawfully contains a dangerous weapon, explosive, or other destructive substance.

Subject to reasonable rules and regulations prescribed by the Administrator, any such carrier may also refuse transportation of a passenger or property when, in the opinion of the carrier, such transportation would or might be inimical to safety of flight.

(b) Any agreement for the transportation of persons or property in air transportation or intrastate air transportation by an air carrier, intrastate air carrier, or foreign air carrier for compensation or hire shall be deemed to include an agreement that such carriage shall be refused when consent to search such persons or inspect such property for the purposes enumerated in subsection (a) of this section is not given.

[49 U.S.C. App. 1511]

STATE OR SUBDIVISION INCOME TAX ON COMPENSATION PAID TO INTERSTATE AIR CARRIER EMPLOYEES

SEC. 1112. (a) No part of the compensation paid by an air carrier to an employee who performs his regularly assigned duties as such an employee on an aircraft in more than one State, shall be subject to the income tax laws of any State or subdivision thereof other than the State or subdivision thereof of such employee's residence and the State or subdivision thereof in which such employee earns more than 50 per centum of the compensation paid by the carrier to such employee.

(b) For the purposes of subsection (a), an employee shall be deemed to have earned 50 per centum of his compensation in any State or subdivision in which his scheduled flight time in such State or subdivision is more than 50 per centum of his total scheduled flight time in the calendar year while so employed.

(c) For the purposes of this section the term "State" also means the District of Columbia and any of the possessions of the United States; and the term "compensation" shall mean all money received for services rendered by the employee in the performance of his duties and shall include wages and salary.

[49 U.S.C. App. 1512]

STATE TAXATION OF AIR COMMERCE

SEC. 1113. (a) No State (or political subdivision thereof, including the Commonwealth of Puerto Rico, the Virgin Islands, Guam, the District of Columbia, the territories or possessions of the United States or political agencies of two or more States) shall levy or collect a tax, fee, head charge, or other charge, directly or indirectly, on persons traveling in air commerce or on the carriage of persons traveling in air commerce or on the sale of air transportation or on the gross receipts derived therefrom; except as provided in subsection (c) and except that any State (or political subdivision thereof, including the Commonwealth of Puerto Rico, the Virgin Islands, Guam, the District of Columbia, the territories or possessions of the United States or political agencies of two or more States) which levied a tax, fee, head charge, or other charge, directly or indirectly, on persons traveling in air commerce or on the carriage of persons traveling in air commerce or on the sale of air transportation or on the gross receipts derived therefrom prior to May 21, 1970, shall be exempt from the provisions of this subsection until December 31, 1973.

(b) Except as provided in subsection (d) of this section, nothing in this section shall prohibit a State (or political subdivision thereof, including the Commonwealth of Puerto Rico, the Virgin Islands, Guam, the District of Columbia, the territories or possessions of the United States or political agencies of two or more States) from the levy or collection of taxes other than those enumerated in subsection (a) of this section, including property taxes, net income taxes, franchise taxes, and sales or use taxes on the sale of goods or services; and nothing in this section shall prohibit a State (or political subdivision thereof, including the Commonwealth of Puerto Rico, the Virgin Islands, Guam, the District of Columbia, the territories or possessions of the United States or political agencies of
two or more States) owning or operating an airport from levying or collecting reasonable rental charges, landing fees, and other service charges from aircraft operators using its facilities. 

(c) In the case of any airport operating authority which—

(1) has an outstanding obligation to repay a loan or loans of amounts borrowed and expended for airport improvements; 

(2) is collecting without air carrier assistance, a head tax on passengers in air transportation for the use of its facilities; and 

(3) has no authority to collect any other type of tax to repay such loan or loans, the provisions of subsection (a) shall not apply to such authority until December 31, 1973. 

(d) (1) The following acts unreasonably burden and discriminate against interstate commerce and a State, subdivision of a State, or authority acting for a State or subdivision of a State may not do any of them:

(A) assess air carrier transportation property at a valuation that has a higher ratio to the true market value of the air carrier transportation property than the ratio that the assessed value of other commercial and industrial property of the same type in the same assessment jurisdiction has to the true market value of the other commercial and industrial property; 

(B) levy or collect a tax on an assessment that may not be made under subparagraph (A) of this paragraph; or 

(C) levy or collect an ad valorem property tax on air carrier transportation property at a tax rate that exceeds the tax rate applicable to commercial and industrial property in the same assessment jurisdiction.

(2) In this subsection:

(A) “assessment” means valuation for a property tax levied by a taxing district; 

(B) “assessment jurisdiction” means a geographical area in a State used in determining the assessed value of property for ad valorem taxation; 

(C) “air carrier transportation property” means property, as defined by the Civil Aeronautics Board, owned or used by an air carrier providing air transportation; 

(D) “commercial and industrial property” means property, other than transportation property and land used primarily for agricultural purposes, that is exclusively devoted to a commercial or industrial use and subject to a property tax levy; and 

(E) “State” shall include the Commonwealth of Puerto Rico, the Virgin Islands, Guam, the District of Columbia, the territories or possessions of the United States, and political agencies of two or more States.

(3) This subsection shall not apply to any line tax which is wholly utilized for airport and aeronautical purposes.

(e) AUTHORITY FOR IMPOSITION OF PASSENGER FACILITY CHARGES.—

(1) IN GENERAL.—Subject to the provisions of this subsection, the Secretary may grant a public agency which controls a commercial service airport authority to impose a fee of $1.00, $2.00, or $3.00 for each paying passenger of an air carrier enplaned at such airport to finance eligible airport-related projects to be carried out in connection with such airport or any other airport which such agency controls. For purposes of this subsection, financing an eligible airport-related project includes making payments for debt service on bonds and other indebtedness incurred to carry out such project.

(2) USE OF REVENUES AND RELATIONSHIP BETWEEN FEES AND REVENUES.—The Secretary may grant a public agency which controls a commercial service airport authority to impose a fee under this subsection to finance specific projects only if the Secretary finds, on the basis of an application submitted for such authority—

(i) the amount and duration of the proposed fee will result in revenues (including interest and other returns on such revenues) which do not exceed amounts necessary to finance the specific projects; and

(ii) that each of the specific projects is an eligible airport-related project which will—

(A) “assessment” means valuation for a property tax levied by a taxing district; 

(B) “assessment jurisdiction” means a geographical area in a State used in determining the assessed value of property for ad valorem taxation; 

(C) “air carrier transportation property” means property, as defined by the Civil Aeronautics Board, owned or used by an air carrier providing air transportation; 

(D) “commercial and industrial property” means property, other than transportation property and land used primarily for agricultural purposes, that is exclusively devoted to a commercial or industrial use and subject to a property tax levy; and 

(E) “State” shall include the Commonwealth of Puerto Rico, the Virgin Islands, Guam, the District of Columbia, the territories or possessions of the United States, and political agencies of two or more States.

