

such assessment is required for a final rule.

#### *International Trade Impact Assessment*

The Trade Agreement Act of 1979 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 has determined that it will not have a significant impact on foreign commerce and, therefore, has no effect on any trade-sensitive activity.

#### *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 rulemaking does not contain such a mandate. The requirements of Title II of the Act, therefore, do not apply and TSA has not prepared a statement under the Act.

#### **Executive Order 13132, Federalism**

The 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 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**

The 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.

#### **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 in 49 CFR Parts 1510 and 1511**

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

#### **The Amendment**

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

#### **SUBCHAPTER A—ADMINISTRATIVE AND PROCEDURAL RULES**

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

■ 1. The authority citation for part 1510 continues to read as follows:

**Authority:** 49 U.S.C. 44940.

■ 2. From June 1, 2003, through September 30, 2003, suspend §§ 1510.5 and 1510.9(a) through (c), and add a new § 1510.23 to read as follows:

##### **§ 1510.23 Temporary suspension of the September 11th Security Fee.**

(a) *Suspension of the September 11th Security Fee.* (1) Notwithstanding 49 CFR 1510.9(a) and (b), a direct air carrier or foreign air carrier must not collect the September 11th Security Fee from any passenger for air transportation sold during the suspension period. For purposes of this section, the suspension period is 12:00 a.m., Eastern Daylight Time, on June 1, 2003, through 11:59 p.m., Eastern Daylight Time, on September 30, 2003. When a passenger purchases a ticket from a direct or foreign air carrier or its agent and the passenger pays in full, including through redemption of frequent flier awards, for the ticket during the suspension period, the carrier must not collect the September 11th Security Fee from the passenger. In addition, notwithstanding 49 CFR 1510.9(c), the direct or foreign air carrier will not incur any obligation to pay the amount of such uncollected fee to TSA.

(2) If a direct or foreign air carrier collects a September 11th Security Fee from a passenger who purchases a ticket during the suspension period, the carrier must refund the fee to the passenger.

(3) Direct and foreign air carriers must continue to collect the September 11th

Security Fee on air transportation purchased by passengers through 11:59 p.m., Eastern Daylight Time, on May 31, 2003, even if the flight for which the transportation is purchased is to be operated during the suspension period.

(b) *Tickets reissued during the suspension period.* (1) If a passenger purchases a ticket before the suspension period begins and the carrier reissues a replacement ticket during the suspension period without any changes to the original itinerary, the carrier continues to be responsible for collecting the amount of the September 11th Security Fee that applied upon the initial purchase of the ticket. If, as a result of the reissuance, however, the ticket is repriced during the suspension period, the September 11th Security Fee will not apply to the reissued ticket. Repricing a ticket means a transaction in which the itinerary of a paid ticket is revised due to voluntary changes made by the passenger and the ticket is reissued to determine the new price of the itinerary. Redemption of frequent flyer awards during the suspension period for cabin upgrades does not constitute repricing of the ticket and therefore the fee must continue to be charged. Free upgrades do not constitute repricing and therefore do not result in refund of the fee.

(i) *Example 1.* A passenger purchases a round-trip ticket before the suspension period with two enplanements per one-way trip (for a total of four enplanements) and, due to changes made by the passenger, the carrier reissues the ticket during the suspension period with a revised itinerary of one enplanement per trip (for a total of two enplanements), which results in repricing of the itinerary. The carrier must refund to the passenger the amount of the September 11th Security Fee previously collected when the passenger initially purchased the ticket, and the carrier must not collect the fee for the reissued ticket.

(ii) *Example 2.* If a passenger purchases a ticket before the suspension period and the carrier reissues the ticket during the suspension period because the passenger redeems frequent flier awards in order to obtain an upgrade, the carrier must not refund the September 11th Security Fee it collected when the passenger initially purchased the ticket. Similarly, if the carrier reissues the ticket during the suspension period because the carrier provided a free upgrade, the carrier must not refund the September 11th Security Fee.

(iii) *Example 3.* If a passenger purchases a ticket prior to the suspension period and the travel is already underway during the suspension period and there is a repricing of the ticket, the carrier must not collect the September 11th Security Fee for the changed or unused portion of the itinerary. Therefore, any fee collected for the changed or unused portion of the itinerary must be refunded to the passenger.