

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.

1510.7 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 to pay for the costs of providing civil aviation security services as described in 49 U.S.C. 44940.

### § 1510.3 Definitions.

The following definitions apply in this part:

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

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

*Air transportation* means intrastate, interstate or foreign 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.

*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.

## § 1510.5

*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.

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

*Intrastate air transportation* means the carriage of persons for compensation or hire wholly within the same State of the 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 any trip that is not a round trip.

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

*Passenger enplanement* means a person boarding in the United States in scheduled or nonscheduled service on aircraft in intrastate, interstate, or foreign air transportation.

*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 at the origin point.

*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.

[66 FR 67701, Dec. 31, 2001, as amended at 68 FR 49720, Aug. 19, 2003]

## 49 CFR Ch. XII (10–1–10 Edition)

### § 1510.5 Imposition of security service fees.

(a) The security service fee will be \$2.50 per passenger enplanement. The security service fee is imposed only on passengers of direct air carriers and foreign air carrier described in § 1510.9(a). Passengers may not be charged for more than two enplanements per one-way trip or four enplanements per round trip.

(b) The security service fee will be imposed on all flight segments originating at an airport in the United States.

(c) 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.

(d) Passengers enplaning a flight segment outside of the United States are not subject to the security service fee for that enplanement.

### § 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 enplaning:

(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 February 1, 2002. 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 that alter the number of enplanements are subject to additional collection or refund of the security service fee by the direct air carrier or foreign air carrier as appropriate. Direct air carriers and foreign air carriers are solely liable to TSA for additional security service fees imposed because of involuntary enplanement changes to the itinerary.

(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.

**§ 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 for the costs of providing civil aviation security services described in 49 U.S.C. 44940. The direct air carrier or foreign air carrier 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, collected, 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

## § 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

## 49 CFR Ch. XII (10–1–10 Edition)

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 collectable 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 Accounting and auditing requirements.

1511.11 Federal oversight.

1511.13 Enforcement.

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.