(3) LIMITATION REGARDING PASSENGERS OF AIR CARRIERS RECEIVING ESSENTIAL AIR SERVICE COMPENSATION.—If a passenger of an air carrier is being provided air service to an eligible point under section 419 for which compensation is being paid under such section, a public agency which controls any other airport may not impose a fee pursuant to this subsection for enplanement of such passenger with respect to such air service.

(4) LIMITATION REGARDING OBLIGATIONS.—No fee may be imposed pursuant to this subsection for a project which is not approved by the Secretary under this subsection on or before September 30, 1993, if, during fiscal year 1993, the amount available for obligation under section 419 of this Act is less than $38,600,000. This limitation on the authority to impose a fee shall not apply if the amount available in fiscal year 1993 for obligation under section 419 is less than $38,600,000 as a result of sequestration or other general appropriations reductions applied proportionately to appropriations accounts throughout an appropriations Act. The provisions of this paragraph shall not affect the authority of the Secretary to approve the imposition of a fee or the use of revenues derived from a fee imposed pursuant to an approval made under this subsection by a public agency which has received an approval to impose a fee under this subsection prior to September 30, 1993, regardless of whether such fee is being imposed on September 30, 1993.

(5) LINKAGE.—The Secretary may not grant a public agency authority to impose a fee pursuant to this subsection unless the Secretary has—
(9) NONEXCLUSIVITY OF CONTRACTUAL AGREEMENTS.—No project carried out through the use of a fee collected pursuant to this subsection may be subject to an exclusive long-term lease or use agreement of an air carrier, as defined by the Secretary by regulation. No lease or use agreement of an air carrier with respect to a project constructed or expanded through the use of such fee may restrict the public agency which controls the airport from funding, developing, or assigning new capacity at the airport with revenues derived from fees imposed pursuant to this subsection.

(10) COLLECTION AND HANDLING OF FEES BY AIR CARRIERS.—The regulations issued by the Secretary to carry out this subsection shall—

(A) require air carriers and their agents to collect fees imposed by public agencies pursuant to this subsection; and

(B) establish procedures regarding handling and remittance of the amounts so collected;

(C) ensure that such amounts are promptly paid to the public agency for which they are collected less a uniform amount determined by the Secretary as reflecting average necessary and reasonable expenses (net of interest accruing to the air carrier and agent after collection and prior to remittance) incurred in the collection and handling of such fees; and

(D) require that the amount of fees collected pursuant to this subsection with respect to any air transportation be noted on the ticket for such air transportation.

(11) APPLICATION PROCESS.—

(A) SUBMISSION.—A public agency which controls a commercial service airport and is interested in imposing a fee pursuant to this subsection shall submit to the Secretary an application for authority to impose such fee.

(B) CONTENT.—An application submitted under this paragraph shall contain such information and be in such form as the Secretary may require by regulation.

(C) OPPORTUNITY FOR CONSULTATION.—Before submission of an application under this paragraph, a public agency shall provide reasonable notice to, and an opportunity for consultation with, air carriers operating at the airport. The Secretary shall issue regulations which define reasonable notice and contain the following requirements at a minimum:

(i) A public agency must provide written notice—

(I) of individual projects being considered for funding through imposition of a fee pursuant to this subsection; and

(II) of the date and location of a meeting to present such projects to air carriers operating at the airport.

(ii) Not later than 30 days after the issuance of a written notice under clause (i), each air carrier operating at the airport must provide to the public agency a written notice of receipt of such notice. Failure of an air carrier to provide such notice may be deemed as

(7) AIR CARRIER RATES, FEES, AND CHARGES.—

(A) TREATMENT OF FEES.—Revenues derived from fees collected pursuant to this subsection shall not be treated as airport revenues for the purpose of establishing a rate, fee, or charge pursuant to a contract between a public agency which controls a commercial service airport and an air carrier.

(B) CAPITAL COSTS.—Except as provided by subparagraph (C), a public agency which controls a commercial service airport shall not include in its rate base the depreciation, amortization, or any other method that portion of the capital costs of a project paid for using revenues derived from fees collected pursuant to this subsection for the purpose of establishing a rate, fee, or charge pursuant to a contract between such agency and an air carrier.

(C) FACILITIES FINANCED WITH FEE REVENUES.—With respect to a project for terminal development, gates and related areas, or a facility which is occupied or utilized by 1 or more air carriers on an exclusive or preferential basis, the rates, fees, and charges payable by air carriers which use such facilities shall be no less than the rates, fees, and charges paid by carriers using similar facilities at the airport which were not financed using revenues derived from collection of a fee imposed pursuant to this subsection.

(8) EXCLUSIVITY OF AUTHORITY.—No State or political subdivision or agency thereof which is not a public agency controlling a commercial service airport shall prohibit, limit, or regulate the imposition of fees by the public agency pursuant to this subsection, collection of such fees, or use of revenues derived therefrom. No contract between an air carrier and a public agency which controls a commercial service airport entered into before, on, or after the date of the enactment of this subsection shall impair the authority of the public agency to impose fees pursuant to this subsection and to use the revenues derived from such fees in accordance with this subsection.
certification of agreement with the project by such air carrier under clause (iv).

(iii) Not later than 45 days after the issuance of written notice under clause (i), the public agency must conduct a meeting to provide air carriers—
(I) descriptions of projects;
(II) justifications for projects; and
(III) a detailed financial plan for projects.

(iv) Not later than 30 days after the date of such meeting, each air carrier must provide the public agency with certification of agreement or disagreement with projects (or total plan for such projects). The failure of an air carrier to submit such certification shall be deemed as certification of agreement with the project by such air carrier. Any certification of disagreement shall contain the reasons for such disagreement. The absence of such reasons will void the certification of disagreement.

(D) NOTICE AND OPPORTUNITY FOR COMMENT.—After receiving an application under this paragraph, the Secretary shall provide notice and an opportunity for comment by air carriers and other interested persons concerning such application.

(E) APPROVAL.—A fee may only be imposed pursuant to this subsection if the Secretary approves an application granting authority for the imposition of such fee. Not later than 120 days after the date of receipt of such an application, the Secretary shall make a final decision regarding approval of such application.

(12) RECORDKEEPING AND AUDITS.—
(A) WITH RESPECT TO COLLECTION OF FEES.—The Secretary shall issue regulations requiring such recordkeeping and auditing of accounts maintained by an air carrier and any agency thereof which is collecting a fee imposed pursuant to this subsection and by the public agency which is imposing such fee as may be necessary to ensure compliance with this subsection.

(B) WITH RESPECT TO USE OF REVENUES.—The Secretary shall periodically audit and review the use by a public agency which controls an airport of revenues derived from a fee imposed pursuant to this subsection. Upon such review and after a public hearing, the Secretary may terminate the authority of such agency to impose such fee, in whole or in part, to the extent the Secretary determines that revenues derived therefrom are not being used in accordance with this subsection.

(C) SET-OFF.—If the Secretary determines that a fee imposed pursuant to this subsection is excessive or that the revenues derived from such fee are not being used in accordance with this subsection, the Secretary may set off such amounts as may be necessary to ensure compliance with this subsection against amounts otherwise payable to the public agency under the Airport and Airway Improvement Act of 1982.

