

(b) LIMITED APPLICABILITY.—Subsection (a) shall apply only to a space support vehicle flight that satisfies each of the following:

(1) The aircraft conducting the space support vehicle flight—

(A) takes flight and lands at a single site that is operated by an entity licensed for operation under chapter 509 of title 51;

(B) is owned or operated by a launch or reentry vehicle operator licensed under chapter 509 of title 51, or on behalf of a launch or reentry vehicle operator licensed under chapter 509 of title 51;

(C) is a launch vehicle, a reentry vehicle, or a component of a launch or reentry vehicle licensed for operations pursuant to chapter 509 of title 51; and

(D) is used only to simulate space flight conditions in support of—

(i) training for potential space flight participants, government astronauts, or crew (as those terms are defined in chapter 509 of title 51);

(ii) the testing of hardware to be used in space flight; or

(iii) research and development tasks, which require the unique capabilities of the aircraft conducting the flight.

(c) RULES OF CONSTRUCTION.—

(1) SPACE SUPPORT VEHICLES.—Section 44711(a)(1) shall not apply to a person conducting a space support vehicle flight under this section only to the extent that a term of the experimental certificate under which the person is operating the space support vehicle prohibits the carriage of persons or property for compensation or hire.

(2) AUTHORITY OF ADMINISTRATOR.—Nothing in this section shall be construed to limit the authority of the Administrator of the Federal Aviation Administration to exempt a person from a regulatory prohibition on the carriage of persons or property for compensation or hire subject to terms and conditions other than those described in this section.

(Added Pub. L. 115-254, div. B, title V, § 581(b)(1), Oct. 5, 2018, 132 Stat. 3398, § 44737; renumbered § 44740 and amended Pub. L. 116-260, div. V, title I, § 107(d)(1), (3), Dec. 27, 2020, 134 Stat. 2326.)

### Editorial Notes

#### AMENDMENTS

2020—Pub. L. 116-260, § 107(d)(3)(A), struck out period after “operations” in section catchline.

Pub. L. 116-260, § 107(d)(1), renumbered section 44737 of this title as this section.

Subsec. (a)(1). Pub. L. 116-260, § 107(d)(3)(B), substituted “section” for “chapter”.

Subsec. (b)(1). Pub. L. 116-260, § 107(d)(3)(C), struck out “(1)” the second time appearing before “The” in introductory provisions.

Subsec. (c)(2). Pub. L. 116-260, § 107(d)(3)(D), inserted period at end.

### Statutory Notes and Related Subsidiaries

#### MODERNIZATION OF SPECIAL AIRWORTHINESS CERTIFICATION RULEMAKING DEADLINE

Pub. L. 118-63, title VIII, § 824, May 16, 2024, 138 Stat. 1332, provided that: “Not later than 24 months after the date of enactment of this Act [May 16, 2024], the Ad-

ministrator [of the Federal Aviation Administration] shall issue a final rule for the rulemaking activity titled ‘Modernization of Special Airworthiness Certification’, published in Fall 2022 in the long-term actions of the Unified Agenda of Federal Regulatory and De-regulatory Actions (RIN 2120-AL50).”

#### FLIGHT INSTRUCTION OR TESTING

Pub. L. 118-63, title VIII, § 832, May 16, 2024, 138 Stat. 1339, provided that:

“(a) AUTHORIZED ADDITIONAL PILOTS.—An individual acting as an authorized additional pilot during Phase I flight testing of aircraft holding an experimental airworthiness certificate, in accordance with section 21.191 of title 14, Code of Federal Regulations, and meeting the requirements set forth in FAA [Federal Aviation Administration] regulations and policy in effect as of the date of enactment of this Act [May 16, 2024], shall not be deemed to be operating an aircraft carrying persons or property for compensation or hire.

“(b) USE OF AIRCRAFT.—An individual who uses, causes to use, or authorizes to use aircraft for flights conducted under subsection (a) shall not be deemed to be operating an aircraft carrying persons or property for compensation or hire.

“(c) REVISION OF RULES.—The Administrator [of the Federal Aviation Administration] shall, as necessary, issue, revise, or repeal the rules, regulations, guidance, or procedures of the FAA to conform to the requirements of this section.”

#### RULE OF CONSTRUCTION RELATING TO ROLE OF NASA

Pub. L. 115-254, div. B, title V, § 581(b)(3), Oct. 5, 2018, 132 Stat. 3399, provided that: “Nothing in this subsection [enacting this section] shall be construed as limiting the ability of [the] National Aeronautics and Space Administration (NASA) to place conditions on or otherwise qualify the operations of NASA contractors providing NASA services.”

### § 44741. Approval of organization designation authorization unit members

(a) IN GENERAL.—Beginning January 1, 2022, each individual who is selected on or after such date to become an ODA unit member by an ODA holder engaged in the design of an aircraft, aircraft engine, propeller, or appliance and performs an authorized function pursuant to a delegation by the Administrator of the Federal Aviation Administration under section 44702(d)—

(1) shall be—

(A) an employee, a contractor, or a consultant of the ODA holder; or

(B) the employee of a supplier of the ODA holder; and

(2) may not become a member of such unit unless approved by the Administrator pursuant to this section.

