

DEPARTMENT OF TRANSPORTATION**Transportation Security Administration****49 CFR Chapter XII and Part 1510**

[Docket No. TSA-2001-11120]

RIN 2110-AA01

Imposition and Collection of Passenger Civil Aviation Security Service Fees**AGENCY:** Transportation Security Administration, DOT.**ACTION:** Interim final rule.

SUMMARY: The Transportation Security Administration (TSA) announces the imposition of a security service fee in the amount of \$2.50 per enplanement on passengers of domestic and foreign air carriers in air transportation, foreign air transportation, and intrastate air transportation originating at airports in the United States. Passengers will not be charged for more than two enplanements per one-way trip or four enplanements per round trip. The security service fee will apply to passengers using frequent flyer awards for air transportation, but may not be imposed on other nonrevenue passengers. Direct air carriers and foreign air carriers must collect the security service fees on air transportation sold on or after February 1, 2002. The direct air carriers and foreign air carriers must remit the fees imposed during each month to TSA by the last calendar day of the following month.

DATES: This interim final rule is effective on December 31, 2001. Although the imposition of the security service fees is statutorily exempted from the rulemaking notice and comment procedures set forth in the Administrative Procedure Act, comments received on or before March 1, 2002 will be reviewed and considered.

ADDRESSES: Submit written, signed comments to TSA Docket No. 2001-11120, the Docket Clerk, U.S. DOT Dockets, Room PL-401, 400 Seventh Street, SW., Washington, DC 20590-0001. All comments received will be available for examination at the above address between 9 a.m. and 5 p.m., e.t., Monday through Friday, except Federal holidays. Those desiring notification of receipt of comments must include a self-addressed, stamped envelope or postcard on which the following statement is made: "Comments to Docket No. TSA-2001-11120. The post card will be date stamped and mailed to

the sender. Comments also may be sent electronically to the Dockets Management System (DMS) at: <http://dms.dot.gov> at any time. Those who wish to file comments electronically should follow the instructions on the DMS web site.

FOR FURTHER INFORMATION CONTACT: For guidance involving technical matters: A. Thomas Park, Acting Deputy Chief Financial Officer, Department of Transportation, Office of the Secretary, Office of the Assistant Secretary for Budget and Programs, 400 Seventh St., SW., Room 10101, Washington, DC 20590; telephone (202) 366-9192. For legal interpretation or guidance: Rita M. Maristch, Department of Transportation, Office of the General Counsel, Office of Environmental, Civil Rights and General Law, 400 Seventh St., SW., Room 10102, Washington, DC 20590; telephone (202) 366-9161. Office hours are from 9:00 a.m. to 5:30 p.m., e.t. Monday through Friday, except Federal holidays.

SUPPLEMENTARY INFORMATION:**Availability of the Interim Final Rule and Comments Received**

An electronic copy of this document may be downloaded using a modem and suitable communications software from the Government Printing Office's Electronic Bulletin Boards Service at (202) 512-1661. Internet users may reach the Federal Register's home page at: <http://www.nara.gov/fedreg> and the Government Printing Office's database at: <http://www.access.gpo.gov>.

Internet users can access this document and all comments received by TSA through DOT's docket management system web site, <http://dms.dot.gov>. It is available 24 hours each day, 365 days each year. Please follow the instructions online for more information and help.

Small Entity Inquiries

The Small Business Regulatory Enforcement Fairness Act (SBREFA) of 1996 requires TSA to comply with small entity requests for information and advice about compliance with statutes and regulations within TSA's jurisdiction. However, because TSA was just established on November 19, 2001, pursuant to Aviation and Transportation Security Act, Public Law 107-71, it does not yet have the infrastructure or personnel to provide such information and guidance. Until such time that it does, the Office of the Secretary of Transportation will handle all SBREFA inquiries. Accordingly, any small entity that has a question regarding this document may contact the individuals listed under the caption **FOR FURTHER INFORMATION CONTACT**.

Background

The September 11 Terrorist Attacks and the Aviation and Transportation Security Act

The September 11, 2001 terrorist attacks as well as the potential for future attacks led Congress to enact the Aviation and Transportation Security Act, Public Law 107-71 (ATSA), November 19, 2001, which established TSA as an administration within the U.S. DOT. TSA will be headed by a Presidential appointee to a newly established position, the Under Secretary of Transportation for Security (Under Secretary). Pursuant to section 101(g)(5) of the ATSA, the Secretary of Transportation has delegated to the Deputy Secretary of Transportation the authority to carry out the functions of the Under Secretary as they relate to aviation security on an interim basis. These duties will be assumed by the Under Secretary when he takes office.