(13) TERMS AND CONDITIONS.—Authority granted to impose a fee pursuant to this subsection shall be subject to such terms and conditions as the Secretary may establish to carry out the objectives of this subsection.

(14) ISSUANCE OF REGULATIONS.—Not later than 180 days after the date of the enactment of this subsection, the Secretary shall issue such regulations as may be necessary to carry out this subsection. Such regulations may prescribe the time and form by which a fee imposed pursuant to this subsection shall take effect.

(15) DEFINITIONS.—For purposes of this subsection, the following definitions apply:

(A) AIR CARRIER.—The term "air carrier" includes a foreign air carrier.

(B) AIRPORT, COMMERCIAL SERVICE AIRPORT, AND PUBLIC AGENCY.—The terms "airport", "commercial service airport", and "public agency" have the meaning such terms have under section 503 of the Airport and Airway Improvement Act of 1982.

(C) ELIGIBLE AIRPORT-RELATED PROJECT.—The term "eligible airport-related project" means—
(i) a project for airport development under the Airport and Airway Improvement Act of 1982;
(ii) a project for airport planning under such Act;
(iii) a project for terminal development described in section 513(b) of such Act;
(iv) a project for airport noise capital improvement under section 103(b) of the Aviation Safety and Noise Abatement Act of 1979;
(v) a project to carry out noise compatibility measures which are eligible for assistance under section 104 of the Aviation Safety and Noise Abatement Act of 1979 without regard to whether or not a program has been approved for such measures under such section; and
(vi) a project for construction of gates and related areas at which passengers are enplaned or deplaned.

(D) SECRETARY.—The term "Secretary" means the Secretary of Transportation.

(16) FLIGHT TAKEOFF OR LANDING REQUIREMENT FOR STATE TAXATION.—No State (as such term is defined under subsection (d)(2)(E)) or political subdivision thereof shall levy or collect any tax on or with respect to any flight of a commercial aircraft or any activity or service on board such aircraft unless such aircraft takes off or lands in such State or political subdivision as part of such flight.

SUBMISSION OF AIR SERVICES

SEC. 1114. (a) Whenever the President determines that a foreign nation is acting in a manner inconsistent with the Convention for the Suppression of Unlawful Seizure of Aircraft, or if he determines that a foreign nation permits the use of territory under its
jurisdiction as a base of operations or training or as a sanctuary for, or in any way arms, aids, or abets, any terrorist organization which knowingly uses the illegal seizure of aircraft or the threat thereof as an instrument of policy, without notice or hearing and for as long as he determines necessary to assure the security of aircraft against unlawful seizure, suspend (1) the right of any air carrier or foreign air carrier to engage in foreign air transportation, and the right of any person to operate aircraft in foreign air commerce, to and from that foreign nation, and (2) the right of any foreign air carrier to engage in foreign air transportation, and the right of any foreign person to operate aircraft in foreign air commerce, between the United States and any foreign nation which maintains air service between itself and that foreign nation. Notwithstanding section 1102 of this Act, the President's authority to suspend rights under this section shall be deemed to be a condition to any certificate of public convenience and necessity or foreign air carrier or foreign aircraft permit issued by the Civil Aeronautics Board and any air carrier operating certificate or foreign air carrier operating specification issued by the Secretary of Transportation.

SEC. 1115. SECURITY STANDARDS IN FOREIGN AIR TRANSPORTATION

ASSESSMENT OF SECURITY MEASURES

SEC. 1115. (a)(1) The Secretary of Transportation shall conduct at such intervals as the Secretary shall deem necessary an assessment of the effectiveness of the security measures maintained at those foreign airports being served by air carriers from foreign airports from which foreign air carriers serve the United States, those foreign airports which pose a high risk of introducing danger to international air travel, and at such other foreign airports as the Secretary may deem appropriate.

(2) Each such assessment shall be made by the Secretary of Transportation in consultation with the appropriate aeronautic authorities of the foreign government concerned and each air carrier serving the foreign airport at which the Secretary is conducting such assessment.

(3) The assessment shall determine the extent to which an airport effectively maintains and administers security measures. In making an assessment of any airport under this subsection, the Secretary shall use a standard which will result in an analysis of the security measures at such airport based upon, at a minimum, the standards and appropriate recommended practices contained in Annex 17 to the Convention on International Civil Aviation, as those standards and recommended practices are in effect on the date of such assessment.

CONSULTATION WITH THE SECRETARY OF STATE

(b) In carrying out subsection (a), the Secretary of Transportation shall consult the Secretary of State with respect to the terrorist threat which exists in each country. The Secretary of Transportation shall also consult with the Secretary of State in order to determine which foreign airports are not under the de facto control of the government of the country in which they are located and pose a high risk of introducing danger to international air travel.

REPORT OF ASSESSMENTS

(c) Each report to the Congress required by section 315(a) of this Act shall contain a summary of the assessments conducted pursuant to subsection (a).

NOTIFICATION TO FOREIGN COUNTRY OF DETERMINATION

(d) Whenever, after an assessment in accordance with subsection (a), the Secretary of Transportation determines that an airport does not maintain and administer effective security measures, the Secretary (after advising the Secretary of State) shall notify the appropriate authorities of such foreign government of such determination, and recommend the steps necessary to bring the security measures in use at that airport up to the standard used by the Secretary in making such assessment.

NOTICE AND SANCTIONS

(e)(1) Paragraph (2) of this subsection shall become effective—

(A) 90 days after notification to the foreign government pursuant to subsection (d), if the Secretary of Transportation finds that the foreign government has failed to bring the security measures at the identified airport up to the standard used by the Secretary in making an assessment of such airport under subsection (a), or

(B) immediately upon the Secretary of Transportation's determination under subsection (d) if the Secretary of Transportation determines, after consultation with the Secretary of State, that a condition exists that threatens the safety or security of passengers, aircraft, or crew traveling to or from such airport.

The Secretary of Transportation shall immediately notify the Secretary of State of any determination made pursuant to subparagraph (B) so that the Secretary of State may comply with the requirement of section 552(a) of the International Security and Development Cooperation Act of 1985 that a travel advisory be issued.

(2) Subject to paragraph (1), if the Secretary of Transportation determines pursuant to this section that an airport does not maintain and administer effective security measures—

(A) the Secretary of Transportation—

(i) shall publish the identity of such airport in the Federal Register,

(ii) shall cause the identity of such airport to be posted and prominently displayed at all United States airports regularly being served by scheduled air carrier operations, and
(iii) shall notify the news media of the identity of such airport;
(B) each air carrier and foreign air carrier providing service between the United States and such airport shall provide notice of such determination by the Secretary to any passenger purchasing a ticket for transportation between the United States and such airport, with such notice to be made by written material included on or with such ticket;
(C) the Secretary of Transportation, after consultation with the appropriate aeronautical authorities of the foreign government concerned and each air carrier serving such airport, may, notwithstanding section 1102 of this Act and with the approval of the Secretary of State, withhold, revoke, or impose conditions on the operating authority of any air carrier or foreign air carrier to engage in foreign air transportation utilizing such airport; and
(D) the President may prohibit air carriers and foreign air carriers from providing service between the United States and any other foreign airport which is directly or indirectly served by aircraft flying to or from the airport with respect to which the determination is made under this section.
(3) The Secretary of Transportation shall promptly submit to the Congress a report (with a classified annex if necessary) on any action taken under this subsection, setting forth information concerning the attempts made to secure the cooperation of the foreign government in meeting the standard used by the Secretary in making the assessment of the airport under subsection (a).

