

**PARTS 3002, 3007, 3009, 3016, 3034, 3035, and 3052—[AMENDED]**

■ 1. The authority citation for parts 3002, 3007, 3009, 3016, 3034, 3035, and 3052 is revised to read as follows:

**Authority:** 5 U.S.C. 301–302, 41 U.S.C. 1707, 41 U.S.C. 1702, and 48 CFR part 1 and subpart 1.3.

[FR Doc. 2014–22495 Filed 9–22–14; 8:45 am]

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**DEPARTMENT OF HOMELAND SECURITY****Transportation Security Administration****49 CFR Part 1511**

[Docket No. TSA–2002–11334; Amendment No. 1511–3]

RIN 1652–AA01

**Cessation of the Aviation Security Infrastructure Fee (ASIF)**

**AGENCY:** Transportation Security Administration, DHS.

**ACTION:** Final rule.

**SUMMARY:** The Transportation Security Administration (TSA) is issuing this final rule to conform its regulations to the repeal of the authority to impose the Aviation Security Infrastructure Fee (ASIF) on air carriers and foreign air carriers in air transportation.

**DATES:** This rule is effective at 11:59 p.m. (Eastern Daylight Time) on September 30, 2014.

**FOR FURTHER INFORMATION CONTACT:** Michael Gambone, Office of Revenue, TSA–14, Transportation Security Administration, 601 South 12th Street, Arlington, VA 20598–6014; telephone (571) 227–2323; email: [tsa-fees@dhs.gov](mailto:tsa-fees@dhs.gov).

**SUPPLEMENTARY INFORMATION:****Availability of Rulemaking Document**

You may obtain an electronic copy using the Internet by—

(1) Searching the electronic Federal Docket Management System (FDMS) Web page at <http://www.regulations.gov>;

(2) Accessing the Government Printing Office's Web page at <http://www.gpo.gov/fdsys/browse/collection.action?collectionCode=FR> to view the daily published **Federal Register** edition; or accessing the "Search the **Federal Register** by Citation" in the "Related Resources" column on the left, if you need to do a Simple or Advanced search for information, such as a type of document that crosses multiple agencies or dates; or

(3) Visiting TSA's Security Regulations Web page at <http://www.tsa.gov> and accessing the link for "Stakeholders" at the top of the page, then the link "Research Center" in the left column.

In addition, copies are available by writing or calling the individual in the **FOR FURTHER INFORMATION CONTACT** section. Make sure to identify the docket number of this rulemaking.

**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. Any small entity that has a question regarding this document may contact the person listed in the **FOR FURTHER INFORMATION CONTACT** section. Persons can obtain further information regarding SBREFA on the Small Business Administration's Web page at <http://www.sba.gov/advo/laws/lib.html>.

**Good Cause for Immediate Adoption**

This action is being taken without providing the opportunity for notice and comment. Section 44940(d) of title 49, U.S.C., exempts the imposition of the civil aviation security fees authorized in section 44940 from the procedural rulemaking notice and comment procedures set forth in 5 U.S.C. 553 of the Administrative Procedure Act (APA).<sup>1</sup>

Apart from the statutory exemption discussed above, the APA allows an agency to forego notice and comment rulemaking when "the agency for good cause finds . . . that notice and public procedure thereon are impracticable, unnecessary, or contrary to the public interest." 5 U.S.C. 553(b). Section 601(a) of the Bipartisan Budget Act of 2013<sup>2</sup> (Budget Act) repeals TSA's authority to collect the fee beginning October 1, 2014. Because collection of the fee will end on that date regardless of whether

this rulemaking is published, TSA finds that good cause exists under 5 U.S.C. 553(b) for making this a final rule without notice and comment. As this rulemaking simply conforms TSA's regulations to the statute, notice and an opportunity for public comment unnecessary.

