

(iv) From subsection (e)(1) because it is not always possible for TSA or other agencies to know in advance what information is both relevant and necessary for it to complete an identity comparison between aviation passengers or certain non-travelers and a known or suspected terrorist. In addition, because TSA and other agencies may not always know what information about an encounter with a known or suspected terrorist will be relevant to law enforcement for the purpose of conducting an operational response.

(v) From subsection (e)(2) because application of this provision could present a serious impediment to counterterrorism, law enforcement, or intelligence efforts in that it would put the subject of an investigation, study or analysis on notice of that fact, thereby permitting the subject to engage in conduct designed to frustrate or impede that activity. The nature of counterterrorism, law enforcement, or intelligence investigations is such that vital information about an individual frequently can be obtained only from other persons who are familiar with such individual and his/her activities. In such investigations, it is not feasible to rely upon information furnished by the individual concerning his own activities.

(vi) From subsection (e)(3), to the extent that this subsection is interpreted to require TSA to provide notice to an individual if TSA or another agency receives or collects information about that individual during an investigation or from a third party. Should the subsection be so interpreted, exemption from this provision is necessary to avoid impeding counterterrorism, law enforcement, or intelligence efforts by putting the subject of an investigation, study or analysis on notice of that fact, thereby permitting the subject to engage in conduct intended to frustrate or impede that activity.

(vii) From subsections (e)(4)(G) and (H) (Agency Requirements) and (f) (Agency Rules), because this system is exempt from the access provisions of 5 U.S.C. 552a(d).

(viii) From subsection (e)(5) because many of the records in this system coming from other system of records are derived from other domestic and

foreign agency record systems and therefore it is not possible for TSA to ensure their compliance with this provision, however, TSA has implemented internal quality assurance procedures to ensure that data used in the watch list matching process is as thorough, accurate, and current as possible. In addition, in the collection of information for law enforcement, counterterrorism, and intelligence purposes, it is impossible to determine in advance what information is accurate, relevant, timely, and complete. With the passage of time, seemingly irrelevant or untimely information may acquire new significance as further investigation brings new details to light. The restrictions imposed by (e)(5) would limit the ability of those agencies' trained investigators and intelligence analysts to exercise their judgment in conducting investigations and impede the development of intelligence necessary for effective law enforcement and counterterrorism efforts. However, TSA has implemented internal quality assurance procedures to ensure that the data used in the watch list matching process is as thorough, accurate, and current as possible.

(ix) From subsection (e)(8) because to require individual notice of disclosure of information due to compulsory legal process would pose an impossible administrative burden on TSA and other agencies and could alert the subjects of counterterrorism, law enforcement, or intelligence investigations to the fact of those investigations when not previously known.

(x) From subsection (f) (Agency Rules) because portions of this system are exempt from the access and amendment provisions of subsection (d).

(xi) From subsection (g) to the extent that the system is exempt from other specific subsections of the Privacy Act.

[69 FR 35537, June 25, 2004, as amended at 70 FR 33384, June 8, 2005; 71 FR 44227, Aug. 4, 2006; 72 FR 63709, Nov. 9, 2007]

## **PART 1510—PASSENGER CIVIL AVIATION SECURITY SERVICE FEES**

- Sec.  
1510.1 Applicability and purpose.  
1510.3 Definitions.  
1510.5 Imposition of security service fees.

## § 1510.1

- 1510.7 Air transportation advertisements and solicitations.
- 1510.9 Collection of security service fees.
- 1510.11 Handling of security service fees.
- 1510.13 Remittance of security service fees.
- 1510.15 Accounting and auditing requirements.
- 1510.17 Reporting requirements.
- 1510.19 Federal oversight.
- 1510.21 Enforcement.

AUTHORITY: 49 U.S.C. 114, 40113, and 44940.

SOURCE: 66 FR 67701, Dec. 31, 2001, unless otherwise noted.

### § 1510.1 Applicability and purpose.

This part prescribes a uniform fee to be paid by passengers of direct air carriers and foreign air carriers in air transportation, foreign air transportation, and intrastate air transportation originating at airports in the United States.