LIFTING OF SANCTIONS

(f)(1) The sanctions required to be imposed with respect to an airport pursuant to subsection (e)(2) (A) and (B) may be lifted only if the Secretary of Transportation, in consultation with the Secretary of State, has determined that effective security measures are maintained and administered at that airport.
(2) The Congress shall be notified if any sanction imposed pursuant to subsection (e) is lifted.

AUTHORITY FOR IMMEDIATE SUSPENSION OF AIR SERVICE

(g) Notwithstanding sections 1102 and 1114 of this Act, whenever the Secretary of Transportation determines that—
(1) a condition exists that threatens the safety or security of passengers, aircraft, or crew traveling to or from a foreign airport, and
(2) the public interest requires an immediate suspension of services between the United States and the identified airport, the Secretary of Transportation shall, without notice or hearing and with the approval of the Secretary of State, suspend the right of any air carrier or foreign air carrier to engage in foreign air transportation to or from that foreign airport and the right of any person to operate aircraft in foreign air commerce to or from that foreign airport.

CONDITIONS OF AUTHORITY

(h) The provisions of this section shall be deemed to be a condition to any authority granted under title IV or title VI of this Act to any air carrier or any foreign air carrier, issued under authority vested in the Secretary of Transportation.

LIABILITY FOR CERTAIN PROPERTY

SEC. 1116. The Civil Aeronautics Board shall issue regulations or orders as may be necessary to require that any air carrier receiving for transportation as baggage any property of a person traveling in air transportation, which property cannot lawfully be carried by such person in the aircraft cabin by reason of any Federal law or regulation, shall assume liability to such person, at a reasonable charge and subject to reasonable terms and conditions, within the amount declared to the air carrier by such person, for the full actual loss or damage to such property caused by such air carrier.

TRANSPORTATION OF GOVERNMENT-FINANCED PASSENGERS AND PROPERTY

TRANSPORTATION BETWEEN THE UNITED STATES AND A PLACE OUTSIDE THEREOF

SEC. 1117. (a) Except as provided in subsection (c) of this section, whenever any executive department or other agency or instrumentality of the United States shall procure, contract for, or otherwise obtain for its own account or in furtherance of the purposes or pursuant to the terms of any contract, agreement, or other special arrangement made or entered into under which payment is made by the United States or payment is made from funds appropriated, owned, controlled, granted, or conditionally granted or utilized by or otherwise established for the account of the United States, or shall furnish to or for the account of any foreign nation, or any international agency, or other organization, of whatever nationality, without provisions for reimbursement, any transportation of persons (and their personal effects) or property by air between a place in the United States and a place outside thereof, the appropriate agency or agencies shall take such steps as may be necessary to assure that such transportation is provided by air carriers holding certificates under section 401 of this Act to the extent authorized by such certificates or by regulations or exemption of the Civil Aeronautics Board and to the extent service by such carriers is available.

TRANSPORTATION BETWEEN TWO PLACES OUTSIDE THE UNITED STATES

(b) Except as provided in subsection (c) of this section, whenever persons (and their personal effects) or property described in subsection (a) of this section are transported by air between two places both of which are outside the United States, the appropriate
agency or agencies shall take such steps as may be necessary to assure that such transportation is provided by air carriers holding certificates under section 401 of this Act to the extent authorized by such certificates or by regulations or exemption of the Civil Aeronautics Board and to the extent service by such carriers is reasonably available.

TRANSPORTATION PURSUANT TO BILATERAL AGREEMENT

(c) Nothing in this section shall preclude the transportation of persons (and their personal effects) or property by foreign air carriers if such transportation is provided for under the terms of a bilateral or multilateral air transport agreement between the United States and a foreign government or governments and if such agreement (1) is consistent with the goals for international aviation policy set forth in section 1102(b) of this Act and (2) provides for the exchange of rights or benefits of similar magnitude.

DISALLOWANCE OF IMPROPER EXPENDITURE BY COMPTROLLER GENERAL

(d) The Comptroller General of the United States shall disallow any expenditure from appropriated funds for payment for personnel or cargo transportation in violation of this section in the absence of satisfactory proof of the necessity therefor. Nothing in this section shall prevent the application to such traffic of the antidiscrimination provisions of this Act.

AERONAUTICAL CHARTS AND MAPS

SEC. 1118. Notwithstanding the provisions of section 1341 of title 31, United States Code, or any other provision of law, the United States Government shall enter into agreements to indemnify any person who publishes a chart or map for use in aeronautics from any claim, or portion of a claim, which arises out of such person's depiction on such chart or map of any defective or deficient flight procedure or airway, if such flight procedure or airway was—

(1) promulgated by the Federal Aviation Administration;
(2) accurately depicted on such chart or map; and
(3) not obviously defective or deficient.

TITLE XII—SECURITY PROVISIONS

PURPOSE

SEC. 1201. The purpose of this title is to establish security provisions which will encourage and permit the maximum use of the navigable airspace by civil aircraft consistent with the national security.

SECURITY CONTROL OF AIR TRAFFIC

SEC. 1202. In the exercise of his authority under section 307(a) of this Act, the Administrator, in consultation with the Department of Defense, shall establish such zones or areas in the airspace of the United States as he may find necessary in the interests of national defense, and by rule, regulation, or order restrict or prohibit the flight of civil aircraft, which he cannot identify, locate, and control with available facilities, within such zones or areas.

[49 U.S.C. App. 1522]

PENALTIES

SEC. 1203. In addition to the penalties otherwise provided for by this Act, any person who knowingly or willfully violates any provision of this title, or any rule, regulation, or order issued thereunder shall be deemed guilty of a misdemeanor, and upon conviction thereof, shall be subject to a fine of not exceeding $10,000 or to imprisonment not exceeding one year, or to both such fine and imprisonment.

[49 U.S.C. App. 1523]

TITLE XIII—AVIATION INSURANCE

DEFINITIONS

SEC. 1301. As used in this title—

(1) the term "American aircraft" means any civil aircraft of the United States and any aircraft owned or chartered by, or made available to, the United States or any department or agency thereof, the government of any State, territory, or possession of the United States, or any political subdivision thereof, or the District of Columbia;
(2) the terms "insurance company" and "insurance carrier" include any mutual or stock insurance company, reciprocal insurance association, and any group or association authorized to do an aviation insurance business in any State of the United States; and
(3) the term "Secretary" means the Secretary of Transportation.

