

SYNOPSIS OF DISABILITY DISCRIMINATION FINAL RULE

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A. Applicability and Waiver Provisions

382.5 When are U.S. and foreign carriers required to begin complying with the provisions of this Part?

Except as otherwise specified, the requirements imposed by this rule become effective May 13, 2009.

382.7 To whom do the provisions of this Part apply?

Only flights of foreign carriers that begin or end at a U.S. airport, and aircraft used in these operations, are covered. A flight means a continuous journey of a passenger in the same aircraft or using the same flight number.

If a foreign carrier operates a flight between two non-U.S. points and the flight carries the code of a U.S. carrier, the final rule will not extend coverage to the foreign carrier for that flight segment and the foreign carrier will not be responsible for compliance with Part 382 for that segment. Rather, with respect to passengers ticketed under the U.S. carrier's code, the U.S. carrier is responsible for Part 382 compliance.

382.9 What may foreign carriers do if they believe a provision of a foreign nation's law prohibits compliance with a provision of this Part?

382.9(a) If the law of a foreign nation precludes carriers from complying with a provision of this Part, carriers may request a waiver.

By foreign law, we mean a legally binding mandate (e.g., a statute, regulation, a safety rule equivalent to an FAA regulation) that imposes a nondiscretionary obligation on the foreign carrier to take, or refrain from taking, a certain action. Binding mandates frequently can subject a carrier to penalties imposed by a government in the event of noncompliance. Guidance, recommendations, codes of best practice, policies of carriers or carrier organizations, and other materials that do not have mandatory, binding legal effect on a carrier cannot give rise to a conflict between Part 382 and foreign law for purposes of this Part, even if they are published or endorsed by a foreign government. In order to create a conflict, the foreign legal mandate must require something that Part 382 prohibits, or prohibit something that Part 382 requires.

If a foreign government officially informs a carrier that it intends to take enforcement action (e.g., impose a civil penalty) against a carrier for failing to implement a provision of a government policy, guidance document, or recommendation that conflicts with a portion of the Department's rules, the Department would view the government action as creating a legal mandate cognizable under this section.

We encourage foreign carriers to make any waiver requests by September 10, 2008. The Department commits to deciding requests made by September 10 before the rule goes into effect. If we are late, then the foreign carrier may continue to carry out the policy or practice involved until we do respond.

Even with respect to waiver requests submitted after September 10, 2008, the Department will do its best to respond before the effective date of the rule. Again, the carrier can choose to continue to follow the policy or practice that is the subject of the request until the Department does respond. However, if such a request is denied, the carrier risks enforcement action with respect to the period between May 13, 2009 and the date of the Department's response.

If a new mandate is created after September 10, 2008 (not an existing legal mandate that is subsequently discovered or goes into effect subsequently), a foreign carrier may submit a waiver request and continue to implement the policy or practice involved until the Department responds. The carrier would not be subject to enforcement action for the period prior to the Department's response.

382.10 How does a U.S. or foreign carrier obtain a determination that it is providing an equivalent alternative to passengers with disabilities?

The final rule permits U.S. and foreign carriers to apply to the Department for a determination of an “equivalent alternative.” If, with respect to a specific accommodation, the carrier demonstrates that what it wants to do will provide substantially equivalent accessibility to passengers with disabilities the Department will determine that the carrier can comply with the rule using its alternative accommodation. This provision applies to equipment, policies, procedures, or any other method of complying with Part 382.

The Department will not entertain an equivalent alternative request relating to an entire regulatory scheme (e.g., an application asserting that compliance with European Union regulations on services to passengers with disabilities was equivalent to Part 382 as a whole).

If a carrier submits its request by September 10, 2008, the Department will try to respond before the effective date of the rule. The carrier can implement the policy or practice it requests as an equivalent alternative beginning on the effective date of the rule until the Department does respond. If a carrier submits its request after September 10, 2008, the carrier must comply with the provision of the regulation pending the Department’s response.

B. General Nondiscrimination Requirements

382.11 What is the general nondiscrimination requirement of this Part?

Carriers may not discriminate against passengers having disabilities and may not require such passengers to accept special services (including, but not limited to, preboarding) that the individual does not request. However carriers may require preboarding as a condition of receiving certain seating or in-cabin stowage accommodations.

382.15 Do carriers have to make sure that contractors comply with the requirements of this Part?

Carriers must include an assurance of compliance with this Part in their contracts with any contractors that provide services to the public that are subject to the requirements of this Part. Noncompliance with this assurance is a material breach of the contract on the contractor’s part.

The assurance must also commit the contractor to implementing directives issued by the carriers' CROs.

382.17 May carriers limit the number of passengers with a disability on a flight?

Carriers may not limit the number of passengers with a disability who travel on a flight.

382.19 May carriers refuse to provide transportation on the basis of disability?

With narrow exceptions, a carrier is prohibited from denying transportation to a passenger on the basis of disability. Carriers retain their authority, to deny transportation to any passenger, disabled or not, on the basis of safety or whose carriage would violate FAA or TSA requirements.