**I. Purpose of the Regulatory Action**

The purpose of this final rule is to conform TSA's regulations to changes in its authorities. In 2001, the Aviation and Transportation Security Act (ATSA) authorized TSA to impose a fee to defray the government's costs for providing U.S. civil aviation security services. One fee was imposed on passengers (49 U.S.C. 44940(a)(1)). To the extent the revenue collected from that fee did not defray all of the relevant costs, TSA was authorized to impose a second fee on air carriers and foreign air carriers in air transportation (collectively referred to as "carriers").<sup>3</sup> Implementing regulations to impose the ASIF were published in 2002.<sup>4</sup> The Budget Act restructured the fee imposed on passengers (increasing the estimated revenue from this fee)<sup>5</sup> and repealed TSA's authority to impose the fee on carriers, effective October 1, 2014.<sup>6</sup> Therefore, imposition of the ASIF will cease based on the statute, regardless of any changes to TSA's regulations, but TSA is also issuing this final rule to conform 49 CFR part 1511 to its statutory authority.

**II. Background**

As authorized by the Aviation and Transportation Security Act (ATSA), regulations of the Transportation Security Administration (TSA) require U.S. air carriers and foreign air carriers to pay a fee reflecting the costs for screening passengers and property in calendar year (CY) 2000 in order to defray the Federal Government's costs for assuming these responsibilities. Current 49 CFR part 1511 requires U.S. air carriers and foreign air carriers (collectively referred to as "carriers") to pay an ASIF based on their actual passenger and property screening costs for calendar year (CY) 2000.<sup>7</sup> While ATSA provides authority for TSA to reapportion the fee across the industry

<sup>1</sup> This provision of the statute reads: "(d)

Imposition of Fee.—(1) In general.—Notwithstanding section 9701 of title 31 and the procedural requirements of section 553 of title 5, the Under Secretary shall impose the fee under subsection (a)(1), and may impose a fee under subsection (a)(2), through the publication of notice of such fee in the **Federal Register** and begin collection of the fee within 60 days of the date of enactment of this Act, or as soon as possible thereafter. \* \* \* (3) Subsequent modification of fee.—After imposing a fee in accordance with paragraph (1), the Under Secretary may modify, from time to time through publication of notice in the **Federal Register**, the imposition or collection of such fee, or both. \* \* \*"

<sup>2</sup> Public Law 113–67 (Dec. 26, 2013; 127 Stat. 1165).

<sup>3</sup> See 49 U.S.C. 44940(a)(2) (2002).

<sup>4</sup> See 67 FR 7926 (Feb. 20, 2002) codified at 49 CFR part 1511.

<sup>5</sup> TSA amended its regulations to implement the restructured fee through an Interim Final Rule. See 79 FR 35462 (June 20, 2014). The Budget Act increased revenue to be collected directly from passengers and removed revenue to be collected directly from air carriers.

<sup>6</sup> See Budget Act at § 601(a).

<sup>7</sup> See 49 CFR part 1511.

based on market share,<sup>8</sup> the current regulations only apply to carriers in operation in CY 2000. Under the Interim Final Rule (IFR), published in 2002,<sup>9</sup> carriers are continuing to remit the same amount to TSA based on their CY 2000 passenger and property screening costs. To the extent carriers that operated in CY 2000 are no longer operating, their portion of the ASIF is uncollected. Similarly, as previously noted, carriers that have entered the market since CY 2000 are not currently subject to the fee.

III. Summary of the Final Rule

Through this Final Rule, TSA is conforming its regulations to repeal of the authority to impose the ASIF. No new ASIF liability will be incurred after 11:59 p.m. on September 30, 2014. Any ASIF liability incurred before 11:59 p.m. on September 30, 2014, must be transmitted to TSA consistent with current procedures. To mitigate the possibility for any confusion regarding the applicable requirements and procedures for ASIF liability incurred before the effective date of this final rule and remittance procedures, the relevant provisions of 49 CFR part 1511 are not being modified (such as sections 1511.5 and 1511.7). TSA is removing the requirements for an independent audit and record keeping (sec. 1511.9) because they are unnecessary once this final rule takes effect. The Paperwork

Reduction Act implications of this amendment are discussed below.

Paperwork Reduction Act

The Paperwork Reduction Act of 1995 (PRA) (44 U.S.C. 3501. *et seq.*) requires that a Federal agency consider the impact of paperwork and other information collection burdens imposed on the public and, under the provisions of PRA section 3507(d), obtain approval from the Office of Management and Budget (OMB) for each collection of information it conducts, sponsors, or requires through regulations. As protection provided by the Paperwork Reduction Act, as amended, an agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless it displays a currently valid OMB control number. TSA currently has an approved information collection related to ASIF records retention through March 31, 2016.<sup>10</sup> With this final rule, TSA is discontinuing the information collection request by removing the requirement to retain these records. The annual average burden associated with this recordkeeping requirement is estimated to be \$24,031. TSA has submitted to OMB a discontinuation request for the currently approved information collection.