[49 U.S.C. App. 1531]

AUTHORITY TO INSURE

AUTHORITY OF THE SECRETARY

SEC. 1302. (a)(1) The Secretary, with the approval of the President, and after such consultation with interested agencies of the Government as the President may require, may provide insurance and reinsurance against loss or damage arising out of any risk from the operation of an aircraft in the manner and to the extent provided by this title, whenever it is determined by the Secretary that such insurance cannot be obtained on reasonable terms and conditions from any company authorized to do an insurance business in a State of the United States.
(2) The President shall approve insurance or reinsurance under paragraph (1) of this subsection only if he has first made a determination that the continuation of the American aircraft, or the foreign-flag aircraft, operation to be insured or reinsured is necessary to carry out the foreign policy of the United States.

(3) Subject to section 1304(a), insurance shall be issued under this title only to cover any risk from the operation of an aircraft while such aircraft is (A) engaged in foreign air commerce, or (B) being operated between two or more points all of which are outside of the United States.

BASIS OF INSURANCE

(b) The premium charged for any insurance or reinsurance issued under any provision of this title shall be based, insofar as practicable, upon consideration of the risk involved.

PERIOD OF COVERAGE

(c) No insurance or reinsurance may be provided by the Secretary under this title for an initial period of more than sixty days. Such insurance or reinsurance may be extended for additional periods each of which shall not exceed sixty days, but only if, before each such extension, the President makes the same determination with respect to such extension as he is required to make under paragraph (2) of subsection (a) of this section for the initial provision of such insurance or reinsurance.

[49 U.S.C. App. 1532]

INSURABLE PERSONS, PROPERTY, OR INTERESTS

SEC. 1303. The Secretary may provide the insurance and reinsurance, authorized by section 1302 with respect to the following persons, property, or interest:

(1) American aircraft and those foreign-flag aircraft engaged in aircraft operations deemed by the President to be necessary to carry out the foreign policy of the United States.

(2) Cargoes transported or to be transported on any aircraft referred to in paragraph (1), including shipments by express or registered mail; air cargoes owned by citizens or residents of the United States, its territories, or possessions; air cargoes imported to, or exported from, the United States, its territories, or possessions; and air cargoes sold or purchased by citizens or residents of the United States, its territories, or possessions, under contracts of sale or purchase by the terms of which the risk of loss or the obligation to provide insurance against such risks is assumed by or falls upon a citizen or resident of the United States, its territories, or possessions; air cargoes transported between any point in the United States and any point in a territory or possession of the United States, between any point in any such territory or possession and any point in any other such territory or possession, or between any point in any such territory or possession and any other point in the same territory or possession.

(3) The personal effects and baggage of the captains, pilots, officers, members of the crews of any aircraft referred to in paragraph (1), and of other persons employed or transported on such aircraft.

(4) Captains, pilots, officers, members of the crews of any aircraft referred to in paragraph (1), and other persons employed or transported thereon against loss of life, injury, or detention.

(5) Statutory or contractual obligations or other liabilities of any aircraft referred to in paragraph (1) or of the owner or operator of such aircraft of the nature customarily covered by insurance.

[49 U.S.C. App. 1533]

INSURANCE FOR DEPARTMENTS AND AGENCIES

EXCEPTION

SEC. 1304. (a) Any department or agency of the United States may, with the approval of the President, procure from the Secretary any of the insurance provided under this title, including insurance to cover any risk from the operation of an aircraft while such aircraft is engaged in intrastate, interstate, or overseas air commerce, except with respect to valuables covered by sections 1 and 2 of the Act of July 8, 1937 (50 Stat. 479). In addition, such department or agency may, with the approval of the President, procure such insurance to cover any risk arising from the provision of goods or services directly related to and necessary for an operation of an aircraft covered by insurance procured under the preceding sentence if such operation is in the performance of a contract of such department or agency or is for the purpose of transporting military forces or material on behalf of the United States pursuant to an agreement between the United States and a foreign government.

INDEMNITY AGREEMENTS

(b) The Secretary is authorized with such approval to provide such insurance at the request of the Secretary of Defense, and such other agencies as the President may prescribe, without premium in consideration of the agreement of the Secretary of Defense or such agency to indemnify the Secretary against all losses covered by such insurance, and the Secretary of Defense and such other agencies are authorized to execute such indemnity agreement with the Secretary.

[49 U.S.C. App. 1534]

REINSURANCE

WHO MAY BE REINSURED

SEC. 1305. (a) To the extent that he is authorized by this title to provide insurance, the Secretary may reinsure, in whole or in part, any company authorized to do an insurance business in any State of the United States. The Secretary may reinsure with, or cede or retrocede to, any such company, any insurance or reinsur-
ance provided by the Secretary in accordance with the provisions of this title.

PREMIUMS FOR REINSURANCE

(b) Reinsurance shall not be provided by the Secretary at premiums less than nor obtained by the Secretary at premiums more than the premiums established by the Secretary on the same or similar risks or the premiums charged by the insurance carrier for the insurance so reinsured, whichever is most advantageous to the Secretary, except that the Secretary may make to the insurance carrier such allowances for expenses on account of the cost of services rendered or facilities furnished as he deems reasonably to accord with good business practice, but such allowance to the carrier shall not provide for any payment by the carrier on account of solicitation for or stimulation of insurance business.

[49 U.S.C. App. 1535]

COLLECTION, DISBURSEMENT, AND INVESTMENT OF FUNDS

TREASURY REVOLVING FUND

SEC. 1306. (a) Moneys appropriated by Congress to carry out the provisions of this title and all moneys received from premiums, salvage, or other recoveries and all receipts in connection with this title shall be deposited in a revolving fund in the Treasury of the United States. Payments of return premiums, losses, settlements, judgments, and all liabilities incurred by the United States under this title shall be made from such funds through the disbursing facilities of the Treasury Department.

APPROPRIATIONS

(b) Such sums as shall be necessary to carry out the provisions of this title are authorized to be appropriated to such fund.

REVOLVING FUND EXCESS

(c) At least annually, any balance in the revolving fund in excess of an amount determined by the Secretary to be necessary for the requirements of the fund, and for reasonable reserves to maintain the solvency of the fund shall be paid into the Treasury as miscellaneous receipts.

ANNUAL PAYMENT OF COSTS

(d) Annual payments shall be made by the Secretary to the Treasury of the United States as miscellaneous receipts by reason of costs incurred by the Government through the employment of appropriated funds by the Secretary in carrying out the provisions of this title. These payments shall be computed by applying to the average monthly balance of appropriated funds retained in the revolving fund a percentage determined annually in advance by the Secretary of the Treasury. Such percentage shall not be less than the current average rate which the Treasury pays on its marketable obligations.

CIVIL SERVICE RETIREMENT SYSTEM

(e) The Secretary shall contribute to the Civil Service Retirement and Disability Fund, on the basis of annual billings as determined by the Civil Service Commission, for the Government’s share of the cost of the Civil Service Retirement System applicable to the employees engaged in carrying out the provisions of this title. The Secretary shall also contribute to the employees’ compensation fund, on the basis of annual billings as determined by the Secretary of Labor for the benefit payments made from such fund on account of the employees engaged in carrying out the provisions of this title. The annual billings shall also include a statement of the fair portion of the cost of the administration of the respective funds, which shall be paid by the Secretary into the Treasury as miscellaneous receipts.