If the carrier’s reason for excluding a passenger on the basis of safety is that the individual’s disability creates a safety problem, the carrier’s decision must be based on a “direct threat” analysis. This concept calls on carriers to make an individualized assessment (e.g., as opposed to a generalization or stereotype about what a person with a given disability can or can’t do) of the safety threat the person is thought to pose. The carrier must take into account the nature, duration and severity of the risk; the probability that the potential harm will actually occur; and whether reasonable mitigating measures can reduce the risk to the point where the individual no longer poses a direct threat.

A carrier may require advance notice for a group of 10 or more passengers with disabilities traveling together, so that the airline can make appropriate preparations for the group (e.g., a team traveling to a competition for wheelchair athletes).

382.21 May carriers limit access to transportation on the basis that a passenger has a communicable disease or other medical condition?

As a general matter, carriers may not exclude or impose other requirements or conditions on a passenger on the basis that the passenger has a communicable disease. However, if the passenger poses a direct threat, the carrier may take appropriate action to safeguard the health and safety of other persons on the flight.

To be a direct threat, a condition must be both able to be readily transmitted by casual contact in the course of a flight AND have severe health consequences (e.g., SARS, active tuberculosis). If a condition is readily transmissible but does not typically have severe health consequences (e.g., the common cold), or has severe health consequences but is not readily transmitted by casual conduct in the course of a flight (e.g., HIV), its presence would not create a direct threat. Carriers may also rely on directives issued by public health authorities (e.g., in the context of a future flu pandemic).

If a carrier refuses to provide transportation for any basis relating to the passenger's disability, the carrier must provide a written explanatory statement. That statement must include the specific basis for the refusal and must be provided to the passenger within ten calendar days of the refusal of transportation.

If a passenger who is deemed to present a direct threat cannot travel at his or her scheduled time as a result, the carrier must allow the passenger to travel up to 90 days from the date of postponed travel at the same price or, if the passenger prefers, provide a refund. Cancellation or rebooking fees or penalties would not apply in this situation, and the passenger would not be subject to any fare increases or any increase in fare due to the nonavailability of a seat in the applicable fare class.

382.23 May carriers require a passenger with a disability to provide a medical certificate?

Carriers may require a medical certificate for:

- Oxygen Users
- Passengers in a stretcher or incubator
- Passengers for whom carrier personnel have a reasonable doubt that the passenger can complete the flight safely, without requiring extraordinary medical assistance.
- Passengers for whom the carrier determines have a communicable disease that could pose a direct threat.

A valid medical certificate is a written statement from the passenger's physician dated within 10 days of the passenger's initial departing flight stating that the passenger is capable of completing the flight safely without extraordinary medical assistance.

A carrier may subject a passenger with a medical certificate to additional medical review (e.g., by the carrier's physician) if the carrier believes either that there has been a significant adverse change in the passenger's medical condition since the issuance of the medical certificate or that the certificate significantly understates the passenger's risk to the health of other persons on the flight. If this additional review shows that the passenger is unlikely to be able to complete the flight without extraordinary medical assistance or would pose a direct threat to other passengers, the carrier could, notwithstanding the medical certificate, deny or restrict the passenger's transportation.

382.25 May a carrier require a passenger with a disability to provide advance notice that he or she is traveling on a flight?

As a general rule, carriers may not require a passenger with a disability to provide advance notice.

382.27 May a carrier require a passenger with a disability to provide advance notice in order to obtain specific services in connection with a flight?

Carriers may require up to 48 hours' advance notice (i.e., 48 hours before the scheduled departure time of the flight) AND a check-in time one hour before the check-in time for the general public for:

- Accommodation for a group of 10 or more passengers with a disability who make reservations to travel as a group.
- Onboard use of supplemental oxygen, whether the carrier provides the oxygen (i.e., via POC or containerized oxygen,) or the passenger brings his or her own POC for use during the flight. When requesting carrier-supplied supplemental oxygen, advance notice of up to 72 hours for international flights may be required.
- Transportation of an emotional support or psychiatric service animal.
- Transportation of any service animal on a flight scheduled to take eight hours or more.
- Accommodation of an individual who has both severe vision and hearing impairments.

If the passenger with a disability meets the advance notice and check-in time requirements, the carrier must provide the requested accommodation. If not, the carrier must still provide the accommodation if it can do so by making reasonable efforts, without delaying the flight.

382.29 May a carrier require a passenger with a disability to travel with a safety assistant?

A safety assistant is someone who would assist the passenger to exit the aircraft in case of an emergency evacuation or to establish communication with carrier personnel for purposes of the required safety briefing. A safety assistant is not a personal care attendant who looks after the personal care needs of a passenger. A carrier cannot require a personal care attendant to travel with a passenger with a disability. People like passenger volunteers, an individual selected by the passenger, or deadheading crew members remain appropriate candidates to act as safety assistants.

Safety assistants may be required only for:

- A passenger traveling in a stretcher or incubator. The safety assistant for such a person must be capable of attending to the passenger's in-flight medical needs.
- A passenger who, because of a mental disability, is unable to comprehend or respond appropriately to safety instructions from carrier personnel, including the required safety briefing.
- A passenger with a mobility impairment so severe that the person is unable to physically assist in his or her own evacuation of the aircraft.
- A passenger who has both severe hearing and severe vision impairments, if the passenger cannot establish some means of communication with carrier personnel that is adequate both to permit transmission of the required safety briefing or the safety regulations of a foreign carrier's government and to enable the passenger to assist in his or her own evacuation of the aircraft in the event of any emergency.

