

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);¹ 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.

¹ See References in Text note below.