INVESTMENT OF REVOLVING FUND

(f) Upon the request of the Secretary, the Secretary of the Treasury may invest all or any part of the revolving fund in interest-bearing securities of the United States. The interest on, and the proceeds from the sale or redemption of, any securities held in the revolving fund shall be credited to and form a part of the revolving fund.

[49 U.S.C. App. 1536]

ADMINISTRATIVE POWERS OF SECRETARY

REGULATORY AND SETTLEMENT

SEC. 1307. (a) The Secretary, in the administration of this title, may issue such policies, rules, and regulations as he deems proper and, subject to the following provisions of this subsection, may adjust and pay losses, compromise and settle claims, whether in favor of or against the United States and pay the amount of any judgment rendered against the United States in any suit, or the amount of any settlement agreed upon, in respect of any claim under insurance authorized by this title. In the case of any aircraft which is insured under the provisions of this title, (1) the policy shall specify a stated amount to be paid in the event of total loss, and such stated amount shall not exceed an amount determined by the Secretary, to represent the fair and reasonable value of the aircraft, and (2) the amount of any claim which is compromised, settled, adjusted, or paid shall in no event exceed such stated amount.

FORMS, POLICIES, AMOUNTS INSURED, AND PREMIUMS

(b) The Secretary may prescribe and change forms and policies, and fix, adjust, and change the amounts insured and the premiums provided for in this title, except that with respect to policies in effect at the time any such change is made, such change shall apply only with the consent of the insured.

MANNER OF ADMINISTRATION

(c) The Secretary, in administering this title, may exercise his powers, perform his duties and functions, and make his expenditures, in accordance with commercial practice in the aviation insurance business. Except as authorized in subsection (d) of this section, no insurance broker or other person acting in a similar intermediary capacity shall be paid any fee or other consideration by the Secretary by virtue of his participation in arranging any insurance wherein the Secretary directly insures any of the risk thereof.

EMPLOYMENT OF AVIATION INSURANCE COMPANIES AND AGENTS

(d) The Secretary may, and whenever he finds it practical to do so shall, employ companies or groups of companies authorized to do an aviation insurance business in any State of the United States, to act as his underwriting agent. The Secretary may allow such companies or groups of companies fair and reasonable compensation for servicing insurance written by such companies or groups of companies as underwriting agent for the Secretary. The services of such underwriting agents may be utilized in the adjustment of claims under insurance provided by this title, but no claim shall be paid unless and until it has been approved by the Secretary. Such compensation may include an allowance for expenses reasonably incurred by such agent, but such allowance shall not include any payment by such agent on account of solicitation for or stimulation of insurance business.

COOPERATION WITH OTHER AGENCIES

(e) The Secretary with the consent of any executive department, independent establishment, or other agency of the Government, including any field service thereof, may avail himself of the use of information, services, facilities, officers, and employees thereof in carrying out the provisions of this title.

BUDGET PROGRAM AND ACCOUNTS

(f) The Secretary, in the performance of, and with respect to, the functions, powers, and duties vested in him by this title, shall prepare annually and submit a budget program as provided for wholly owned Government corporations by the Government Corporation Control Act, as amended (59 Stat. 597; 31 U.S.C. 841). The Secretary shall maintain a set of accounts which shall be audited by the Comptroller General in accordance with the provisions of the Accounting and Auditing Act of 1950. Provided, That, because of the business activities authorized by this title, the Secretary may exercise the powers conferred in said title, perform the duties and functions, and make expenditures required in accordance with commercial practice in the aviation insurance business, and the General Accounting Office shall allow credit for such expenditures when shown to be necessary because of the nature of such authorized activities.

Rights of Airmen Under Existing Law

SEC. 1308. This title shall not affect rights of airmen under existing law.
[49 U.S.C. App. 1538]
[Sec. 1309. Repealed Public Law 96–470, § 112(f)]

Judicial Review of Claims

SEC. 1310. Upon disagreement as to a loss insured under this title, suit may be maintained against the United States in the United States District Court for the District of Columbia or in the United States district court in and for the district in which the claimant or his agent resides, notwithstanding the amount of the claim and any provision of existing law as to the jurisdiction of United States district courts, and this remedy shall be exclusive of any other action by reason of the same subject matter against any agent or employee of the United States employed or retained under this title. If the claimant has no residence in the United States, suit may be brought in the United States District Court for the District of Columbia or in any other United States district court in which the Attorney General of the United States agrees to accept service. The procedure in such suits shall otherwise be the same as that provided for suits in the district courts by title 28, United States Code, section 1346(a)(2), so far as applicable. All persons having or claiming or who might have an interest in such insurance may be made parties either initially or upon the motion of either party. In any case where the Secretary acknowledges the indebtedness of the United States on account of such insurance, and there is a dispute as to the persons entitled to receive payment, the United States may bring an action in the nature of a bill of interpleader against such parties, in the United States District Court for the District of Columbia, or in the United States district court of the district in which any such person resides. In such actions any party, if not a resident of or found within the district, may be brought in by order of court served in such reasonable manner as the court directs. If the court is satisfied that persons unknown might assert a claim on account of such insurance, it may direct service upon such persons unknown by publication in the Federal Register. Judgment in any such suit shall discharge the United States from further liability to any parties to such action, and to all persons when service by publication upon persons unknown is directed by the court. The period within which suits may be commenced contained in said Act providing for bringing of suits against the United States shall, if claim be filed therefor within such period, be suspended from such time of filing until the claim shall have been administratively denied by the Secretary and for sixty days thereafter: Provided, however, That such claim shall be deemed to have been administratively denied if not acted upon within six months after the time of filing, unless the Secretary for good cause shown shall have otherwise agreed with the claimant.
[49 U.S.C. App. 1540]
INSURANCE OF EXCESS WITH OTHER UNDERWRITERS

SEC. 1311. A person having an insurable interest in an aircraft may, with the approval of the Secretary, insure with other underwriters in an amount in excess of the amount insured with the Secretary, and, in that event, the Secretary shall not be entitled to the benefit of such insurance, but nothing in this section shall prevent the Secretary from entering into contracts of coinsurance.
[49 U.S.C. App. 1541]

TERMINATION OF TITLE

SEC. 1312. The authority of the Secretary to provide insurance and reinsurance under this title shall expire at the termination of September 30, 1997.
[49 U.S.C. App. 1542]

[TITLE XIV—AMENDMENTS TO OTHER LAWS: OMITTED]

TITLE XV—SAVING PROVISIONS AND EFFECTIVE DATE

EFFECT OF TRANSFERS, REPEALS, AND AMENDMENTS

EXISTING RULES, REGULATIONS, ORDERS, AND SO FORTH

SEC. 1501. (a) All orders, determinations, rules, regulations, permits, contracts, certificates, licenses, rates, and privileges which have been issued, made, or granted, or allowed to become effective, by the President, the Department of Commerce, the Secretary of Commerce, the Administrator of Civil Aeronautics, the Civil Aeronautics Board, the Airways Modernization Board, the Secretary of the Treasury, the Secretary of Agriculture, or the Postmaster General, or any court of competent jurisdiction, under any provision of law repealed or amended by this Act, or in the exercise of duties, powers, or functions which, under this Act, are vested in the Administrator of the Federal Aviation Agency or the Civil Aeronautics Board, and which are in effect at the time this section takes effect, shall continue in effect according to their terms until modified, terminated, superseded, set aside, or repealed by the Administrator or the Board, as the case may be, or by any court of competent jurisdiction, or by operation of law.