With respect to passengers who have mobility impairments, the passenger with a disability must be capable of "physically" assisting in his or her own evacuation.

When a passenger with a disability cannot travel on a flight because there is no seat available for a safety assistant that the carrier has determined to be necessary, the passenger must be compensated in an amount to be calculated under the Department's denied boarding compensation (DBC) rule, 14 CFR Part 250, where Part 250 applies. The DBC rule applies to both U.S. and foreign carriers with respect to domestic and international scheduled service nonstop flight segments departing from a U.S. airport. It does not apply to flights departing from a foreign airport.

Passengers have the primary responsibility for making the determination if they can travel independently, but carriers can overrule that determination, in a carefully limited set of circumstances, and require a safety assistant. If it is really an overriding safety reason that compels a carrier to overrule a passenger's

decision and insist that he or she travel with a safety assistant, then it is appropriate for the carrier to bear the cost of the safety judgment that it makes.

In a situation where the carrier insists on a passenger traveling with a safety assistant, contrary to the passenger's self-assessment, but the carrier does not designate an employee or volunteer to be the safety assistant, the carrier cannot refuse to accept someone designated by the passenger, as long as that person is capable of assisting the passenger in an evacuation.

The FAA requires that the safety briefing be provided before each takeoff, so communication to permit transmission of this briefing must be established for each flight segment of the passenger's itinerary. Passengers can use a variety of means to establish the needed communication. A passenger could, for example, bring a companion to the airport to serve as a go-between with carrier personnel there. That individual can interpret for the passenger during the safety briefing and can help the passenger agree with carrier personnel on physical signals—touching the passenger's hand in a specific manner, for example—for use during evacuation or other emergencies. Another means by which the passenger may establish communication is to give carrier personnel an instruction sheet for communicating with him or her.

If a passenger is able to establish adequate communication with the carrier for purposes of receiving the safety briefing, and the carrier nonetheless decides to overrule the passenger's assessment that he or she can travel independently, the carrier cannot charge for the transportation of the safety assistant that the carrier requires.

To allow the carrier to confirm that the passenger had such a means of communication available, the carrier can require the passenger to self-identify 48 hours before the flight. As part of this notification, the passenger would explain to the carrier how communication can be established (e.g., via tactile speech-reading by touching the speaker's lips, cheek and throat). If the passenger does not notify the carrier 48 hours before the flight, the rule nonetheless requires the carrier to accommodate the passenger as far as is practicable.

For example, if a passenger with severe hearing and vision impairments does not notify the carrier 48 hours before the flight of his or her intent to travel alone and of his or her ability to communicate adequately for transmission of the safety briefing, the carrier could refuse to transport the passenger without a safety assistant. If, however, the same passenger does not provide advance notice but is taking a nonstop flight, brings an interpreter to the airport, and is able to establish communication (in the gate area) adequate for the transmission of the safety briefing and to receive instruction during an emergency evacuation, the carrier must allow the passenger to travel without a safety assistant.

While we are not requiring carriers to make safety briefing information available on Braille cards, they are free to do so. The carrier may not require the passenger to demonstrate his or her ability to communicate or that he or she has understood the safety briefing. For example, there could not be a quiz on the contents of the safety briefing or a demonstration of lip reading or finger spelling ability.

In the case of codeshare flights, the carrier whose code is used must inform the operating carrier that a passenger with severe hearing and vision impairment has provided notice 48 hours in advance of his or her intent to travel without a safety assistant. If there is sufficient time before the 48-hour deadline for the passenger to directly contact the operating carrier, the carrier whose code is being used could, as an alternative, provide the passenger a number where he or she could contact the operating carrier to impart this information.

In cases where carriers disagree with a passenger's self-assessment that he or she can travel alone, they must transport the safety assistant without charge. Of course, any carrier that wishes to accommodate a passenger with severely impaired vision and hearing by designating a safety assistant from among, say, non-revenue passengers, its airport personnel, ticketed passengers on the same flight who volunteer to serve in that capacity, or a person accompanying the disabled passenger to the airport is free to do so.

Carriers may charge for transportation provided to a personal care attendant if the passenger voluntarily chooses to travel with such an attendant.

This requirement of free transportation for the safety assistant also applies in cases when the disabled passenger who believes that he or she does not need a safety assistant proposes to establish communication by means of tactile signing or finger spelling, but no member of the carrier's flight crew can communicate using these methods.

Finally, with respect to a passenger with a mental impairment (e.g., someone with Alzheimer's disease), the passenger himself, not someone accompanying the passenger, must be able to understand safety instructions from the crew.

382.31 May carriers impose special charges on passengers with a disability for providing services and accommodations required by this rule?

Carriers may not impose charges on passengers for accommodations required by the rule. However, if a carrier voluntarily provides a service that this rule does not require, the carrier may charge a passenger with a disability for that service.

If a carrier charges people who make reservations by phone or in person more than people who make reservations on the web site, this surcharge cannot be applied to persons with disabilities who must make reservations by another means because the web site is inaccessible to them. Likewise, if there are "web only" discounts or special offers made available to passengers on the carrier's web site, passengers with disabilities who cannot use the web site must be offered the same terms when they seek to book a flight by other means.