Regulatory Impact Analyses

Executive Orders Nos. 12866 (“Regulatory Planning and Review”)

and 13563 (“Improving Regulation and Regulatory Review”) direct agencies to assess the costs and benefits of available regulatory alternatives and, if regulation is necessary, to select regulatory approaches that maximize net benefits (including potential economic, environmental, public health and safety effects, distributive impacts, and equity). Executive Order 13563 emphasizes the importance of quantifying both costs and benefits, of reducing costs, of harmonizing rules, and of promoting flexibility.

This rulemaking is an “economically significant regulatory action,” under section 3(f) of Executive Order No. 12866. As further required by this Executive Order, OMB has reviewed this final rule and TSA has prepared an analysis of its estimated costs and benefits, presented in the following paragraphs. Table 1 presents the OMB Circular A–4 Accounting Statement for this final rule.

As a result of the Budget Act, carriers will no longer be required to pay the ASIF effective October 1, 2014.<sup>11</sup> Therefore, TSA is issuing this final rule to conform its regulations to its statutory authority.<sup>12</sup> This is not an implementing regulation, as the statute clearly implements the cessation of the ASIF absent any action by TSA.

TABLE 1—OMB A–4 ACCOUNTING STATEMENT  
[Pre-Statute Baseline]

Category	Estimate	
Benefits		
Annualized monetized benefits ..... Annualized quantified, but unmonetized, benefits. Qualitative (un-quantified) benefits.	\$59,196 .....	7% discount rate.
Costs		
Annualized monetized costs. Annualized quantified, but unmonetized, costs Qualitative (un-quantified) costs		
Transfers		
Reduction in annualized monetized transfers .....	– \$373,200,000 .....	7% discount rate.
From whom to whom? .....	Reduction in transfer payments from industry to the Government (as the Government will no longer be receiving the transfer of ASIF payments for security services provided).	

Under the authority granted to TSA under 49 U.S.C. 449040 as enacted in

2002, TSA has authority to collect a fee from carriers. The amount that TSA

could collect under that authority was capped at \$420 million.<sup>13</sup> The Budget

<sup>8</sup> See 49 U.S.C. 44940(a)(2)(B)(iii) (2013).

<sup>9</sup> 67 FR 7926 (Feb. 20, 2002).

<sup>10</sup> See OMB Control No: 1652–0018.

<sup>11</sup> See Budget Act § 601(a).

<sup>12</sup> See 49 CFR part 1511.

<sup>13</sup> For an opinion upholding this determination, see *Southwest Airlines Co. v. Transportation*

*Security Administration*, 650 F.3d 752 (D.C. Cir. 2011). A copy of the opinion is available at <http://www.tsa.gov/stakeholders/aviation-security-infrastructure-fee-air-carrier-fee>.

Act repeals that authority effective October 1, 2014. Therefore, the cessation of the ASIF is the result of a statutory change that takes effect on October 1, 2014.

In response to this amendment to its statutory authority, TSA decided to issue this final rule to conform current regulations. Although cessation of fee imposition would occur absent any action by TSA, we assess the impacts of this final rule from the baseline prior to the change in statutory authority, pursuant to OMB Circular A-4, which calls for agencies to use a pre-statute baseline in cases where a rule, or portions of a rule, simply restates statutory requirements that would be self-implementing, even in the absence of the regulatory action.<sup>14</sup>

Analyzing this final rule from the pre-statute baseline considers the cessation of the ASIF to be an economic impact of this final rule. The following analysis considers the cessation of the ASIF as a reduction in transfer payments from industry to the Government, as the Government will no longer be receiving the transfer of ASIF payments for security services provided.