PENDING ADMINISTRATIVE PROCEEDINGS

(b) The provisions of this Act shall not affect any proceedings pending at the time this section takes effect before the Secretary of Commerce, the Administrator of Civil Aeronautics, the Civil Aeronautics Board, the Chairman of the Airways Modernization Board, the Secretary of the Treasury, or the Secretary of Agriculture; but any such proceeding shall be continued before the successor agency, orders therein issued, appeals therefrom taken, and payments made pursuant to such orders, as if this Act had not been enacted, and orders issued in any such proceedings shall continue in effect until modified, terminated, superseded, or repealed by the Administrator, the Civil Aeronautics Board, the Secretary of the Treasury, or the Secretary of Agriculture or by operation of law.

PENDING JUDICIAL PROCEEDINGS

(c) The provisions of this Act shall not affect suits commenced prior to the date on which this section takes effect, and all such suits shall be continued by the successor agency; proceedings therein had, appeals therein taken, and judgments therein rendered, in the same manner and with the same effect as if this Act had not been passed. No suit, action, or other proceeding lawfully commenced by or against any agency or officer of the United States, in relation to the discharge of official duties, shall abate by reason of any transfer of authority, power, or duties from such agency or officer to the Administrator or the Board under the provisions of this Act, but the court, upon motion or supplemental petition filed at any time within twelve months after such transfer, showing the necessity for a survival of such suit, action, or other proceeding to obtain a settlement of the questions involved, may allow the same to be maintained by or against the Administrator or the Board.

PERSONNEL, PROPERTY, AND APPROPRIATIONS

SEC. 1502. (a) The officers, employees, and property (including office equipment and official records) of the Civil Aeronautics Administration of the Department of Commerce, and of the Airway Modernization Board, and such employees and property (including office equipment and official records) as the President, after consultation with the Civil Aeronautics Board, shall determine to have been employed by the Civil Aeronautics Board in the exercise and performance of those powers and duties vested in and imposed upon it by the Civil Aeronautics Act of 1938, as amended, and which are vested by this Act in the Agency, shall be transferred to the Agency upon such date or dates as the President shall specify: Provided, That the transfer of such personnel shall be without reduction in classification or compensation, except that this requirement shall not operate after the end of the fiscal year during which such transfer is made to prevent the adjustment of classification or compensation to conform to the duties to which such transferred personnel may be assigned.

(b) Such of the unexpended balances of appropriations available for use by the Civil Aeronautics Administration of the Department of Commerce and by the Airways Modernization Board, and such of the unexpended balances of appropriations available for use by the Civil Aeronautics Board in the exercise and performance of those powers and duties vested in and imposed upon it by the Civil Aeronautics Act of 1938, as amended, and which are vested by this Act in the Administrator, shall be transferred to the Agency upon such date or dates as the President shall specify, and shall be available for use in connection with the exercise and performance of the powers and duties vested in and imposed upon the Administrator by this Act. Where provisions of this Act which are to be administered by the Board are in substance reenactments (with or without modifications) of provisions of the Civil Aeronautics Act of 1938, as amended, administered by the Board at the time this section takes effect, the Board, in carrying out such provisions of this Act, may utilize unexpended balances of appropriations made for
Section 1503. Nothing in this Act (1) shall affect the tenure of office of any individual who is a member of the Civil Aeronautics Board at the time title IV of this Act takes effect, or to nullify any action theretofore taken by the President in designating any such person as chairman or vice chairman of the Board, or (2) subject to section 1502(a), change the status of the officers and employees under the jurisdiction of the Board at that time.

Members, Officers, and Employees of the Board

Section 1503. Nothing in this Act (1) shall affect the tenure of office of any individual who is a member of the Civil Aeronautics Board at the time title IV of this Act takes effect, or to nullify any action theretofore taken by the President in designating any such person as chairman or vice chairman of the Board, or (2) subject to section 1502(a), change the status of the officers and employees under the jurisdiction of the Board at that time.

Separability

Section 1504. If any provision of this Act or the application thereof to any person or circumstance is held invalid, the remainder of the Act and the application of such provision to other persons or circumstances shall not be affected thereby.

Effective Date

Section 1505. The provisions of this Act shall become effective as follows:

1. Section 301, section 302(a), (b), (c), (f), (i), and (k), section 303(a), section 304, and section 1502 shall become effective on the date of enactment of this Act; and
2. The remaining provisions shall become effective on the 60th day following the date on which the Administrator of the Federal Aviation Agency first appointed under this Act qualifies and takes office.

Title XVI—Sunset Provisions

Termination of Civil Aeronautics Board and Transfer of Certain Functions

Termination of Authority

Section 1601. (a)(1) The following provisions of this Act (to the extent such provisions relate to interstate and overseas air transportation of persons) and the authority of the Board with respect to such provisions (to the same extent) shall cease to be in effect on December 31, 1981:

A. Sections 401(d)(1), (2), and (3) of this Act (insofar as such sections require a determination of consistency with the public convenience and necessity and insofar as section 401(d)(3) prohibits persons holding certificates under section 401(d)(1) or (d)(2) from obtaining certificates to provide interstate or overseas charter air transportation of persons).
B. Section 401(d)(8) of this Act.
C. Section 401(e)(1) of this Act (insofar as such section permits the Board to specify terminal and intermediate points).

(D) Section 401(j) of this Act (except with respect to essential air transportation).
(E) Section 401(n)(1) and (4) of this Act.
(F) Section 404(a) of this Act (insofar as such section requires any air carrier to provide air transportation authorized by its certificate).
(G) Section 405(b) of this Act (insofar as such section requires the filing of any statement or schedule by any air carrier).
(2) The following provisions of this Act (to the extent such provisions relate to interstate and overseas air transportation of persons) and the authority of the Board with respect to such provisions (to the same extent) shall cease to be in effect on January 1, 1983:

A. Section 403 of this Act.
B. Section 404 of this Act (except insofar as such section requires air carriers to provide safe and adequate service).
C. Section 407(b) and (c) of this Act.
D. Sections 1002(d)(1) and (d)(2), (e), (g), (h), and (i) of this Act.
E. Title II of this Act (other than section 204) shall cease to be in effect on January 1, 1985.

(4) The following provisions of this Act (to the extent such provisions relate to interstate and overseas air transportation and the authority of the Board with respect to such provisions (to the same extent) shall cease to be in effect on January 1, 1985:

A. Sections 401(l) and (m) and 405(b), (c), and (d) of this Act (except insofar as such sections apply to the transportation of mail between two points both of which are within the State of Alaska).
B. Section 403 of this Act.
C. Section 404 of this Act (except insofar as such section requires air carriers to provide safe and adequate service).

