

foreign air carriers to collect and remit the fee. Section 1510.15(b) requires carriers that collect the fee from more than 50,000 passengers annually to provide for an annual audit of their security service fee activities and accounts. Section 1510.15(c) requires that the audit be performed by an independent public certified accountant, that the auditor express an opinion on the fairness and reasonableness of the carrier's procedures for collecting, holding and remitting the fee, and that the audit address whether the quarterly reports required in § 1510.17 fairly represent the net transactions in the carrier's security service fee accounts.

Since issuing the interim final rule, TSA has reviewed several comments in the public docket, Docket No. TSA-2001-11120, concerning the relative burdens and benefits of independent audits for this fee. In light of the high cost of independent audits; the economic condition of the aviation industry; the fact that TSA, in conjunction with other Federal agencies, is initiating its own reviews of

fee payments by selected carriers; and TSA's confidence that the aviation industry has demonstrated a high level of compliance with 49 CFR part 1510 thus far, TSA has determined that it may not be necessary for the carriers to expend the resources necessary to provide for independent audits regarding the fee.

By this document, TSA waives enforcement of the requirement in 49 CFR 1510.15(b) that carriers provide for annual independent audits of their September 11th Security Fees. Notwithstanding this suspension of the audit requirement, carriers must still comply with the record keeping requirements of § 1510.15(a) and fully cooperate with Federal oversight efforts conducted pursuant to § 1510.19, which authorizes representatives of the Secretary of Transportation, the Under Secretary of Transportation for Security, the Inspector General of the Department of Transportation, or the Comptroller General of the United States to audit or review the carriers' books or records. TSA is not waiving or deferring enforcement of any other requirement

set forth in 49 U.S.C. 44940, 49 CFR part 1510, or the audit requirement pertaining to the Aviation Security Infrastructure Fee imposed on carriers in 49 CFR part 1511.

Upon conducting its own reviews of fee payments by carriers (including those conducted by or jointly with other Federal agencies), TSA will determine whether to eliminate the independent audit requirement or to rescind this waiver and reinstate the independent audit requirement. If TSA decides to eliminate the requirement, an amendment to 49 CFR part 1510 will be published in the **Federal Register**. If TSA decides to rescind the waiver a document will be published in the **Federal Register** at least 90 days in advance of its effectiveness.

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**James M. Loy,**

*Under Secretary of Transportation for Security.*

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