

tion". The word "ordinance" is omitted as being included in "law" and "regulation". The words "actual" and "whether the provisions apply specifically to employees of an air carrier or foreign air carrier, or to the general public" are omitted as surplus.

In subsection (c) the word "prevent" is substituted for "restrict the discretion of" to eliminate unnecessary words.

Editorial Notes

AMENDMENTS

2001—Subsec. (c). Pub. L. 107-71 substituted "screening employees" for "screening contract employees".

§ 45107. Transportation Security Administration

(a) TRANSFER OF FUNCTIONS RELATING TO TESTING PROGRAMS WITH RESPECT TO AIRPORT SECURITY SCREENING PERSONNEL.—The authority of the Administrator of the Federal Aviation Administration under this chapter with respect to programs relating to testing of airport security screening personnel are transferred to the Administrator of the Transportation Security Administration. Notwithstanding section 45102(a), the regulations prescribed under section 45102(a) shall require testing of such personnel by their employers instead of by air carriers and foreign air carriers.

(b) APPLICABILITY OF CHAPTER WITH RESPECT TO EMPLOYEES OF ADMINISTRATION.—The provisions of this chapter that apply with respect to 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.

(Added Pub. L. 107-71, title I, §139(4), Nov. 19, 2001, 115 Stat. 640; amended Pub. L. 115-254, div. K, title I, §191(e), Oct. 5, 2018, 132 Stat. 3642.)

Editorial Notes

AMENDMENTS

2018—Subsec. (a). Pub. L. 115-254, §191(e)(1), substituted "Administrator of the Transportation Security Administration" for "Under Secretary of Transportation for Security".

Subsec. (b). Pub. L. 115-254, §191(e)(2), struck out at end "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."

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.
- 45306. Manual surcharge.¹

¹ Editorially supplied. Section added by Pub. L. 115-254 without corresponding amendment of chapter analysis.

Sec.

Editorial Notes

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 Government 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.

(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 Administrator 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; Pub. L. 115-254, div. B, title V, §539(k), Oct. 5, 2018, 132 Stat. 3371.)

Editorial Notes

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

2018—Subsec. (a)(1). Pub. L. 115-254 substituted “United States Government” for “United States government”.

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).

Statutory Notes and Related Subsidiaries

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.