[79 FR 35472, June 20, 2014]

### § 1510.3 Definitions.

In addition to the definitions in §§ 1500.3, 1503.103, and 1540.5 of this chapter, the following terms are used in this part:

*Air carrier* means a citizen of the United States who undertakes directly to engage in or provide air transportation.

*Air transportation* means continental interstate air transportation, continental intrastate air transportation, foreign air transportation, non-continental interstate air transportation, or non-continental intrastate air transportation.

*Aircraft* means a device that is used or intended to be used for flight in the air.

*Airport* means any landing area used regularly by aircraft for receiving or discharging passengers or cargo.

*Continental interstate air transportation* means the carriage by aircraft of persons for compensation or hire within the continental United States.

*Continental intrastate air transportation* means the carriage by aircraft of persons for compensation or hire wholly within the same state of the continental United States.

*Continental United States* means the District of Columbia and the States other than Alaska and Hawaii.

## 49 CFR Ch. XII (10–1–15 Edition)

*Co-terminal* means an airport serving a multi-airport city or metropolitan area that has been approved by TSA to be used as the same point for purposes of determining application of the security service fee imposed under § 1510.5 of this part. Copies of the approved list are available on TSA's Web site at [www.tsa.gov](http://www.tsa.gov) or by contacting [tsa-fees@dhs.gov](mailto:tsa-fees@dhs.gov).

*Direct air carrier and foreign air carrier* means a selling carrier.

*Foreign air carrier* means any person other than a citizen of the United States who undertakes directly to engage in or provide air transportation.

*Foreign air transportation* means the carriage by aircraft of persons for compensation or hire between a place in the United States and any place outside of the United States.

*Frequent flyer award* means a zero-fare award of air transportation that a domestic air carrier or foreign air carrier provides to a passenger in exchange for accumulated travel mileage credits in a customer loyalty program, whether or not the term frequent flyer is used in the definition of that program.

*Non-continental interstate air transportation* means the carriage by aircraft of persons for compensation or hire within the United States, but outside the continental United States.

*Non-continental intrastate air transportation* means the carriage by aircraft of persons for compensation or hire wholly within the same state, territory or possession of the United States, but outside the continental United States.

*Nonrevenue passenger* means a passenger receiving air transportation from an air carrier or foreign air carrier for which the air carrier or foreign air carrier does not receive remuneration.

*One-way trip* means continuous air transportation, during which a stop-over does not occur; there may be multiple one-way trips on the same air travel itinerary.

*Origin point* means the location at which a trip on a complete air travel itinerary begins.

*Principal* means the aggregate amount of all passenger security services fees due to be remitted to the

Transportation Security Administration by an air carrier as required by this part.

*Round trip* means a trip on an air travel itinerary that terminates or has a stopover at the origin point (or co-terminal).

*Selling carrier* means an air carrier or foreign air carrier that provides or offers to provide air transportation and has control over the operational functions performed in providing that air transportation.

*Stopover* means a break in travel of more than:

(1) Four (4) hours for continental interstate air transportation or continental intrastate air transportation, and

(2) Twelve (12) hours for non-continental interstate air transportation, non-continental intrastate air transportation, or foreign air transportation.

*Terminates* means the location at which a trip on a complete air travel itinerary ends.

[66 FR 67701, Dec. 31, 2001, as amended at 68 FR 49720, Aug. 19, 2003; 79 FR 35473, June 20, 2014; 80 FR 31857, June 4, 2015]

#### § 1510.5 Imposition of security service fees.

(a) Each direct air carrier and foreign air carrier described in § 1510.9(a) shall impose a security service fee of \$5.60 per one-way trip for air transportation originating at an airport in the United States. Passengers may not be charged more than \$5.60 per one-way trip or \$11.20 per round trip.

(b) The security service fee must be imposed on passengers who obtained the ticket for air transportation with a frequent flyer award, but may not be imposed on any other nonrevenue passengers.

[79 FR 35473, June 20, 2014, as amended at 80 FR 31857, June 4, 2015]

#### § 1510.7 Air transportation advertisements and solicitations.

A direct air carrier and foreign air carrier must identify the security service fee imposed by this part as “September 11th Security Fee” in all its advertisements and solicitations for air transportation.