#### Impact of Cessation of the ASIF

TSA has identified three impacts of the cessation of the ASIF: The Government will no longer collect the transfer payment from industry; industry will no longer bear the burden to remit the ASIF to TSA monthly; and industry will no longer bear the burden of retaining records related to the ASIF. Estimates of these impacts are presented below:

- *Government Will Stop Imposing Payments on the Industry.* To estimate the impacts of this reduction in ASIF transfer payments, TSA assessed historical ASIF collections to determine the average amount transferred over a 10-year period of analysis. Table 2 presents the historical ASIF collections.<sup>15</sup>

TABLE 2—HISTORICAL ASIF COLLECTIONS

[Fiscal Year (FY) 2004 to FY 2013]

Fiscal year	ASIF collections from carriers <sup>16</sup> (rounded up to nearest million)
2004 .....	\$283,000,000
2005 .....	307,000,000
2006 .....	316,000,000
2007 .....	573,000,000
2008 .....	413,000,000
2009 .....	406,000,000
2010 .....	282,000,000
2011 .....	400,000,000
2012 .....	380,000,000
2013 .....	372,000,000
Ten Year Average .....	373,200,000

Using the 10-year average ASIF collection for FY 2004 through FY 2013 of \$373,200,000, TSA calculates the 10-year impact of cessation of the ASIF as a reduction in transfer payments from industry to Government, placing the burden of funding security services now paid for by the ASIF on the Government. Table 3 presents the 10-year reduction in transfer payments.

TABLE 3—FOREGONE ASIF TRANSFER PAYMENT FROM INDUSTRY TO GOVERNMENT

Year	Reduction in ASIF transfer payments (undiscounted)	Reduction in ASIF transfer payments (3% discounting)	Reduction in ASIF transfer payments (7% discounting)
1 .....	\$373,200,000	\$362,330,097	\$348,785,047
2 .....	373,200,000	351,776,793	325,967,333
3 .....	373,200,000	341,530,867	304,642,368
4 .....	373,200,000	331,583,366	284,712,493
5 .....	373,200,000	321,925,598	266,086,442
6 .....	373,200,000	312,549,125	248,678,918
7 .....	373,200,000	303,445,752	232,410,204
8 .....	373,200,000	294,607,526	217,205,798
9 .....	373,200,000	286,026,725	202,996,073
10 .....	373,200,000	277,695,849	189,715,956
Total .....	3,732,000,000	3,183,471,699	2,621,200,631
Annualized .....	373,200,000	373,200,000	373,200,000

Note: Totals may not add due to rounding. The annualized reductions in ASIF transfer payments are estimated using OMB guidance (see [http://www.whitehouse.gov/sites/default/files/omb/assets/OMB/circulars/a004/a-4\\_FAQ.pdf](http://www.whitehouse.gov/sites/default/files/omb/assets/OMB/circulars/a004/a-4_FAQ.pdf), pages 7–8). These annualized estimates are the same regardless of discounting since TSA uses a constant reduction in ASIF transfer payments based on the 10-year average ASIF collection presented in Table 2.

For the 10-year analysis period, TSA estimated the total undiscounted reduction in transfer payment of approximately \$3.7 billion, and the total discounted reduction in transfer payment of \$3.2 billion using a three

percent discount rate, and \$2.6 billion using a seven percent discount rate. The cessation of ASIF imposition will benefit industry as it will no longer be required to make these transfer payments to the Government.

- *Cost Savings for Stopping Monthly ASIF Transmission to TSA.* To estimate the cost savings to carriers no longer required to remit the ASIF to TSA, we calculated the average local charge for an electronic transaction from one bank

<sup>14</sup> See OMB Circular A-4 (<http://www.whitehouse.gov/sites/default/files/omb/assets/omb/circulars/a004/a-4.pdf>), pages 15–16: “In some cases, substantial portions of a rule may simply

restate statutory requirements that would be self-implementing, even in the absence of the regulatory action. In these cases, you should use a pre-statute baseline.”

<sup>15</sup> TSA is not currently collecting the full \$420 million allowed under ATSA due to changes in the industry since the ASIF was established in 2002.

<sup>16</sup> TSA data.

account to another, and applied the monthly cost to each carrier currently remitting a fee to TSA. TSA estimates that the average bank transaction costs \$26.40 per month for an electronic transfer of fees to TSA.<sup>17</sup> Because almost all carriers would transmit monthly ASIF payments to TSA electronically, TSA used the \$26.40 per month per

electronic transfer, discussed above, to calculate transmission costs.