(5) The following provisions of this Act and the authority of the Board with respect to such provisions shall cease to be in effect on January 1, 1985:

A. Sections 407(b) and (c) of this Act.
B. Section 410 of this Act.
C. Section 417 of this Act.
D. Section 1002(e)(1)(g), (h), and (i) of this Act (except insofar as any of such sections relate to foreign air transportation).

(6) Sections 412(a) and (b) of this Act (to the extent such sections related to interstate and overseas air transportation) and section 414 of this Act (to the extent such section relates to orders made under sections 412(a) and (b) with respect to interstate and overseas air transportation and the authority of the Secretary of Transportation under such sections (to the same extent) shall cease to be in effect on January 1, 1989.

(7) Sections 408 and 409 of this Act and section 414 of this Act (relating to such sections 408 and 409) and the authority of the Secretary of Transportation under such sections (to the same extent) shall cease to be in effect on January 1, 1989.
(8) Sections 401 (l) and (m) and 405 (b), (c), and (d) of this Act (to the extent such sections apply to the transportation of mail between two points both of which are within the State of Alaska) shall cease to be in effect on January 1, 1999.

TRANSFER OF CERTAIN AUTHORITY

(b)(1) The following authority of the Board is transferred to the following Federal departments and instrumentalities:

(A) The authority of the Board under section 406 (b)(3) and (c) of this Act to provide compensation for air transportation to small communities and under section 419 of this Act is transferred to the Department of Transportation.

(B) The authority of the Board under this Act with respect to foreign air transportation is transferred to the Department of Transportation which shall exercise such authority in consultation with the Department of State.

(C) The authority of the Board under sections 408 and 409 of this Act, the authority of the Board under section 412 of this Act, and the authority of the Board under section 414 of this Act (relating to such sections 408, 409, and 412) is transferred to the Department of Transportation.

(D) The authority of the Board under this Act with respect to the determination of the rates for the carriage of mails in interstate and overseas air transportation (other than for the carriage of mails between any two points both of which are within the State of Alaska) is transferred to the Postal Service and such authority shall be exercised through negotiations or competitive bidding.

(E) All authority of the Board under this Act which is not terminated under subsection (a) of this section on or before January 1, 1985, and is not otherwise transferred under this subsection is transferred to the Department of Transportation.

(2) Any authority transferred under paragraph (1) of this subsection shall take effect on January 1, 1985.

(3) The authority of the Secretary of Transportation under this Act with respect to the determination of the rates for the carriage of mails between any two points both of which are within the State of Alaska is transferred to the Postal Service and such authority shall be exercised through negotiations or competitive bidding. The transfer of authority under this paragraph shall take effect on January 1, 1999.

REPORT AND ASSESSMENT BY BOARD

(c) Not later than January 1, 1984, the Board shall prepare and submit to the Congress a comprehensive review of the Board’s implementation of the provisions of this Act during the preceding initial period of this Act’s existence, and a comprehensive review of each of the Board’s programs under this Act. Each such review shall be made available to the committee or committees of the Senate and House of Representatives having jurisdiction with respect to the annual authorization of funds for the Board and its programs for the fiscal year beginning October 1, 1983.

ELEMENTS OF BOARD CONSIDERATION

(d) The comprehensive review of the Board’s implementation of this Act, prepared for submission under subsection (c), shall include:

(1) a detailed comparison of the degree of competition within the airline industry as of the year preceding enactment of this section and the final year covered by the review;

(2) a comparison of the degree of pricing competition in the industry during those two one-year periods;

(3) a comparison of the extent of unused authority held by the industry during those two one-year periods, with details as to the number of nonstop route segments which have been transferred from one carrier to another under section 401(d)(5) of this Act;

(4) an assessment of the degree to which agreements approved under section 412 of this Act have affirmatively or negatively affected the degree of competition within the industry;

(5) a comparison of the extent of air transportation service provided to small communities during the two one-year periods specified above, together with details as to the comparative subsidy costs during these two periods;

(6) an assessment of the degree, if any, to which the administrative process has been expedited under this Act;

(7) an assessment of the impact of the foregoing changes upon the national air transportation system in terms of benefits or detriments to the traveling and shipping public, the Postal Service, and the national defense, and the benefits and detriments to air carriers, certificated and uncertificated; and

(8) the Board’s opinion as to whether the foregoing changes in combination, have improved or harmed this Nation’s domestic air transportation system and the United States-flag foreign air transportation system.

This assessment shall be accompanied by a detailed opinion from the Board as to whether the public interest requires continuation of the Board and its functions beyond January 1, 1985, and, if it is the Board’s conclusion that it should continue to exist, detailed recommendations as to how the provisions of this Act should be revised to insure continued improvement of the Nation’s air transportation system beyond January 1, 1985. The Board’s assessment under this subsection shall also be accompanied by a comparative analysis of procedures under section 801 of this Act before and after the date of enactment of the Airline Deregulation Act of 1978, together with the Board’s opinion as to the benefits of each set of procedures.

ELEMENTS FOR EACH COMPREHENSIVE REVIEW

(e) Each comprehensive review of the Board’s programs under this Act, prepared for submission under subsection (c) of this section, shall include—

(1) an identification of the objectives intended for the program, and the problem or need which the program was intended to address;
(2) an identification of any other programs having similar or potentially conflicting or duplicative objectives;
(3) an assessment of alternative methods of achieving the purposes of the program;
(4) a justification for the authorization of new budget authority, and an explanation of the manner in which it conforms to and integrates with other efforts;
(5) an assessment of the degree to which the original objectives of the program have been achieved, expressed in terms of the performance, impact, or accomplishments of the program and of the problem or need which it was intended to address, and employing the procedures or methods of analysis appropriate to the type or character of the program;
(6) a statement of the performance and accomplishments of the program in each of the previous four completed fiscal years and in the year of submission, and of the budgetary costs incurred in the operation of the program;
(7) a statement of the number and types of beneficiaries or persons or entities by the program;
(8) an assessment of the effect of the program on the national economy, including, but not limited to, the effects on competition, economic stability, employment, unemployment, productivity, energy consumption and conservation, and price inflation, including costs to consumers and to businesses;
(9) an assessment of the impact of the program on the Nation's health and safety;
(10) an assessment of the degree to which the overall administration of the program, as expressed in the rules, regulations, orders, standards, criteria, and decisions of the officers executing the program, are believed to meet the objectives of the Congress in enacting this Act;
(11) a projection of the anticipated needs for accomplishing the objectives of the program, including an estimate if applicable of the date on which, and the conditions under which, the program may fulfill such objectives;
(12) an analysis of the services which could be provided and performance which could be achieved if the program were contained at a level less than, equal to, or greater than the existing level; and
(13) recommendations for necessary transitional requirements in the event that funding for such program is discontinued, including proposals for such executive or legislative action as may be necessary to prevent such discontinuation from being unduly disruptive.

[49 U.S.C. App. 156]