#### § 1510.9 Collection of security service fees.

(a) The following direct air carriers and foreign air carriers must collect security service fees from passengers on—

(1) A scheduled passenger or public charter passenger operation with an aircraft having passenger seating configuration of more than 60 seats.

(2) A scheduled passenger or public charter passenger operation with an aircraft having a passenger seating configuration of less than 61 seats when passengers are enplaned from or deplaned into a sterile area.

(b) Direct air carriers and foreign air carriers must collect from each passenger, to the extent provided in § 1510.5, a security service fee on air transportation sold on or after 12:00 a.m. (Eastern Daylight Time) on July 21, 2014. The security service fee must be based on the air travel itinerary at the time the air transportation is sold. Any changes by the passenger to the itinerary are subject to additional collection or refund of the security service fee by the direct air carrier or foreign air carrier, as appropriate.

(c) Whether or not the security service fee is collected as required by this part, the direct air carrier or foreign air carrier selling the air transportation is solely liable to TSA for the fee and must remit the fee as required in § 1510.13.

(d) Direct air carriers and foreign air carriers may not collect security service fees not imposed by this part.

[66 FR 67701, Dec. 31, 2001, as amended at 79 FR 35473, June 20, 2014]

#### § 1510.11 Handling of security service fees.

(a) Direct air carriers and foreign air carriers are responsible for the safekeeping of all security service fees from the time of collection to remittance.

(b) Security service fees collected by a direct air carrier or foreign air carrier are held in trust by that direct carrier for the beneficial interest of the United States in paying the costs of providing civil aviation security services described in 49 U.S.C. 44940. The direct air carrier or foreign air carrier

### § 1510.13

holds neither legal nor equitable interest in the security service fees except for the right to retain any accrued interest on the principal amounts collected pursuant to §1510.13(b).

(c) Direct air carriers and foreign air carriers must account for security service fees separately, but the fees may be commingled with the carriers' other sources of revenue.

(d) Direct air carriers and foreign air carriers must disclose in their financial statements the existence and the amount of security service fee held in trust.

#### § 1510.13 Remittance of security service fees.

(a) Each direct air carrier and foreign air carrier must remit all security service fees imposed each calendar month to TSA, as directed by the Administrator, by the last calendar day of the month following the imposition.

(b) Direct air carriers and foreign air carriers may retain any interest that accrues on the principal amounts collected between the date of collection and the date the fee is remitted to TSA in accordance with paragraph (a) of this section.

(c) Direct air carriers and foreign air carriers are prohibited from retaining any portion of the principal to offset the costs of collecting, handling, or remitting the passenger security service fees.

(d) Security service fees are payable to the "Transportation Security Administration" in U.S. currency and drawn on a U.S. bank.

(1) Fees of \$1,000 or more must be remitted by electronic funds transfer.

(2) Fees under \$1,000 may be remitted by electronic funds transfer, check, money order, wire transfer, or draft.

(e) Direct air carriers and foreign air carriers are responsible for paying any bank processing charges on the security service fees collected or remitted under this part when such charges are assessed on the U.S. government.

#### § 1510.15 Accounting and auditing requirements.

(a) Direct air carriers and foreign air carriers must establish and maintain an accounting system to account for the security service fees imposed, col-

### 49 CFR Ch. XII (10-1-15 Edition)

lected, refunded and remitted. The accounting records must identify the airports at which the passengers were enplaned.

(b) Each direct air carrier and foreign air carrier that collects security services fees from more than 50,000 passengers annually must provide for an audit at least annually of its security service fee activities or accounts.

(c) Audits pursuant to paragraph (b) of this section must be performed by an independent certified public accountant and may be of limited scope. The accountant must express an opinion on the fairness and reasonableness of the direct air carrier's and foreign air carrier's procedures for collecting, holding, and remitting the fees. The opinion must also address whether the quarterly reports required in §1510.17 fairly represent the net transactions in the security service fee accounts.