Section 118 of ATSA, which added section 44940 to Title 49, U.S.C., requires that within 60 days of ATSA's enactment, or as soon as possible thereafter, TSA impose uniform security service fees on passengers of domestic and foreign air carriers in air transportation, foreign air transportation, and intrastate air transportation originating at airports in the United States. ATSA also requires that notice of the imposition of these fees be published in the **Federal Register**. However, the statute exempts the imposition of the fees from the procedural rulemaking requirements of 5 U.S.C. 553 and the user fee requirements of 31 U.S.C. 9701. The fees are to pay the costs of providing Federal civil aviation security services, which are described in section 44940 as:

- (1) The salary, benefits, overtime, retirement and other costs of screening personnel, their supervisors and managers, and Federal law enforcement personnel deployed at airport security screening locations;
- (2) The costs of training such personnel and the acquisition, operation, and maintenance of equipment used by these personnel;
- (3) The costs of performing background investigations of personnel;
- (4) The costs of the Federal air marshals program;
- (5) The costs of performing civil aviation security research and development under Title 49, U.S.C.;
- (6) The costs of Federal Security Managers; and
- (7) The costs of deploying Federal law enforcement personnel.

According to section 44940(a)(1), the Under Secretary is responsible for

determining the amount of the costs of providing these civil aviation security services. Section 44940(b) and (c) provides that the passenger security service fee must be reasonably related to the costs of providing civil aviation security services, but may not exceed \$2.50 per enplanement or \$5.00 per one-way trip. Section 44940(a)(1) also provides that the cost determinations by the Under Secretary are conclusive and are not subject to judicial review.

According to section 44940(d) and (e), an air carrier or foreign air carrier that sells a ticket for transportation is responsible for collecting the security service fees. The security service fee imposed is not considered to be part of the amount paid for taxable transportation under 26 U.S.C. 4261. Air carriers and foreign air carriers must remit the total amount of fees collected during a calendar month to TSA by the last calendar day of the following month. Any security service fees imposed on, but not collected from, an air carrier's or foreign air carrier's passengers as required by this part, are the air carrier's or foreign air carrier's responsibility and must be included with its monthly remittance. Although the law requires air carriers and foreign air carriers to remit the total amount of the fees collected each month to TSA, carriers may retain the interest that accrues on the principal between the time of collection and remittance in accordance with section 44940(e)(3). Section 44940(e)(4) permits the Under Secretary to require air carriers and foreign air carriers to provide any information necessary to verify that the security service fees have been collected and remitted in accordance with law and regulation.

The Interim Final Rule

Pursuant to delegated authority, the Deputy Secretary has determined that the security service fee to be paid by passengers will be \$2.50 per enplanement. Passengers may not be charged for more than two enplanements per one-way trip or more than four enplanements per round trip.

For purposes of this interim final rule, we have determined that a direct 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 transportation is considered to be the selling carrier. If a passenger's air transportation includes travel on two or more carriers, or if the passenger's air transportation is otherwise on an aircraft not operated by the selling carrier, the carrier selling the air transportation is responsible for

remitting the security service fees imposed.

The Under Secretary has the authority to exempt a passenger enplaning at airports in the United States from paying the security service fee in circumstances where the passenger does not receive screening services pursuant to section 44901. Under this interim final rule, the security service fee is imposed only on passengers who enplane the following direct air carriers and foreign air carriers: (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. We invite comment to address when and whether security service fees should be imposed on additional direct air carriers and foreign air carriers.

Security service fees will not be imposed on passengers enplaning on flight segments outside the United States, but will be imposed on all flight segments originating in the United States.

Direct air carriers and foreign air carriers must collect the security service fees imposed on air transportation sold on or after February 1, 2002. The security service fee imposed by this interim final rule applies to passengers using frequent flyer awards for air transportation, but is not applicable to other nonrevenue passengers. Air carriers and foreign air carriers must identify the security service fees imposed by this part as "September 11th Security Fee" in all its advertisements and solicitations for air transportation.

Each direct air carrier and foreign air carrier is responsible for paying to TSA the security service fees imposed by this rule regardless of whether it collects the fees. Each direct air carrier and foreign air carrier is required to remit all security service fees imposed during February 2002 to TSA by March 31, 2002. For subsequent months, security service fees must be remitted by the last calendar day of the following month. Specific instructions concerning remittance will be provided directly to the direct air carriers and foreign air carriers and will be posted on the DOT web site at www.dot.gov in the near future.