382.33 May carriers impose other restrictions on passengers with a disability that they do not impose on other passengers?

Carriers must not impose requirements or restrictions on passengers with a disability that they do not impose on other passengers, except where this regulation explicitly permits the carrier to do so.

382.35 May carriers require passengers with a disability to sign waivers or releases?

No. Waivers of liability or releases either for passengers themselves or for loss or damage of wheelchairs and other assistive devices are forbidden.

C. General Information Requirements

382.41 What flight-related information must carriers provide to qualified individuals with a disability?

Carriers must provide information about the accessibility features of aircraft (e.g., the presence and location of seats that can be accessed through movable armrests, and seats not available to passengers with disabilities). In addition, carriers must provide information about any service limitations in accommodating a passenger with a disability. This includes the location of seats with a movable armrest as well as seats (e.g., those in an exit row) that are not available to passengers with a disability. It also includes information about any service limitation as well as the ability of an aircraft to accommodate people with disabilities (e.g., limitations on boarding assistance, limitations on storage areas for mobility aids, presence or absence of an accessible lavatory).

382.43 Must information and reservation services of carriers be accessible to individuals with hearing and vision impairments?

The purpose of § 382.43 is to put deaf and hard of hearing passengers on a substantially equivalent footing with the rest of the public in their ability to communicate with carriers by telephone regarding information and reservations.

In any medium in which a carrier states the telephone number of its information and reservation service for the general public, it must also state its TTY number if it has one, or if not, it must specify how TTY users can reach the information and reservation service (e.g., via call relay service). Such media include, for example, web sites, ticket jackets, telephone books, and print advertisements.

These requirements do not apply to carriers in any country in which the telecommunications infrastructure does not readily permit compliance.

Carriers that provide written information to passengers must ensure that that this information can be communicated effectively to passengers with vision impairments. This could be done through alternative formats or, especially for brief or compact pieces of information that can be comprehended and remembered effectively by a listener, through verbal communication (e.g., the time and date of a specific flight, as distinct from the airline's entire timetable for a city pair).

For foreign carriers, these requirements apply only with respect to information and reservation services for flights covered by section 382.5. With respect to TTY services, the requirement applies to foreign carriers only with respect to flights for which reservation phone calls from the U.S. are accepted.

Foreign carriers must meet this requirement by May 13, 2010.

382.45 Must carriers make copies of this Part available to passengers?

Foreign carriers must keep a copy of Part 382 at any airport serving a flight that begins or ends at a U.S. airport and make it available to anyone who asks for it. Carriers that provide information to the public on a website must place information on that website telling passengers that they can obtain an accessible copy of the rule from DOT:

- For calls made from within the United States, by telephone via the Toll-Free Hotline for Air Travelers with Disabilities at 1-800-778-4838 (Voice) or 1-800-455-9880 (TTY)
- By Telephone to the Aviation Consumer Protection Division at 202-366-2220 (Voice) or 202-366-0511 (TTY)
- By mail to the Air Consumer Protection Division, C-75, U.S. Department of Transportation, 1200 New Jersey Ave., SE., West Building, Room W96-432, Washington, DC 20590
- On the Aviation Consumer Protection Division's Web site (<http://airconsumer.ost.dot.gov>)

D. Airport Accessibility

382.51 What requirements must carriers meet concerning the accessibility of airport facilities?

Carriers must require that U.S. airport terminal facilities owned, leased, or controlled by the carrier are readily accessible to individuals with disabilities including individuals who use wheelchairs.

One new requirement at U.S. airports is to provide, in cooperation with the airport operator, animal relief areas for service animals that accompany passengers who are departing, arriving, or connecting at the facility.

If audiovisual equipment at US airports has captioning capability, that capability must be enabled at all times. Carriers must replace televisions and other audiovisual displays providing passengers with safety briefings, information, or entertainment that do not have eye-contrast captioning capability with equipment that does have such capability whenever such equipment is replaced and/or whenever the pertinent terminal area is renovated or expanded.

At foreign airports Part 382 applies a performance requirement to make sure that passengers with a disability can readily use the facilities the carrier owns, leases, or controls at the airport. For foreign carriers, this requirement applies only to terminal facilities that serve flights that begin or end in the U.S.

Where foreign airport operators provide accessibility services or accessible facilities, foreign carriers may rely on the airport operators' efforts, to the extent that those efforts fully meet the requirements of this Part. If the foreign airport operators' efforts do not fully provide the accessibility that this rule requires (e.g., the airport operator is responsible for providing wheelchair assistance to passengers within the terminal, but does not provide connecting service between gates for wheelchair users who are changing planes on flights covered by the rule), this rule requires air carriers to supplement the services provided by the airport operator, by providing the supplemental services itself or hiring a contractor to do so. If the carrier cannot legally do so, the carrier could seek a conflict of laws waiver.

The requirements of § 382.51 become applicable May 13, 2010.