The total number of affected carriers required to pay the ASIF is estimated to be 111 (37 air carriers and 74 foreign air carriers) based on the number of carriers remitting ASIF payments to TSA in FY 2013. To estimate the cost savings to industry, TSA multiplied the monthly bank fee of \$26.40 by 12 months to

obtain an average annual bank fee of \$316.80 for each carrier currently remitting the ASIF. We then multiplied the annual bank fee (\$316.80) by the number of carriers (111) to obtain the total annual cost savings, which equals \$35,165 (\$316.80 × 111). Table 4 presents the 10-year cost savings for stopping monthly ASIF transmission to TSA.

TABLE 4—COST SAVINGS TO CARRIERS FOR STOPPING MONTHLY ASIF TRANSMISSION TO TSA

Year	Cost savings (undiscounted)	Cost savings (3% dis- counting)	Cost savings (7% dis- counting)
1 .....	\$35,165	\$34,141	\$32,864
2 .....	35,165	33,146	30,714
3 .....	35,165	32,181	28,705
4 .....	35,165	31,243	26,827
5 .....	35,165	30,333	25,072
6 .....	35,165	29,450	23,432
7 .....	35,165	28,592	21,899
8 .....	35,165	27,759	20,466
9 .....	35,165	26,951	19,127
10 .....	35,165	26,166	17,876
Total .....	351,648	299,963	246,983
Annualized .....	35,165	35,165	35,165

Note: Totals may not add due to rounding.

• *Cost Savings for Removal of Recordkeeping Requirements.* When setting the ASIF in 2002, all carriers engaged in air transportation, foreign air transportation, and intrastate air transportation in 2000 were required to submit their CY 2000 security screening costs to TSA.<sup>18</sup> Carriers were required to use the form in Appendix A to 49 CFR

part 1511 to itemize their security costs by specific cost categories. In this final rule, TSA is removing current § 1511.9, requiring recordkeeping of documents related to CY 2000 costs. TSA estimated the benefit to covered carriers due to the elimination of this data and document retention requirement. TSA estimated the benefit of no longer maintaining

these documents by summing the avoided storage retention costs of \$71<sup>19</sup> and the avoided annual labor requirement of \$145.50<sup>20</sup> to estimate a per-carrier savings of \$216.50. There are 111<sup>21</sup> carriers currently paying these fees; the change amounts to an annual savings of \$24,031 (\$216.50 × 111). Table 5 summarizes these cost savings.

TABLE 5—COST SAVINGS TO CARRIERS FROM ELIMINATION OF RECORDKEEPING

Year	Total savings (undiscounted)	Total savings (3% dis- counting)	Total savings (7% dis- counting)
1 .....	\$24,031	\$23,331	\$22,459
2 .....	24,031	22,652	20,990
3 .....	24,031	21,992	19,617
4 .....	24,031	21,351	18,333
5 .....	24,031	20,730	17,134
6 .....	24,031	20,126	16,013
7 .....	24,031	19,540	14,965
8 .....	24,031	18,971	13,986
9 .....	24,031	18,418	13,071
10 .....	24,031	17,882	12,216
Total .....	240,313	204,992	168,786

<sup>17</sup> This estimate is based on the average of the 10 largest U.S. Banks wire transfer fee. <http://www.mybanktracker.com/news/2013/09/27/comparing-top-10-bank-wire-transfer-fees-fall-2013>.

<sup>18</sup> 49 CFR 1511.5(d).

<sup>19</sup> ICR Supporting Statement (OMB control Number 1652–0018) cost of records storage (\$54.60 in 2000) adjusted for 2013 using GDP deflator.

<sup>20</sup> To estimate the annual labor requirement, TSA uses the Bureau of Labor Statistics (BLS) median hourly wage for all management occupations (11–0000) within the Air Transportation sector (NAICS 481000), which is \$49.33 ([http://www.bls.gov/oes/2013/may/naics3\\_481000.htm#00-0000](http://www.bls.gov/oes/2013/may/naics3_481000.htm#00-0000)). TSA applies a load factor of 1.4747 to this wage, to obtain a loaded hourly wage of \$72.75. As the ICR

Supporting Statement (OMB control Number 1652–0018) states that the annual burden would require two labor hours records management, TSA multiplies \$72.75 by two to get a total labor cost savings of \$145.50.

<sup>21</sup> Number of carriers remitting the ASIF to TSA in FY 2013.