(b) PROCESS AND TIMELINE.—

(1) IN GENERAL.—The Administrator shall maintain an efficient process for the review and approval of an individual to become an ODA unit member under this section.

(2) PROCESS.—An ODA holder described in subsection (a) may submit to the Administrator an application for an individual to be approved to become an ODA unit member under this section. The application shall be submitted in such form and manner as the Administrator determines appropriate. The Administrator shall require an ODA holder to submit with such an application information sufficient to demonstrate an individual’s qualifications under subsection (c).

(3) **TIMELINE.**—The Administrator shall approve or reject an individual that is selected by an ODA holder to become an ODA unit member under this section not later than 30 days after the receipt of an application by an ODA holder.

(4) **DOCUMENTATION OF APPROVAL.**—Upon approval of an individual to become an ODA unit member under this section, the Administrator shall provide such individual a letter confirming that such individual has been approved by the Administrator under this section to be an ODA unit member.

(5) **REAPPLICATION.**—An ODA holder may submit an application under this subsection for an individual to become an ODA unit member under this section regardless of whether an application for such individual was previously rejected by the Administrator.

(c) **QUALIFICATIONS.**—

(1) **IN GENERAL.**—The Administrator shall issue minimum qualifications for an individual to become an ODA unit member under this section. In issuing such qualifications, the Administrator shall consider existing qualifications for Administration employees with similar duties and whether such individual—

(A) is technically proficient and qualified to perform the authorized functions sought;

(B) has no recent record of serious enforcement action, as determined by the Administrator, taken by the Administrator with respect to any certificate, approval, or authorization held by such individual;

(C) is of good moral character (as such qualification is applied to an applicant for an airline transport pilot certificate issued under section 44703);

(D) possesses the knowledge of applicable design or production requirements in this chapter and in title 14, Code of Federal Regulations, necessary for performance of the authorized functions sought;

(E) possesses a high degree of knowledge of applicable design or production principles, system safety principles, or safety risk management processes appropriate for the authorized functions sought; and

(F) meets such testing, examination, training, or other qualification standards as the Administrator determines are necessary to ensure the individual is competent and capable of performing the authorized functions sought.

(2) **PREVIOUSLY REJECTED APPLICATION.**—In reviewing an application for an individual to become an ODA unit member under this section, if an application for such individual was previously rejected, the Administrator shall ensure that the reasons for the prior rejection have been resolved or mitigated to the Administrator's satisfaction before making a determination on the individual's reapplication.

(d) **RESCISSION OF APPROVAL.**—The Administrator may rescind an approval of an individual as an ODA unit member granted pursuant to this section at any time and for any reason the Administrator considers appropriate. The Administrator shall develop procedures to provide for notice and opportunity to appeal rescission

decisions made by the Administrator. Such decisions by the Administrator are not subject to judicial review.

(e) **CONDITIONAL SELECTIONS.**—

(1) **IN GENERAL.**—Subject to the requirements of this subsection, the Administrator may authorize an ODA holder to conditionally designate an individual to perform the functions of an ODA unit member for a period of not more than 30 days (beginning on the date an application for such individual is submitted under subsection (b)(2)).

(2) **REQUIRED DETERMINATION.**—The Administrator may not make an authorization under paragraph (1) unless—

(A) the ODA holder has instituted, to the Administrator's satisfaction, systems and processes to ensure the integrity and reliability of determinations by conditionally-designated ODA unit members; and

(B) the ODA holder has instituted a safety management system in accordance with regulations issued by the Administrator under section 102 of the Aircraft Certification, Safety, and Accountability Act.

(3) **FINAL DETERMINATION.**—The Administrator shall approve or reject the application for an individual designated under paragraph (1) in accordance with the timeline and procedures described in subsection (b).

(4) **REJECTION AND REVIEW.**—If the Administrator rejects the application submitted under subsection (b)(2) for an individual conditionally designated under paragraph (1), the Administrator shall review and approve or disapprove any decision pursuant to any authorized function performed by such individual during the period such individual served as a conditional designee.

(5) **PROHIBITIONS.**—Notwithstanding the requirements of paragraph (2), the Administrator may prohibit an ODA holder from making conditional designations of individuals as ODA unit members under this subsection at any time for any reason the Administrator considers appropriate. The Administrator may prohibit any conditionally designated individual from performing an authorized function at any time for any reason the Administrator considers appropriate.

(f) **RECORDS AND BRIEFINGS.**—

(1) **IN GENERAL.**—Beginning on the date described in subsection (a), an ODA holder shall maintain, for a period to be determined by the Administrator and with proper protections to ensure the security of sensitive and personal information—

(A) any data, applications, records, or manuals required by the ODA holder's approved procedures manual, as determined by the Administrator;

(B) the names, responsibilities, qualifications, and example signature of each member of the ODA unit who performs an authorized function pursuant to a delegation by the Administrator under section 44702(d);

(C) training records for ODA unit members and ODA administrators; and

(D) any other data, applications, records, or manuals determined appropriate by the Administrator.