382.53 What information must carriers give individuals with a vision and/or hearing impairment at airports?

A carrier must ensure that at each gate, ticketing area, and customer service desk that the carrier owns, leases, or controls, passengers with a disability who identify themselves as persons needing visual or hearing assistance have prompt access to the same information provided to other passengers no later than the time that it is transmitted to the other passengers. This requirement applies to such subjects as flight safety, ticketing, flight check-in, flight delays or cancellations, schedule changes, boarding information, connections, gate assignments, checking baggage, volunteer solicitation on oversold flights (e.g., offers of compensation for surrendering a reservation), individuals being paged by airlines, aircraft changes that affect the travel of persons with disabilities, and emergencies (e.g., fire, bomb threat). A customer service desk is a location in the terminal that a carrier dedicates to addressing customer problems not addressed at the gate or the ticket counter, most commonly the rerouting of passengers affected by a delayed or canceled flight.

Carriers must provide the information to self-identifying passengers with hearing or vision impairment as close as possible to the time that the information is announced aloud.

Where a U.S. airport has actual control over the gates, ticketing areas, and customer service desks, the airport and the carrier are jointly responsible.

Passengers with impaired hearing or vision must identify themselves to carrier personnel at the gate area or the customer service desk even if they have already done so at the ticketing area.

Carriers must notify a visually impaired passenger orally where his or her baggage can be claimed if the information is otherwise only posted on visual displays, and the notification must take place no later than the posting. At the time when a visually impaired passenger identifies himself or herself to an agent at the gate, the rule requires the agent to notify him or her of any change that has occurred that affects his or her itinerary even if the change has already been announced and is now posted on a screen. If a gate change is posted on the screen but not announced orally, as soon as possible after the posting a gate agent must notify any passenger who has identified himself or herself as having impaired vision.

382.55 May carriers impose security screening procedures for passengers with disabilities that go beyond TSA requirements or those of foreign governments?

If a carrier wants to go beyond those mandated procedures, it must make sure that it treats passengers with disabilities equally with other passengers. Security personnel may examine assistive devices and must provide, on request, private screenings for passengers with disabilities requiring secondary screening.

382.57 What services must carriers provide if their automated kiosks are inaccessible?

If existing kiosks are inaccessible (e.g., to wheelchair users because of height or reach issues, to visually-impaired passengers because of issues related to visual displays or touch screens), carriers must ensure equal treatment for persons for disabilities who cannot use them. For example, a passenger who cannot use the kiosk could be allowed to come to the front of the line at the check-in counter, or carrier personnel could meet the passenger at the kiosk and help the passenger use the kiosk or the passenger could use the first class boarding pass line.

Carriers should provide such an accommodation with sensitivity to passengers' potential concerns about looking as though they have been singled out for special treatment.

E. Aircraft Accessibility

382.61 What are the requirements for movable aisle armrests?

Armrests on at least half the aisle seats in rows containing seats in which passengers with mobility impairments are permitted to sit under FAA rules must be movable. If there are no seats in which a person with a mobility impairment can sit under FAA rules (e.g., an exit row), then that row does not constitute part of the base from which the calculation of half the rows is made, and is not one in which a movable armrest is needed.

Carriers must ensure that passengers with a disability can readily identify and obtain seating in rows with movable aisle armrests.

Movable aisle armrests must be provided proportionately in all classes of service. If the seats in a given class of service, such as first class, can be accessed by a wheelchair user without a movable aisle armrest being provided, the carrier may request an equivalent alternative determination.

An equivalent alternative request concerning movable armrests must show the Department that persons with mobility impairments using aisle and boarding wheelchairs can transfer horizontally into a given seat without being lifted over an armrest or other obstacle.

Carriers are not required to retrofit cabins of existing aircraft to install movable armrests. If a carrier replaces any of an aircraft's aisle seats with newly manufactured seats, at least half the replacement seats must have movable armrests. If the carrier is replacing an odd number of seats, a majority of the aisle seats installed must have movable armrests.

Foreign carriers must comply with "new aircraft" requirements with respect to planes ordered after May 13, 2009 or delivered after May 13, 2010. Foreign carriers must comply with the requirement for replacement seats beginning on May 13, 2009.

382.63 What are the requirements for accessible lavatories?

Only aircraft with more than one aisle must have an accessible lavatory. Foreign carriers must comply with respect to new aircraft ordered after May 13, 2009 or delivered after May 13, 2010.

If a carrier replaces a lavatory it must replace the lavatory with an accessible unit. This requirement will begin to apply to foreign carriers on May 13, 2009.

382.65 What are the requirements concerning on-board wheelchairs?

In aircraft with more than 60 passenger seats, carriers must provide an on-board wheelchair if the aircraft has an accessible lavatory or at the request of a passenger. Foreign carriers must meet these requirements by May 13, 2010.

382.67 What is the requirement for priority space in the cabin to store a passenger's wheelchair?

This requirement to stow a passenger's manual wheelchair in the cabin is in addition to the carrier's on-board wheelchair. Foreign carriers must comply with respect to new aircraft ordered after May 13, 2009 or delivered after May 13, 2010.

Foreign carriers are not required to modify existing cabins to create a space for passengers' wheelchairs.

Carriers are not required to stow any electric wheelchair in the cabin. Large, motorized mobility-assistive devices of any type need not be carried in the cabin.

382.69 What requirements must carriers meet concerning the accessibility of videos, DVDs, and other audio-visual presentations shown on aircraft to individuals who are deaf or hard of hearing?

