

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

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45301.	General provisions.
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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-

trator may periodically adjust the fees established under this section.

(Added Pub. L. 104-264, title II, §273(a), Oct. 9, 1996, 110 Stat. 3239; amended Pub. L. 106-181, title VII, §719, Apr. 5, 2000, 114 Stat. 163; Pub. L. 107-71, title I, §119(d), Nov. 19, 2001, 115 Stat. 629; Pub. L. 112-95, title I, §121, Feb. 14, 2012, 126 Stat. 19.)

PRIOR PROVISIONS

A prior section 45301, Pub. L. 103-272, §1(e), July 5, 1994, 108 Stat. 1225; Pub. L. 103-305, title II, §209, Aug. 23, 1994, 108 Stat. 1589; Pub. L. 104-287, §5(76), Oct. 11, 1996, 110 Stat. 3396; Pub. L. 105-102, §3(d)(1)(C), Nov. 20, 1997, 111 Stat. 2215, related to authority to impose fees, prior to repeal by Pub. L. 104-264, title II, §§203, 273(a), Oct. 9, 1996, 110 Stat. 3227, 3239, effective 30 days after Oct. 9, 1996.

AMENDMENTS

2012—Subsec. (b). Pub. L. 112-95, §121(a), amended subsec. (b) generally. Prior to amendment, subsec. (b) related to limitations on fees.

Subsec. (e). Pub. L. 112-95, §121(b), added subsec. (e). 2001—Subsec. (b)(1)(B). Pub. L. 107-71 substituted “reasonably” for “directly” and “Administration’s costs, as determined by the Administrator,” for “Administration’s costs” and inserted “The Determination of such costs by the Administrator is not subject to judicial review.” at end.

2000—Subsec. (a)(2). Pub. L. 106-181, §719(1), added par. (2) and struck out former par. (2) which read as follows: “Services (other than air traffic control services) provided to a foreign government.”

Subsec. (d). Pub. L. 106-181, §719(2), added subsec. (d).

EFFECTIVE DATE OF 2000 AMENDMENT

Amendment by Pub. L. 106-181 applicable only to fiscal years beginning after Sept. 30, 1999, see section 3 of Pub. L. 106-181, set out as a note under section 106 of this title.

EFFECTIVE DATE

Section effective on date that is 30 days after Oct. 9, 1996, see section 203 of Pub. L. 104-264, set out as an Effective Date of 1996 Amendment note under section 106 of this title.

Except as otherwise specifically provided, section applicable only to fiscal years beginning after Sept. 30, 1996, and not to be construed as affecting funds made available for a fiscal year ending before Oct. 1, 1996, see section 3 of Pub. L. 104-264, set out as an Effective Date of 1996 Amendment note under section 106 of this title.

OVERFLIGHT FEES

Pub. L. 108-176, title II, §229, Dec. 12, 2003, 117 Stat. 2532, provided that:

“(a) ADOPTION AND LEGALIZATION OF CERTAIN RULES.—

“(1) APPLICABILITY AND EFFECT OF CERTAIN LAW.—Notwithstanding section 141(d)(1) of the Aviation and Transportation Security Act [Pub. L. 107-71] (49 U.S.C. 44901 note), section 45301(b)(1)(B) of title 49, United States Code, is deemed to apply to and to have effect with respect to the authority of the Administrator of the Federal Aviation Administration with respect to the interim final rule and final rule, relating to overflight fees, issued by the Administrator on May 30, 2000, and August 13, 2001, respectively.

“(2) ADOPTION AND LEGALIZATION.—The interim final rule and final rule referred to in subsection (a), including the fees issued pursuant to those rules, are adopted, legalized, and confirmed as fully to all intents and purposes as if the same had, by prior Act of Congress, been specifically adopted, authorized, and directed as of the date those rules were originally issued.

“(3) FEES TO WHICH APPLICABLE.—This subsection applies to fees assessed after November 19, 2001, and

before April 8, 2003, and fees collected after the requirements of subsection (b) have been met.

“(b) DEFERRED COLLECTION OF FEES.—The Administrator shall defer collecting fees under section 45301(a)(1) of title 49, United States Code, until the Administrator (1) reports to Congress responding to the issues raised by the court in *Air Transport Association of Canada v. Federal Aviation Administration and Administrator, FAA*, decided on April 8, 2003, and (2) consults with users and other interested parties regarding the consistency of the fees established under such section with the international obligations of the United States.

“(c) ENFORCEMENT.—The Administrator shall take an appropriate enforcement action under subtitle VII of title 49, United States Code, against any user that does not pay a fee under section 45301(a)(1) of such title.”

§ 45302. Fees involving aircraft not providing air transportation

(a) APPLICATION.—This section applies only to aircraft not used to provide air transportation.

(b) GENERAL AUTHORITY AND MAXIMUM FEES.—The Administrator of the Federal Aviation Administration may impose fees to pay for the costs of issuing airman certificates to pilots and certificates of registration of aircraft and processing forms for major repairs and alterations of fuel tanks and fuel systems of aircraft. The following fees may not be more than the amounts specified:

(1) \$12 for issuing an airman’s certificate to a pilot.

(2) \$25 for registering an aircraft after the transfer of ownership.

(3) \$15 for renewing an aircraft registration.

(4) \$7.50 for processing a form for a major repair or alteration of a fuel tank or fuel system of an aircraft.

(c) ADJUSTMENTS.—The Administrator shall adjust the maximum fees established by subsection (b) of this section for changes in the Consumer Price Index of All Urban Consumers published by the Secretary of Labor.

(d) CREDIT TO ACCOUNT AND AVAILABILITY.—Money collected from fees imposed under this section shall be credited to the account in the Treasury from which the Administrator incurs expenses in carrying out chapter 441 and sections 44701-44716 of this title (except sections 44701(c), 44703(f)(2),¹ and 44713(d)(2)). The money is available to the Administrator to pay expenses for which the fees are collected.

(e) EFFECTIVE DATE.—

(1) IN GENERAL.—A fee may not be imposed under this section before the date on which the regulations prescribed under sections 44111(d), 44703(f)(2),¹ and 44713(d)(2) of this title take effect.

(2) EFFECT OF IMPOSITION OF OTHER FEES.—A fee may not be imposed for a service or activity under this section during any period in which a fee for the same service or activity is imposed under section 45305.

(Pub. L. 103-272, §1(e), July 5, 1994, 108 Stat. 1225; Pub. L. 103-429, §6(59), Oct. 31, 1994, 108 Stat. 4385; Pub. L. 112-95, title I, §122(c), Feb. 14, 2012, 126 Stat. 20.)

¹ See References in Text note below.