(2) CONGRESSIONAL BRIEFING.—The Administrator shall provide biannual briefings each fiscal year through September 30, 2028 to the Committee on Transportation and Infrastructure of the House of Representatives and the Committee on Commerce, Science, and Transportation of the Senate on the implementation and effects of this section, including—

(A) the Administration's performance in completing reviews of individuals and approving or denying such individuals within the timeline required under subsection (b)(3);

(B) for any individual rejected by the Administrator under subsection (b) during the preceding 6-month period, the reasoning or basis for such rejection; and

(C) any resource, staffing, or other challenges within the Administration associated with implementation of this section.

(g) SPECIAL REVIEW OF QUALIFICATIONS.—

(1) IN GENERAL.—Not later than 30 days after the issuance of minimum qualifications under subsection (c), the Administrator shall initiate a review of the qualifications of each individual who on the date on which such minimum qualifications are issued is an ODA unit member of a holder of a type certificate for a transport airplane to ensure such individual meets the minimum qualifications issued by the Administrator under subsection (c).

(2) UNQUALIFIED INDIVIDUAL.—For any individual who is determined by the Administrator not to meet such minimum qualifications pursuant to the review conducted under paragraph (1), the Administrator—

(A) shall determine whether the lack of qualification may be remedied and, if so, provide such individual with an action plan or schedule for such individual to meet such qualifications; or

(B) may, if the Administrator determines the lack of qualification may not be remedied, take appropriate action, including prohibiting such individual from performing an authorized function.

(3) DEADLINE.—The Administrator shall complete the review required under paragraph (1) not later than 18 months after the date on which such review was initiated.

(4) SAVINGS CLAUSE.—An individual approved to become an ODA unit member of a holder of a type certificate for a transport airplane under subsection (a) shall not be subject to the review under this subsection.

(h) PROHIBITION.—The Administrator may not authorize an organization or ODA holder to approve an individual selected by an ODA holder to become an ODA unit member under this section.

(i) DEFINITIONS.—

(1) GENERAL APPLICABILITY.—The definitions contained in section 44736(c) shall apply to this section.

(2) TRANSPORT AIRPLANE.—The term “transport airplane” means a transport category airplane designed for operation by an air carrier or foreign air carrier type-certificated with a passenger seating capacity of 30 or more or an all-cargo or combi derivative of such an airplane.

(j) AUTHORIZATION OF APPROPRIATIONS.—There is authorized to be appropriated to carry out this section \$3,000,000 for each of fiscal years 2021 through 2028.

(Added Pub. L. 116-260, div. V, title I, §107(a), Dec. 27, 2020, 134 Stat. 2320; amended Pub. L. 118-63, title III, §306(a), May 16, 2024, 138 Stat. 1071.)

### Editorial Notes

#### REFERENCES IN TEXT

Section 102 of the Aircraft Certification, Safety, and Accountability Act, referred to in subsec. (e)(2)(B), is section 102 of title I of Pub. L. 116-260, div. V, Dec. 27, 2020, 134 Stat. 2309. Section 102(a)–(f) of Pub. L. 116-260 is set out as a note under section 44701 of this title, and section 102(g) of Pub. L. 116-260 amended section 44735 of this title.

#### AMENDMENTS

2024—Subsec. (f)(2). Pub. L. 118-63, §306(a)(1)(A), substituted “The Administrator shall provide biannual briefings each fiscal year through September 30, 2028” for “Not later than 90 days after the date of enactment of this section, and every 90 days thereafter through September 30, 2023, the Administrator shall provide a briefing” in introductory provisions.

Subsec. (f)(2)(B). Pub. L. 118-63, §306(a)(1)(B), substituted “6-month period” for “90-day period”.

Subsec. (j). Pub. L. 118-63, §306(a)(2), substituted “2028” for “2023”.

### § 44742. Interference with the duties of organization designation authorization unit members

(a) IN GENERAL.—The Administrator of the Federal Aviation Administration shall continuously seek to eliminate or minimize interference by an ODA holder that affects the performance of authorized functions by ODA unit members.

(b) PROHIBITION.—

(1) IN GENERAL.—It shall be unlawful for any individual who is a supervisory employee of an ODA holder that manufactures a transport category airplane to commit an act of interference with an ODA unit member's performance of authorized functions.

(2) CIVIL PENALTY.—

(A) INDIVIDUALS.—An individual shall be subject to a civil penalty under section 46301(a)(1) for each violation under paragraph (1).

(B) SAVINGS CLAUSE.—Nothing in this paragraph shall be construed as limiting or constricting any other authority of the Administrator to pursue an enforcement action against an individual or organization for violation of applicable Federal laws or regulations of the Administration.

(c) REPORTING.—

(1) REPORTS TO ODA HOLDER.—An ODA unit member of an ODA holder that manufactures a transport category airplane shall promptly report any instances of interference to the office of the ODA holder that is designated to receive such reports.

(2) REPORTS TO THE FAA.—

(A) IN GENERAL.—The ODA holder office described in paragraph (1) shall investigate reports and submit to the office of the Administration designated by the Adminis-