

“(c) HELICOPTER FLIGHTS OF RIVER RUNNERS.—Subsection (b) shall not prohibit the flight of helicopters—

“(1) which fly a direct route between a point on the north rim outside of the Grand Canyon National Park and locations on the Hualapai Indian Reservation (as designated by the Tribe); and

“(2) whose sole purpose is transporting individuals to or from boat trips on the Colorado River and any guide of such a trip.

“SEC. 4. BOUNDARY WATERS CANOE AREA WILDERNESS.

“The Administrator shall conduct surveillance of aircraft flights over the Boundary Waters Canoe Area Wilderness as authorized by the Act of October 21, 1978 (92 Stat. 1649-1659) for a period of not less than 180 days beginning within 60 days of enactment of this Act [Aug. 18, 1987]. In addition to any actions the Administrator may take as a result of such surveillance, he shall provide a report to the Committee on Interior and Insular Affairs and the Committee on Public Works and Transportation of the United States House of Representatives and to the Committee on Energy and Natural Resources and the Committee on Commerce, Science, and Transportation of the United States Senate. Such report is to be submitted within 30 days of completion of the surveillance activities. Such report shall include but not necessarily be limited to information on the type and frequency of aircraft using the airspace over the Boundary Waters Canoe Area Wilderness.

“SEC. 5. ASSESSMENT OF NATIONAL FOREST SYSTEM WILDERNESS OVERFLIGHTS.

“(a) ASSESSMENT BY FOREST SERVICE.—The Chief of the Forest Service (hereinafter referred to as the ‘Chief’) shall conduct an assessment to determine what, if any, adverse impacts to wilderness resources are associated with overflights of National Forest System wilderness areas. The Administrator of the Federal Aviation Administration shall provide technical assistance to the Chief in carrying out the assessment. Such assessment shall apply only to overflight of wilderness areas and shall not apply to aircraft flights or landings adjacent to National Forest System wilderness units. The assessment shall not apply to any National Forest System wilderness units in the State of Alaska.

“(b) REPORT TO CONGRESS.—The Chief shall submit a report to Congress within 2 years after enactment of this Act [Aug. 18, 1987] containing the results of the assessments carried out under this section.

“(c) AUTHORIZATION.—Effective October 1, 1987, there are authorized to be appropriated such sums as may be necessary to carry out the assessment under this section.

“SEC. 6. CONSULTATION WITH FEDERAL AGENCIES.

“In conducting the study and the assessment required by this Act, the Secretary of the Interior and the Chief of the Forest Service shall consult with other Federal agencies that are engaged in an analysis of the impacts of aircraft overflights over federally-owned land.”

**§ 40129. Collaborative decisionmaking pilot program**

(a) ESTABLISHMENT.—Not later than 90 days after the date of enactment of this section, the Administrator of the Federal Aviation Administration shall establish a collaborative decisionmaking pilot program in accordance with this section.

(b) DURATION.—Except as provided in subsection (k), the pilot program shall be in effect for a period of 2 years.

(c) GUIDELINES.—

(1) ISSUANCE.—The Administrator, with the concurrence of the Attorney General, shall issue guidelines concerning the pilot program. Such guidelines, at a minimum, shall—

(A) define a capacity reduction event;

(B) establish the criteria and process for determining when a capacity reduction event exists that warrants the use of collaborative decisionmaking among carriers at airports participating in the pilot program; and

(C) prescribe the methods of communication to be implemented among carriers during such an event.

(2) VIEWS.—The Administrator may obtain the views of interested parties in issuing the guidelines.

(d) EFFECT OF DETERMINATION OF EXISTENCE OF CAPACITY REDUCTION EVENT.—Upon a determination by the Administrator that a capacity reduction event exists, the Administrator may authorize air carriers and foreign air carriers operating at an airport participating in the pilot program to communicate for a period of time not to exceed 24 hours with each other concerning changes in their respective flight schedules in order to use air traffic capacity most effectively. The Administration shall facilitate and monitor such communication. The Attorney General, or the Attorney General’s designee, may monitor such communication.

(e) SELECTION OF PARTICIPATING AIRPORTS.—Not later than 30 days after the date on which the Administrator establishes the pilot program, the Administrator shall select 2 airports to participate in the pilot program from among the most capacity-constrained airports in the Nation based on the Administration’s Airport Capacity Benchmark Report 2001 or more recent data on airport capacity that is available to the Administrator. The Administrator shall select an airport for participation in the pilot program if the Administrator determines that collaborative decisionmaking among air carriers and foreign air carriers would reduce delays at the airport and have beneficial effects on reducing delays in the national airspace system as a whole.

(f) ELIGIBILITY OF AIR CARRIERS.—An air carrier or foreign air carrier operating at an airport selected to participate in the pilot program is eligible to participate in the pilot program if the Administrator determines that the carrier has the operational and communications capability to participate in the pilot program.

(g) MODIFICATION OR TERMINATION OF PILOT PROGRAM AT AN AIRPORT.—The Administrator, with the concurrence of the Attorney General, may modify or end the pilot program at an airport before the term of the pilot program has expired, or may ban an air carrier or foreign air carrier from participating in the program, if the Administrator determines that the purpose of the pilot program is not being furthered by participation of the airport or air carrier or if the Secretary of Transportation, with the concurrence of the Attorney General, finds that the pilot program or the participation of an air carrier or foreign air carrier in the pilot program has had, or is having, an adverse effect on competition among carriers.

