

employees of the Federal Aviation Administration whose duties include responsibility for safety-sensitive functions shall apply with respect to employees of the Transportation Security Administration whose duties include responsibility for security-sensitive functions. The Under Secretary of Transportation for Security, the Transportation Security Administration, and employees of the Transportation Security Administration whose duties include responsibility for security-sensitive functions shall be subject to and comply with such provisions in the same manner and to the same extent as the Administrator of the Federal Aviation Administration, the Federal Aviation Administration, and employees of the Federal Aviation Administration whose duties include responsibility for safety-sensitive functions, respectively.

(Added Pub. L. 107-71, title I, §139(4), Nov. 19, 2001, 115 Stat. 640.)

TRANSFER OF FUNCTIONS

For transfer of functions, personnel, assets, and liabilities of the Transportation Security Administration of the Department of Transportation, including the functions of the Secretary of Transportation, and of the Under Secretary of Transportation for Security, relating thereto, to the Secretary of Homeland Security, and for treatment of related references, see sections 203(2), 551(d), 552(d), and 557 of Title 6, Domestic Security, and the Department of Homeland Security Reorganization Plan of November 25, 2002, as modified, set out as a note under section 542 of Title 6.

CHAPTER 453—FEES

Sec.	
45301.	General provisions.
45302.	Fees involving aircraft not providing air transportation.
45303.	Administrative provisions.
45304.	Maximum fees for private person services.
45305.	Registration, certification, and related fees.

AMENDMENTS

2012—Pub. L. 112-95, title I, §122(b), Feb. 14, 2012, 126 Stat. 20, added item 45305.

1996—Pub. L. 104-264, title II, §§273(b), 276(b), Oct. 9, 1996, 110 Stat. 3240, 3248, substituted “General provisions” for “Authority to impose fees” in item 45301, added items 45303 and 45304, and struck out former item 45303 “Maximum fees for private person services”.

§ 45301. General provisions

(a) SCHEDULE OF FEES.—The Administrator shall establish a schedule of new fees, and a collection process for such fees, for the following services provided by the Administration:

(1) Air traffic control and related services provided to aircraft other than military and civilian aircraft of the United States government¹ or of a foreign government that neither take off from, nor land in, the United States.

(2) Services (other than air traffic control services) provided to a foreign government or services provided to any entity obtaining services outside the United States, except that the Administrator shall not impose fees in any manner for production-certification related service performed outside the United States pertaining to aeronautical products manufactured outside the United States.

¹ So in original. Probably should be capitalized.

(b) ESTABLISHMENT AND ADJUSTMENT OF FEES.—

(1) IN GENERAL.—In establishing and adjusting fees under this section, the Administrator shall ensure that the fees are reasonably related to the Administration’s costs, as determined by the Administrator, of providing the services rendered.

(2) SERVICES FOR WHICH COSTS MAY BE RECOVERED.—Services for which costs may be recovered under this section include the costs of air traffic control, navigation, weather services, training, and emergency services that are available to facilitate safe transportation over the United States and the costs of other services provided by the Administrator, or by programs financed by the Administrator, to flights that neither take off nor land in the United States.

(3) LIMITATIONS ON JUDICIAL REVIEW.—Notwithstanding section 702 of title 5 or any other provision of law, the following actions and other matters shall not be subject to judicial review:

(A) The establishment or adjustment of a fee by the Administrator under this section.

(B) The validity of a determination of costs by the Administrator under paragraph (1), and the processes and procedures applied by the Administrator when reaching such determination.

(C) An allocation of costs by the Administrator under paragraph (1) to services provided, and the processes and procedures applied by the Administrator when establishing such allocation.

(4) AIRCRAFT ALTITUDE.—Nothing in this section shall require the Administrator to take into account aircraft altitude in establishing any fee for aircraft operations in en route or oceanic airspace.

(5) COSTS DEFINED.—In this subsection, the term “costs” includes operation and maintenance costs, leasing costs, and overhead expenses associated with the services provided and the facilities and equipment used in providing such services.

(c) USE OF EXPERTS AND CONSULTANTS.—In developing the system, the Administrator may consult with such nongovernmental experts as the Administrator may employ and the Administrator may utilize the services of experts and consultants under section 3109 of title 5 without regard to the limitation imposed by the last sentence of section 3109(b) of such title, and may contract on a sole source basis, notwithstanding any other provision of law to the contrary. Notwithstanding any other provision of law to the contrary, the Administrator may retain such experts under a contract awarded on a basis other than a competitive basis and without regard to any such provisions requiring competitive bidding or precluding sole source contract authority.

(d) PRODUCTION-CERTIFICATION RELATED SERVICE DEFINED.—In this section, the term “production-certification related service” has the meaning given that term in appendix C of part 187 of title 14, Code of Federal Regulations.

(e) ADJUSTMENT OF FEES.—In addition to adjustments under subsection (b), the Adminis-