All new videos, DVDs, and other audio-visual displays played on aircraft for safety purposes, and all audio-visual displays played on aircraft for informational purposes that were created under the carrier's control must be high-contrast captioned which is defined as at least as easy to read as white letters on a consistent black background. . The captioning must be in the predominant language or languages in which the carrier communicates with passengers on the flight. If the carrier communicates regularly in more than one language, then the captioning must be in all of those languages. Carriers are not required to retrofit or replace existing videos. Safety materials must be captioned in all cases.

These requirements go into effect November 10, 2009 with respect to safety videos, and January 8, 2010 with respect to informational videos.

382.81 For which passengers must carriers make seating accommodations?

(a) Carriers must provide a seat in a row with a movable aisle armrest for a passenger who uses an aisle chair to access the aircraft and who cannot readily transfer over a fixed aisle armrest. Carrier personnel must be trained in the location and proper use of movable aisle armrests, including appropriate transfer techniques. Carriers must ensure that aisle seats with movable armrests are clearly identifiable.

(b) Carriers must provide an adjoining seat for a person assisting a passenger with a disability:

- (1) When a passenger with a disability is traveling with a personal care attendant who will be performing a function for the individual during the flight that airline personnel are not required to perform (e.g., assistance with eating);
- (2) When a passenger with a vision impairment is traveling with a reader/assistant who will be performing functions for the individual during the flight;
- (3) When a passenger with a hearing impairment is traveling with an interpreter who will be performing functions for the individual during the flight; or
- (4) When carriers require a passenger to travel with a safety assistant (see § 382.29).

(c) Carriers must provide, as the passenger requests, either a bulkhead seat or a seat other than a bulkhead seat for a passenger with a disability traveling with a service animal.

(d) Carriers must provide a bulkhead seat or other seat that provides greater legroom than other seats, on the side of an aisle that better accommodates the individual's disability for a passenger with a fused or immobilized leg.

382.83 Through what mechanisms do carriers make seating accommodations?

(1) Carriers may "block" an adequate number of the seats used to provide the seating accommodations required by § 382.81.

- (i) Carriers must not assign these seats to passengers not needing accommodations until 24 hours before the scheduled departure of the flight.
- (ii) At any time up until 24 hours before the scheduled departure of the flight, carriers must assign a seat meeting the requirements of this section to a passenger with a disability who requests it.

(iii) If a passenger with a disability does not make a request at least 24 hours before the scheduled departure of the flight, carriers must meet the passenger's request to the extent practicable, but are not required to reassign a seat assigned to another passenger.

(2) Carriers may designate an adequate number of the seats used to provide seating accommodations as "priority seats" for passengers with a disability.

(i) Carriers must provide notice that all passengers assigned these seats (other than passengers with a disability) are subject to being reassigned to another seat if necessary to provide a seating accommodation.

(ii) Carriers may provide this notice through their computer reservation system, by reservation personnel, ticket notices, gate announcements, counter signs, seat cards or notices, frequent-flier literature, or other appropriate means.

(iii) Carriers must assign a seat meeting the requirements of this section to a passenger with a disability who requests the accommodation at the time the passenger makes the request. Carriers may require such a passenger to check in and request the seating accommodation at least one hour before the standard check-in time for the flight. If all designated priority seats that would accommodate the passenger have been assigned to other passengers, carriers must reassign the seats of the other passengers as needed to provide the requested accommodation.

(iv) If a passenger with a disability does not check in at least an hour before the standard checkin time, carriers must meet the individual's request to the extent practicable, but are not required to reassign a seat assigned to another passenger.

(b) If carriers assign seats to passengers, but not until the date of the flight, they must use the "priority seating" approach of paragraph (a)(2) of this section.

(d) If carriers wish to use a different method of providing seating assignment accommodations to passengers with disabilities from those specified in this subpart, they must obtain DOT approval

382.85 What seating accommodations must carriers make to passengers in circumstances not covered by section 382.81(a) through (d)?

Carriers must provide a seat that will accommodate a passenger with a disability other than one listed in section 382.81(a)–(d) when the passenger self-identifies and requests the accommodation in order to readily access and use the carrier's air transportation service.

382.87 What other requirements pertain to seating for passengers with a disability?

Carriers must make seating accommodations in the seating/service class for which someone has bought a ticket, but are not required to provide a higher level of seat or service because doing so would be more comfortable or convenient for a passenger with a disability. A person who requires two seats for any reason (e.g., because of obesity or a disability) can be required to pay for two seats.

The final rule does not allow carriers to limit seating options for passengers with disabilities, except where needed to comply with applicable safety rules (e.g., concerning exit rows).

F. Boarding, Deplaning, and Connecting Assistance

382.91 What assistance must carriers provide to passengers with a disability in moving within the terminal?

The arriving carrier (i.e., the one that operates the first of the two connecting flights) has the responsibility for connecting assistance. It is permissible for the two carriers to mutually agree that the carrier operating the departing connecting flight (i.e., the second flight) will provide this assistance, but the carrier operating the arriving flight remains responsible for ensuring that the assistance is provided.

The carrier's assistance responsibility starts at the terminal entrance for a passenger arriving to take a flight, and ends at the terminal exit for a passenger leaving the airport after a flight.