(h) ANTITRUST IMMUNITY.—

(1) IN GENERAL.—Unless, within 5 days after receiving notice from the Secretary of the

Secretary's intention to exercise authority under this subsection, the Attorney General submits to the Secretary a written objection to such action, including reasons for such objection, the Secretary may exempt an air carrier's or foreign air carrier's activities that are necessary to participate in the pilot program under this section from the antitrust laws for the sole purpose of participating in the pilot program. Such exemption shall not extend to any discussions, agreements, or activities outside the scope of the pilot program.

(2) **ANTITRUST LAWS DEFINED.**—In this section, the term “antitrust laws” has the meaning given that term in the first section of the Clayton Act (15 U.S.C. 12).

(i) **CONSULTATION WITH ATTORNEY GENERAL.**—The Secretary shall consult with the Attorney General regarding the design and implementation of the pilot program, including determining whether a limit should be set on the number of occasions collaborative decisionmaking could be employed during the initial 2-year period of the pilot program.

(j) **EVALUATION.**—

(1) **IN GENERAL.**—Before the expiration of the 2-year period for which the pilot program is authorized under subsection (b), the Administrator shall determine whether the pilot program has facilitated more effective use of air traffic capacity and the Secretary, with the concurrence of the Attorney General, shall determine whether the pilot program has had an adverse effect on airline competition or the availability of air services to communities. The Administrator shall also examine whether capacity benefits resulting from the participation in the pilot program of an airport resulted in capacity benefits to other parts of the national airspace system.

(2) **OBTAINING NECESSARY DATA.**—The Administrator may require participating air carriers and airports to provide data necessary to evaluate the pilot program's impact.

(k) **EXTENSION OF PILOT PROGRAM.**—At the end of the 2-year period for which the pilot program is authorized, the Administrator, with the concurrence of the Attorney General, may continue the pilot program for an additional 2 years and expand participation in the program to up to 7 additional airports if the Administrator determines pursuant to subsection (j) that the pilot program has facilitated more effective use of air traffic capacity and if the Secretary, with the concurrence of the Attorney General, determines that the pilot program has had no adverse effect on airline competition or the availability of air services to communities. The Administrator shall select the additional airports to participate in the extended pilot program in the same manner in which airports were initially selected to participate.

(Added Pub. L. 108–176, title IV, § 423(a), Dec. 12, 2003, 117 Stat. 2552.)

#### Editorial Notes

##### REFERENCES IN TEXT

The date of enactment of this section, referred to in subsec. (a), is the date of enactment of Pub. L. 108–176, which was approved Dec. 12, 2003.

#### Statutory Notes and Related Subsidiaries

##### EFFECTIVE DATE

Section applicable only to fiscal years beginning after Sept. 30, 2003, except as otherwise specifically provided, see section 3 of Pub. L. 108–176, set out as an Effective Date of 2003 Amendment note under section 106 of this title.

#### § 40130. FAA authority to conduct criminal history record checks

(a) **CRIMINAL HISTORY BACKGROUND CHECKS.**—

(1) **ACCESS TO INFORMATION.**—The Administrator of the Federal Aviation Administration, for certification purposes of the Administration only, is authorized—

(A) to conduct, in accordance with the established request process, a criminal history background check of an airman in the criminal repositories of the Federal Bureau of Investigation and States by submitting positive identification of the airman to a fingerprint-based repository in compliance with section 217 of the National Crime Prevention and Privacy Compact Act of 1998 (42 U.S.C. 14616);<sup>1</sup> and

(B) to receive relevant criminal history record information regarding the airman checked.

(2) **RELEASE OF INFORMATION.**—In accessing a repository referred to in paragraph (1), the Administrator shall be subject to the conditions and procedures established by the Department of Justice or the State, as appropriate, for other governmental agencies conducting background checks for noncriminal justice purposes.

(3) **LIMITATION.**—The Administrator may not use the authority under paragraph (1) to conduct criminal investigations.

(4) **REIMBURSEMENT.**—The Administrator may collect reimbursement to process the fingerprint-based checks under this subsection, to be used for expenses incurred, including Federal Bureau of Investigation fees, in providing these services.

(b) **DESIGNATED EMPLOYEES.**—The Administrator shall designate, by order, employees of the Administration who may carry out the authority described in subsection (a).

(Added Pub. L. 112–95, title VIII, § 802(a), Feb. 14, 2012, 126 Stat. 118.)

#### Editorial Notes

##### REFERENCES IN TEXT

Section 217 of the National Crime Prevention and Privacy Compact Act of 1998, referred to in subsec. (a)(1)(A), is section 217 of subtitle A of title II of Pub. L. 105–251, which was classified to section 14616 of Title 42, The Public Health and Welfare, prior to editorial reclassification as section 40316 of Title 34, Crime Control and Law Enforcement.

#### SUBPART II—ECONOMIC REGULATION

### CHAPTER 411—AIR CARRIER CERTIFICATES

Sec.

41101. Requirement for a certificate.

<sup>1</sup> See References in Text note below.