

DEPARTMENT OF HOMELAND SECURITY

Transportation Security Administration

[Docket Nos. TSA-2001-11334 and TSA-2003-16345]

Continuation of the Aviation Security Infrastructure Fee (ASIF)

RIN 1652-ZA03

AGENCY: Transportation Security Administration (TSA), DHS.

ACTION: Notice.

SUMMARY: TSA is issuing this notice to inform all U.S. and foreign air carriers (carriers) currently required to pay the Aviation Security Infrastructure Fee (ASIF) that for October 2004 and beyond, until further notice, the amount of the ASIF imposed on each carrier will continue to be the amount the carrier paid for the screening of passengers and property transported by passenger aircraft in the U.S. during calendar year 2000.

FOR FURTHER INFORMATION CONTACT: Randall Fiertz, Director of Revenue, Office of Finance and Administration, TSA-14, Transportation Security Administration, 601 South 12th Street, Arlington, VA 22202-4220; telephone (571) 227-2323; e-mail TSA-fees@dhs.gov. You may also access information on TSA's security fees on the internet at www.tsa.gov. Click on the "Industry Partners" link at the top of the page, or input a keyword and search the "Site Search" feature at the top right of the web page.

SUPPLEMENTARY INFORMATION:

Document Availability

You can get an electronic copy using the Internet by--

(1) Searching the Department of Transportation's electronic Docket Management System (DMS) web page (<http://dms.dot.gov/search>);

(2) Accessing the Government Printing Office's web page at http://www.access.gpo.gov/su_docs/aces/aces140.html; or

(3) Visiting TSA's Law and Policy web page at <http://www.tsa.dot.gov/public/index.jsp>.

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.

Background

Under 49 U.S.C. 44940, Congress authorized TSA to impose the ASIF on carriers to help defray the Federal government's cost of providing civil aviation security services. See 49 U.S.C. 44940(a)(2). Through the end of fiscal year 2004 (September 30, 2004), the amount of ASIF collected by TSA from the carriers, both overall and per carrier, cannot exceed the carriers' aggregate and individual costs, respectively, for screening passengers and property in calendar year 2000. 49 U.S.C. 44940(a)(2)(B)(i), (ii).

Beginning in fiscal year 2005 (October 1, 2004), TSA may change the way the per-carrier limit is determined. TSA may set the amount of each carrier's ASIF according to the carrier's market share or other appropriate measure in lieu of the carriers actual screening costs in calendar year 2000. 49 U.S.C. 44940(2)(B)(iii).

On February 20, 2002, TSA imposed the ASIF on carriers by publishing an interim final rule in the Federal Register (67 FR 7926), codified at 49 CFR part 1511. In accordance with 49 U.S.C. 44940(a)(2)(B), TSA used information the carriers provided

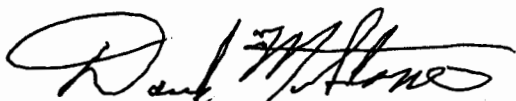
on their individual screening costs for calendar year 2000 to set each carrier's annual ASIF payment. Section 1511.7(b) of the regulation requires that each carrier remit 8.333 percent (one-twelfth) of its self-reported amount, or an amount otherwise determined by TSA, to TSA on a monthly basis through the end of September 2004.

Section 1511.5(g) of the regulation provides that TSA will redetermine the amount of the ASIF imposed on each carrier beginning in October 2004, and the redetermination may be based on each carrier's market share or other appropriate measure. Similarly, § 1511.7(c) of the regulation provides that, beginning in October 2004, each carrier's monthly ASIF payment is set at one-twelfth of that redetermined amount. These provisions reflect TSA's statutory authorization to reset the ASIF for each carrier beginning in October 2004 based on the carrier's market share or other appropriate measures in lieu of the carrier's costs for screening passengers and property in calendar year 2000. See 49 U.S.C. 44940(a)(2)(B)(iii). Also, under 49 U.S.C. 44940(d)(3), TSA may make modifications to the ASIF through publication of a notice in the Federal Register.

TSA has not yet determined whether it will reset each carrier's ASIF payment based on market share or another appropriate measure. On November 5, 2003, TSA issued a notice in the Federal Register seeking public comment on this issue (68 FR 62613). TSA is in the process of considering the comments and proposals for revising allocation of the ASIF among carriers. Therefore, TSA has determined that until further notice, for October 2004 and beyond, the amount of the ASIF imposed on each carrier will remain equal to the amount of the carrier's screening costs for calendar year 2000.

Therefore, each carrier's monthly payment under § 1511.7(c) for each month beginning with October 2004 will remain at one-twelfth of that amount.

Issued in Arlington, Virginia, on **SEP 29 2004**

A handwritten signature in black ink, appearing to read "David M. Stone". The signature is fluid and cursive, with the first name "David" and last name "Stone" clearly distinguishable.

David M. Stone,

Assistant Secretary.