If the passenger is being assisted along the route from entrance to gate or vice versa, or to make a connection, and the route goes by a rest room, the person assisting the passenger must allow the passenger to use the amenity, if doing so will not result in unreasonable delay. The employee is not required to detour to a different route, provide personal care attendant services to the passenger, or incur an unreasonable delay. A delay which would result in the passenger not getting to a connecting flight would be unreasonable

In U.S. airports, the carrier must, on request, and in cooperation with the airport operator, escort a passenger to a service animal relief area.

Carriers must assist passengers with disabilities transporting their carry-on or gatechecked luggage to or from the gate on request. This obligation would arise only if the passenger could make credible verbal assurances of his or her inability to carry the item due to his or her disability. If the passenger's verbal assurances are not credible, the carrier may require the passenger to produce documentation as a condition of providing the service.

382.93 Must carriers offer preboarding to passengers with a disability?

Carrier must offer preboarding to passengers with a disability who self-identify at the gate as needing additional time or assistance to board, stow accessibility equipment, or be seated. A carrier that makes a preboarding announcement in the gate area for other types or classes of passengers must make the announcement for persons with disabilities as well.

382.95 What are carriers' general obligations with respect to boarding and deplaning assistance?

Carriers must promptly assist passengers getting on and getting off aircraft at both U.S. and foreign airports.

Personnel and boarding chairs should be available to deplane the passenger as soon as other passengers have left the aircraft.

Carriers can recommend, but cannot require, advance notice for passengers with disabilities who need assistance in moving through the terminal.

382.99 What agreements must carriers have with the airports they serve?

Carriers serving U.S. airports must have agreements with the airport operators to provide, operate, and maintain lifts and ramps used to meet the boarding requirement of section 382.95(b). Foreign carriers have until May 13, 2010 to enter into such agreements. Foreign carriers serving a particular airport may be able to join existing agreements among the airport and U.S. carriers.

382.101 What other boarding and deplaning assistance must carriers provide?

When level-entry boarding and deplaning assistance is not required to be provided under this subpart, carriers must provide or ensure the provision of boarding and deplaning assistance by any available means to which the passenger consents.

Carriers must never use hand-carrying (i.e., directly picking up the passenger's body in the arms of one or more carrier personnel to effect a level change the passenger needs to enter or leave the aircraft), even if the passenger consents, unless this is the only way of evacuating the individual in the event of an emergency.

382.103 May a carrier leave a passenger unattended in a wheelchair or other device?

The carrier and its contractors may not leave a passenger unattended in a wheelchair or other device in which the passenger is not independently mobile for more than 30 minutes even if another person is accompanying the passenger unless the passenger expressly waives the obligation.

382.105 What is the responsibility of carriers at foreign airports at which airport operators have responsibility for enplaning, deplaning, or connecting assistance?

At a foreign airport where airport operators have this responsibility, both U.S and foreign carriers can rely on the airport operator's services. If these services do not fully meet the requirements of this Part, then the carrier must supplement the airport operator's services to ensure that the requirements are met. If a carrier believes that it is legally precluded from supplementing the airport operator's services, it can apply for a conflict of laws waiver.

G. In-flight Service Requirements

382.111 What services must carriers provide to passengers with a disability on board the aircraft?

- (a) Assistance in moving to and from seats, as part of the enplaning and deplaning processes;
- (b) Assistance in preparation for eating, such as opening packages and identifying food;
- (c) If there is an on-board wheelchair on the aircraft, assistance with the use of the on-board wheelchair to enable the person to move to and from a lavatory;
- (d) Assistance to a semi-ambulatory person in moving to and from the lavatory, not involving lifting or carrying the person;
- (e) Assistance in stowing and retrieving carry-on items, including mobility aids and other assistive devices stowed in the cabin. To receive such assistance, the passenger must self-identify as being an individual with a disability needing the assistance.
- (f) Effective communication with passengers who have vision impairments and/or who are deaf or hard-of-hearing, so that these passengers have timely access to information the carrier provides to other passengers (e.g., weather, on-board services, flight delays, connecting gates at the next airport).

382.113 What services are carriers not required to provide to passengers with a disability on board the aircraft?

Carriers are not required to provide:

- (a) Assistance in actual eating;
- (b) Assistance within the restroom or assistance at the passenger's seat with elimination functions; and
- (c) Provision of medical services.

382.115 What requirements apply to onboard safety briefings?

- (a) Carriers must conduct an individual safety briefing for any passenger where required by FAA requirements.
- (c) Carriers must not require any passenger with a disability to demonstrate that he or she has listened to, read, or understood the information presented, except to the extent that carrier personnel impose such a requirement on all passengers. Carriers must not take any action adverse to a qualified individual with a disability on the basis that the person has not "accepted" the briefing.
- (d) When carriers conduct an individual safety briefing for a passenger with a disability, they must do so as inconspicuously and discreetly as possible.

382.119 What information must carriers give individuals with vision or hearing impairment on aircraft?

Carriers must provide passengers who identify themselves as needing visual or hearing assistance with prompt access to the same information provided to other passengers on the aircraft.

The covered information includes, but is not limited to, information concerning flight safety, procedures for takeoff and landing, flight delays, schedule or aircraft changes that affect the travel of persons with disabilities, diversion to a different airport, scheduled departure and arrival time, boarding information, weather conditions at the flight's destination, beverage and menu information, connecting gate assignments, baggage claim (e.g., at which carousel an arriving flight's bags may be retrieved), individuals being paged by airlines, and emergencies (e.g., fire or bomb threat).