The fee is set at the maximum amount permitted by ATSA because the costs of providing civil aviation security services, as determined by the Deputy Secretary, are greater than the amount

that would be recovered by the collection of fees that are reasonably related to these costs. Specifically, the Deputy Secretary has determined that the costs of providing civil aviation security services under section 44940 not already funded from other sources will conservatively exceed \$1 billion in fiscal year 2002 and that fees collected at the statutory maximum would yield less than \$1 billion in fiscal year 2002, assuming that collections begin on February 1, 2002. It should be noted that DOT expects revenues from security service fees to fall short of the amount required to cover civil aviation security service costs. In such a case, ATSA requires that air carrier fees be assessed in order to cover the shortfall. This assessment will be accomplished through a separate notice published in the **Federal Register** during fiscal year 2002.

Under this rule, direct air carriers and foreign air carriers must establish an accounting system to properly track the amount of the security service fees imposed, collected, refunded and remitted as well as the airports at which the passengers enplaned. Direct air carriers and foreign air carriers are required to submit quarterly reports to TSA that provide an accounting of fees imposed, collected, refunded and remitted. Specific instructions concerning the submission of the quarterly reports will be provided directly to the direct air carriers and foreign air carriers and will be posted on the DOT web site at www.dot.gov in the near future.

Each direct air carrier and foreign air carrier that collects security service fees from more than 50,000 passengers annually must provide for an audit of its security service fee accounts and activities by an independent certified public accountant on an annual basis. The accountant must include in the audit an opinion on whether (1) the direct air carrier's or foreign air carrier's procedures for collecting, holding, and remitting the fees are fair and reasonable; and (2) whether the quarterly reports fairly represent the net transactions in the security service fee accounts. The reports, which are due to the Under Secretary on the last calendar day of the month following the quarter in which the fees were imposed, must provide an accounting of the fees imposed, collected, refunded and remitted. The reports must specifically identify the carrier involved, the total security service fees imposed, collected, refunded and remitted, the number of enplanements for which the fee was collected, the total number of frequent flyer and nonrevenue passengers, the

total number of passenger enplanements for which the fee was imposed but not collected, and the reasons that the fee was not collected in such circumstances.

This rule requires direct air carriers and foreign air carriers to allow certain authorized Federal representatives to review and audit any of the carrier's books and records and provide other information to verify that the security service fees were properly collected and remitted.

The rule's enforcement provision states that direct air carriers and foreign air carriers who fail to comply with the requirements of 49 U.S.C. 44940 or this regulation may be found to be engaging in unfair and deceptive practices in violation of 49 U.S.C. 41712. The rule also provides notice that the United States may seek collection of any funds due it by the direct air carrier or foreign air carrier in accordance with 49 CFR part 89. These remedies are in addition to any others provided by law.

Requests for Waiver

Although not legally bound to do so, air carriers and foreign air carriers may wish to identify the security service fee on a ticket they issue for air transportation. Because ATSA requires that the security service fees be collected as soon as possible, there may be insufficient time to reconfigure the ticket to allow for such a fee category. Therefore, DOT will entertain an air carrier's or foreign air carrier's request that it be permitted to combine the amount of the security service fee with the amount of the passenger facility charges (PFC) identified in the PFC category on the ticket for a transitional period not to exceed six months. DOT will also entertain a request for a waiver of any DOT and Federal Aviation Administration requirement that it believes may conflict with the security service fee as imposed by this part. The request for a waiver must be in writing, explain the conflict in detail, and be directed to TSA Docket No. 2001-11120, the Docket Clerk, U.S. DOT Dockets, Room PL-401, 400 Seventh Street, SW., Washington, DC 20590-0001. DOT will address requests for a waiver on a case-by-case basis.

Good Cause for Immediate Adoption

Section 44940(d)(1) of title 49, U.S.C., explicitly exempts the imposition of the civil aviation security service fees authorized in section 44940 from the procedural rulemaking notice and comment procedures set forth in 5 U.S.C. 553. Apart from that exemption, it would be impractical and contrary to the public interest to provide for notice

and comment before issuing this rule. Immediate action is necessary to begin collecting the security service fees provided for by the statute. However, TSA will consider all comments received on or before the closing date for comment, including comments received before the issuance of this rule. We will also consider comments filed late to the extent practicable. We may amend this rule in light of the comments we receive.

Paperwork Reduction Act

TSA has determined that this interim final rule will impose new collection of information burdens within the meaning of the Paperwork Reduction Act of 1995 (PRA). TSA is required to submit this proposed collection of information to Office of Management and Budget (OMB) for review and approval and, accordingly, seeks public comments. Interested parties are invited to send comments regarding any aspect of the information collection requirements, including, but not limited to: (1) Whether the collection of information is necessary for the performance of TSA, including whether the information has practical utility; (2) the accuracy of the estimated burden that DOT has provided to OMB; (3) ways to enhance the quality, utility, and clarity of the collection of information, and (4) ways to minimize the collection burden without reducing the quality of the information collected.