TABLE 5—COST SAVINGS TO CARRIERS FROM ELIMINATION OF RECORDKEEPING—Continued

Year	Total savings (undiscounted)	Total savings (3% discounting)	Total savings (7% discounting)
Annualized .....	24,031	24,031	24,031

Note: Totals may not add due to rounding.

For the 10-year analysis period, TSA estimated the total undiscounted benefits of the rule for elimination of recordkeeping to be \$240,313, and the total discounted benefits to be \$204,992

using a three percent discount rate, and \$168,786 using a seven percent discount rate. The benefits arise from cost savings realized by carriers who no longer have

to retain data and documents on their costs in CY 2000.

Table 6 show the total savings to the carriers over a 10-year period.

TABLE 6—TOTAL COST SAVINGS TO CARRIERS

Year	Total savings (undiscounted)	Total savings (3% discounting)	Total savings (7% discounting)
1 .....	\$59,196	\$57,472	\$55,323
2 .....	59,196	55,798	51,704
3 .....	59,196	54,173	48,322
4 .....	59,196	52,595	45,160
5 .....	59,196	51,063	42,206
6 .....	59,196	49,576	39,445
7 .....	59,196	48,132	36,864
8 .....	59,196	46,730	34,453
9 .....	59,196	45,369	32,199
10 .....	59,196	44,047	30,092
Total .....	591,961	504,955	415,768
Annualized .....	59,196	59,196	59,196

Note: Totals may not add due to rounding.

For the 10-year analysis period, TSA estimated the total cost savings of \$591,961 for all carriers, and a total discounted savings of \$540,955 using a three percent discount rate, and \$415,768 using a seven percent discount rate.

#### Alternatives Considered

For the purposes of this regulatory impact analysis, TSA analyzed several alternatives when considering the impact of this final rule. The Budget Act repeals 49 U.S.C. 44940(a)(2) and, therefore, removes any TSA discretion to impose the ASIF. As of October 1, 2014, TSA no longer has statutory authority to impose the ASIF, and regardless of any action by TSA, the affected carriers will no longer incur ASIF liability after that date. As such,

any alternatives considered by TSA would have to include cessation of the imposition of the ASIF. Table 7 below summarizes the regulatory alternatives considered:

- Alternative 1 (Preferred—Cessation of ASIF and Recordkeeping Requirements): Alternative 1, the preferred alternative is discussed above and would result in an undiscounted 10-year cost savings to industry of \$591,961.

- Alternative 2 (No Action—No ASIF Rulemaking): As the BBA is self-implementing in the absence of any TSA amendments to its regulations, this alternative would have the same results as the preferred alternative, in other words, the affected carriers will no longer incur ASIF liability. In the absence of regulatory action, there could

be some uncertainty with respect to whether related record retention requirements remained in place.

- Alternative 3 (Cessation of ASIF and Maintenance of Recordkeeping Requirements): Under this alternative, TSA would cease to collect the ASIF from the affected carriers, but TSA would retain the recordkeeping requirements for carriers to use the form in Appendix A to 49 CFR part 1511 to itemize their security costs by specific cost categories. This would reduce the cost savings to affected carriers, from an undiscounted 10-year cost savings of \$561,961 in the preferred alternative to an undiscounted 10-year cost savings of \$351,648. TSA rejects this alternative because it would fail to maximize savings to the affected carriers, without sufficient justification.

TABLE 7—COMPARISON OF ALTERNATIVES

Alternatives	Description	10-year cost savings (undiscounted)
Alternative 1—Preferred Alternative .....	TSA repeals the ASIF and all associated requirements .....	\$591,961
Alternative 2—No Action .....	TSA does not publish a rulemaking. ASIF no longer collected due to BBA .....	591,961
Alternative 3—Maintain Recordkeeping Requirements.	TSA repeals the collection of the ASIF, but requires airlines to comply with current recordkeeping requirements.	351,648

### Regulatory Flexibility Act Assessment

The Regulatory Flexibility Act (RFA) of 1980<sup>22</sup> requires agencies to consider the impact of their regulatory proposals on small entities, to analyze effective alternatives that minimize small entity impacts, and to make their analyses available for public comment. Small entities include small businesses, not-for-profit organizations, and small governmental jurisdictions. Individuals and States are not included in the definition of a small entity. When no notice of proposed rulemaking has first been published, no such assessment is required for a final rule. Furthermore, 5 U.S.C. 553(b)(B) exempts rules from the requirements of the RFA when an agency for good cause finds that notice and public procedure thereon are impracticable, unnecessary, or contrary to the public interest. As previously discussed in the preamble, this rule is exempt from the procedural rulemaking requirements of 5 U.S.C. 553.