#### § 1510.17 Reporting requirements.

(a) Each direct air carrier and foreign air carrier collecting security service fees must provide TSA with quarterly reports that provide an accounting of fees imposed, collected, refunded and remitted.

(b) Quarterly reports must state:

(1) The direct air carrier or foreign air carrier involved;

(2) The total amount of September 11th Security Fees imposed on passengers in U.S. currency for each month during the previous quarter of the calendar year;

(3) The net amount of September 11th Security Fees collected in U.S. currency by the direct air carrier or foreign air carrier for each month during the previous quarter of the calendar year;

(4) The total amount of September 11th Security Fees refunded in U.S. currency by the direct air carrier or foreign air carrier for each month during the previous quarter of the calendar year; and

(5) The total amount of September 11th Security Fees remitted in U.S. currency by the direct air carrier or foreign air carrier for each month during the previous quarter of the calendar year.

(c) The report must be filed by the last day of the calendar month following the quarter of the calendar year in which the fees were imposed.

[66 FR 67701, Dec. 31, 2001, as amended at 67 FR 14881, Mar. 28, 2002]

**§ 1510.19 Federal oversight.**

Direct air carriers and foreign air carriers must allow any authorized representative of the Administrator, the Secretary of Transportation, the Secretary of Homeland Security, the Inspector General of the Department of Transportation, the Inspector General of the Department of Homeland Security, or the Comptroller General of the United States to audit or review any of its books and records and provide any other information necessary to verify that the security service fees were properly collected and remitted consistent with this part.

[68 FR 49720, Aug. 19, 2003]

**§ 1510.21 Enforcement.**

A direct air carrier's or foreign air carrier's failure to comply with the requirements 49 U.S.C. 44940 or the provisions of this part may be considered to be an unfair and deceptive practice in violation of 49 U.S.C. 41712 and may also result in a claim due the United States by the carrier collectible pursuant to 49 CFR part 89. These remedies are in addition to any others remedies provided by law.

**PART 1511—AVIATION SECURITY INFRASTRUCTURE FEE**

Sec.

- 1511.1 Applicability and purpose.
- 1511.3 Definitions.
- 1511.5 Imposition of Aviation Security Infrastructure Fees.
- 1511.7 Remittance of Aviation Security Infrastructure Fees.
- 1511.9 [Reserved]
- 1511.11 Federal oversight.
- 1511.13 Enforcement.
- 1511.15 Cessation of the Aviation Security Infrastructure Fee.

APPENDIX A TO PART 1511—AVIATION SECURITY INFRASTRUCTURE FEE.

AUTHORITY: 49 U.S.C. 114, 40113, 44901, and 44940.

SOURCE: 67 FR 7929, Feb. 20, 2002, unless otherwise noted.

**§ 1511.1 Applicability and purpose.**

(a) This part prescribes the imposition of a fee on air carriers and foreign air carriers in air transportation to pay for the costs of providing U.S. civil aviation security services as described in 49 U.S.C. 44940.

(b) For purposes of this part, the fee will be described as the "Aviation Security Infrastructure Fee."

**§ 1511.3 Definitions.**

The following definitions apply for purposes of this part. For other definitions that may be applicable to this part refer to 49 U.S.C. 40102.

*Administrator* means the Administrator of the Transportation Security Administration or the Administrator's designee.

*Air transportation* means the carriage by passenger aircraft of persons or property for compensation or hire in intrastate air transportation, interstate air transportation, or foreign air transportation.

*Aircraft* means a device that is used or intended to be used for flight in the air.

*Fiscal year* means the fiscal year for the Federal government, which begins each year October 1 and ends on September 30. The fiscal year is designated by the calendar year in which it ends, e.g., fiscal year 2002 is the year beginning October 1, 2001, and ending September 30, 2002.

*Foreign air transportation* means air transportation between a place in the United States and any place outside of the United States.

*Interstate air transportation* means air transportation within the United States.

*Intrastate air transportation* means air transportation wholly within the same State of the United States.

*Passenger aircraft* means an aircraft that is used to transport passengers in air transportation.

*Property* means mail, cargo, carry-on and checked baggage, and any other articles transported by passenger aircraft operated by an air carrier or foreign air