Pursuant to 5 CFR 1320.13, *Emergency processing*, TSA has asked OMB for temporary emergency approval for this collection. We will publish a **Federal Register** notice with the OMB number when it is approved.

Economic Analyses

This rulemaking action is taken in an emergency situation within the meaning of Section 6(a)(3)(D) of Executive Order 12866, Regulatory Planning and Review. It also is considered an emergency regulation under Paragraph 11g of the Department's Regulatory Policies and Procedures. In addition, it is a significant rule within the meaning of the Executive Order and Department's policies and procedures because it may impose significant costs on air carriers and foreign air carriers. An assessment in accordance with the Executive Order will be conducted in the future. No additional regulatory analysis or evaluation accompanies this rule. TSA has not assessed whether this rule will have a significant economic impact on a substantial number of small entities as defined in the Regulatory Flexibility Act of 1980. When no notice of proposed rulemaking has first been published, the

Regulatory Flexibility Act does not apply.

The current security threat requires that direct air carriers and foreign air carriers comply with the necessary actions to ensure the safety and security of passengers and operations. Therefore consistent with section 44940, the security service fee imposed will be \$2.50 per passenger. Passengers will not be charged for more than two enplanements per one-way trip or four enplanements per round trip. Direct air carriers and foreign air carriers are responsible for collecting these fees on or after February 1, 2002. OMB has reviewed this rule under the provisions of section 6(a)(3)(D) Executive Order 12866.

Executive Order 13132, Federalism

The TSA has analyzed this rule under the principles and criteria of Executive Order 13132, Federalism. We determined that this action will not have a substantial direct effect on the States, or the relationship between the national Government and the States, or on the distribution of power and responsibilities among the various levels of government. Therefore, we have determined that this final rule does not have federalism implications.

Unfunded Mandates Reform Act

The Unfunded Mandates Reform Act of 1995 (the Act), enacted as Public Law 104-4 on March 22, 1995, is intended, among other things, to curb the practice of imposing unfunded Federal mandates on State, local, and tribal governments. Title II of the Act requires each Federal agency to prepare a written statement assessing the effects of any Federal mandate in a proposed or final agency rule that may result in a \$100 million or more expenditure (adjusted annually for inflation) in any one year by State, local, and tribal governments, in the aggregate, or by the private sector.

The requirements of Title II of the Unfunded Mandates Reform Act of 1995 do not apply when rulemaking actions are taken without the issuance of a notice of proposed rulemaking. Accordingly, the TSA has not prepared a statement under the Act.

Environmental Review

TSA has reviewed this action for purposes of the National Environmental Policy Act of 1969 (42 U.S.C. 4321-4347) and has determined that this action will not have a significant effect on the human environment.

Energy Impact

The energy impact of this rule has been assessed in accordance with the

Energy Policy and Conservation Act (EPCA) Pub. L. 94-163, as amended. (42 U.S.C. 6362). It has been determined that this rule is not a major regulatory action under the provisions of the EPCA.

List of Subjects in 49 CFR Part 1510

Accounting, Auditing, Air carriers, Air transportation, Enforcement, Federal oversight, Foreign air carriers, Reporting and recordkeeping requirements, Security measures.

Issued in Washington, DC, on December 26th, 2001.

Michael P. Jackson,
Deputy Secretary.

For the reasons set forth in the preamble, the Transportation Security Administration establishes a new chapter XII consisting of part 1510 in Title 49 of the Code of Federal Regulations to read as follows:

Chapter XII—Transportation Security Administration, Department of Transportation

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. 44940.

§ 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:

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.

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.

Under Secretary means the Under Secretary of Transportation for Security or the Under Secretary's designee.

§ 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 Under Secretary, 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 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 the direct air carrier or foreign air carrier involved, the total security service fee imposed, collected, refunded and remitted, the number of enplanements for which a fee was collected, the total number of frequent flyer and nonrevenue passengers, and the total number of enplanements for which the fee was not collected. The reports must explain why any fee imposed under this part was not collected.

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

§ 1510.19 Federal oversight.

Direct air carriers and foreign air carriers must allow any authorized representative of the Under Secretary, the Secretary of Transportation, the Inspector General of the Department of Transportation, 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.

§ 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.

[FR Doc. 01-32254 Filed 12-28-01; 11:17 am]

BILLING CODE 4910-62-P