### International Trade Impact Assessment

The Trade Agreement Act of 1979<sup>23</sup> prohibits Federal agencies from establishing any standards or engaging in related activities that create unnecessary obstacles to the foreign commerce of the United States. Legitimate domestic objectives, such as safety, are not considered unnecessary obstacles. The statute also requires consideration of international standards and, where appropriate, that they be the basis for U.S. standards. TSA has assessed the potential effect of this rulemaking and as TSA has determined that there are no associated industry costs, it does not impose significant barriers to international trade.

### Unfunded Mandates Assessment

The Unfunded Mandates Reform Act of 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; such a mandate is deemed to be a "significant regulatory action." This rule does not contain such a mandate. Moreover, the requirements of Title II of UMRA do not apply when rulemaking actions are taken without

the issuance of a notice of proposed rulemaking. For reasons discussed above, no notice of proposed rulemaking is required for this regulatory action. The requirements of Title II of the Act, therefore, do not apply and TSA has not prepared a statement under the Act.

### International Compatibility

In keeping with U.S. obligations under the Convention on International Civil Aviation, it is TSA policy to comply with International Civil Aviation Organization (ICAO) Standards and Recommended Practices to the maximum extent practicable. TSA has reviewed the corresponding ICAO Standards and Recommended Practices and has identified no differences with these regulations.

The ICAO guidance document on aviation fees and charges, ICAO Document 9082 (Ninth Edition—2012), ICAO's Policies on Charges for Airports and Air Navigation Services, recommends consultations before fees are imposed on carriers. In addition, Article 12 of the Air Transport Agreement between the United States of America and the European Community and its Member States, signed on 25 and 30 April 2007, encourages consultation between the charging authority and affected carriers.

As no fees are being imposed as a result of this rulemaking, no consultation or additional assessment is required.

### Executive Order 13132, Federalism

TSA has analyzed this final 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 on the relationship between the National Government and the States, or on the distribution of power and responsibilities among the various levels of government, and therefore does not have federalism implications.

### Environmental Analysis

TSA has reviewed this action for purposes of the National Environmental Policy Act of 1969 (NEPA) (42 U.S.C. 4321–4347) and has determined that this action will not have a significant effect on the human environment. This action is covered by categorical exclusion (CATEX) number A3(b) in DHS Management Directive 023–01 (formerly Management Directive 5100.1), Environmental Planning Program, which guides TSA compliance with NEPA.

### Energy Impact

The energy impact of the notice has been assessed in accordance with the Energy Policy and Conservation Act (EPCA), Public Law 94–163, as amended (42 U.S.C. 6362). We have determined that this rulemaking is not a major regulatory action under the provisions of the EPCA.

### List of Subjects for 49 CFR Part 1511

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

### The Amendment

In consideration of the foregoing, the Transportation Security Administration amends part 1511 of Chapter XII of Title 49, Code of Federal Regulations, as follows:

#### Subchapter A—Administrative and Procedural Rules

#### PART 1511—AVIATION SECURITY INFRASTRUCTURE FEE

■ 1. The authority citation for part 1511 continues to read as follows:

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

■ 2. Remove and reserve § 1511.9.

■ 3. Add § 1511.15 to read as follows:

#### § 1511.15 Cessation of the Aviation Security Infrastructure Fee.

Notwithstanding 49 CFR 1511.5 and 1511.7, or any other provision of this part, beginning 11:59 p.m. (Eastern Daylight Time) on September 30, 2014, an air carrier or foreign air carrier engaged in air transportation will not incur any further obligations to make payments to TSA that otherwise would be required under this part. Any unremitted Aviation Security Infrastructure Fees incurred by an air carrier or foreign air carrier before 11:59 p.m. (Eastern Daylight Time) on September 30, 2014, are due by October 31, 2014.

Dated: September 17, 2014.

**Melvin J. Carraway,**

*Deputy Administrator.*

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<sup>22</sup> Public Law 96–354 (94 Stat. 1164; Sept. 19, 1980).

<sup>23</sup> Public Law 96–39 (93 Stat. 144; July 26, 1979).