H. Service Animals

382.117 Must carriers permit passengers with a disability to travel with service animals?

Foreign carriers are not required to carry service animals other than dogs. However, foreign carriers could not, absent a conflict of laws waiver, impose certification or documentation requirements for dogs beyond those permitted to U.S. carriers. Carriers may not require passengers to sign waivers or releases of liability for the loss, injury, or death of service animals.

The general rule is that service animals must be allowed to accompany their users. Carriers cannot deny transportation to a service animal because its presence may offend or annoy other passengers (e.g., by causing an allergic reaction that does not rise to the level of a disability or by offending someone's cultural or personal preferences). When another passenger is uncomfortable with proximity to a service animal, the carrier should do its best to satisfy all passengers by offering the uncomfortable passenger the opportunity to sit elsewhere. Forcing the passenger with the service animal to move to another seat to make another passenger more comfortable, is not an option.

The only situation in which the rule contemplates that a service animal would not be permitted to accompany its user at his or her seat is where the animal blocks a space that, per FAA or applicable foreign government safety regulations, must remain unobstructed (e.g., an aisle, access to an emergency exit) AND the passenger and animal cannot be moved to another location where such a blockage does not occur. In such a situation, the carrier should first talk with other passengers to find a seat location where the service animal and its user can be agreeably accommodated (e.g., by finding a passenger who is willing to share foot space with the animal). The fact that a service animal may need to use a reasonable portion of an adjacent seat's foot space—that does not deny another passenger effective use of the space for his or her feet—is not an adequate reason for the carrier to refuse to permit the animal to accompany its user at his or her seat. Airlines may not charge passengers with disabilities for services required by Part 382, including transporting their oversized service animals in the cargo compartment.

If a flight segment is scheduled to take eight hours or more, the carrier may require documentation that the service animal will not need to relieve itself or can do so in a way that will not create a health or sanitation issue on the flight.

The final rule limits use of emotional support animals to persons with a diagnosed mental or emotional disorder, and the rule permits carriers to insist on recent documentation from a licensed mental health professional to support the passenger's desire to travel with such an animal. In order to permit the assessment of the passenger's documentation, the rule permits carriers to require 48 hours' advance notice of a passenger's wish to travel with an emotional support animal.

Any denial of transportation to a service animal would have to be explained, in writing, to the passenger within 10 days.

Carriers must promptly take all steps necessary to comply with such foreign regulations as are necessary to legally transport service animals from the U.S. into foreign airports (e.g., the United Kingdom's Pet Travel Scheme).

Guidance Concerning Service Animals

➤ Carriers shall accept as evidence that an animal is a service animal identifiers such as identification cards, other written documentation, presence of harnesses, tags or the credible verbal assurances of a qualified individual with a disability using the animal.

The law allows airline personnel to ask for documentation as a means of verifying that the animal is a service animal, but DOT's rules tell carriers not to require documentation as a condition for permitting an individual to travel with his or her service animal in the cabin unless a passenger's verbal assurance is not credible.

Examples of documentation include a letter from a licensed professional treating the passenger's condition (e.g., physician, mental health professional, vocational case manager, etc.)

With respect to an animal used for emotional support (which need not have specific training for that function but must be trained to behave appropriately in a public setting), airline personnel may require current documentation (i.e., not more than one year old) on letterhead from a licensed mental health professional stating (1) that the passenger has a mental health-related disability listed in the Diagnostic and Statistical Manual of Mental Disorders (DSM IV); (2) that having the animal accompany the passenger is necessary to the passenger's mental health or treatment; (3) that the individual providing the assessment of the passenger is a licensed mental health professional and the passenger is under his or her professional care; and (4) the date and type of the mental health professional's license and the state or other jurisdiction in which it was issued. Airline personnel may require this documentation as a condition of permitting the animal to accompany the passenger in the cabin. Airlines are not permitted to require the documentation to specify the type of mental health disability, e.g., panic attacks.

If a CRO makes the final decision not to accept an animal as a service animal, then the CRO must provide a written statement to the passenger within 10 days explaining the reason(s) for that determination. If carrier personnel other than the CRO make the final decision, a written explanation is not required; however, because denying carriage of a legitimate service animal is a potential civil rights violation, it is recommended that carrier personnel explain to the passenger the reason the animal will not be accepted as a service animal. A recommended practice may include sending passengers whose animals are not accepted as service animals a letter within 10 business days explaining the basis for such a decision.

Airline personnel are not required to provide care, food, or special facilities for service animals.

I. Wheelchairs and Other Devices

382.121 What mobility aids and other assistive devices may passengers with a disability bring into the aircraft cabin?

Passengers may bring manual, but not electric wheelchairs, other mobility aids (e.g., canes, including those used by blind passengers), and other assistive devices (e.g., POCs), as well as prescription medications and any medical devices needed to administer them (e.g., syringes, auto-injectors), as long as they comply with applicable safety, security and hazardous materials rules. These devices and aids cannot be counted against the airline's carry-on limits.

382.123 What are the requirements concerning priority cabin stowage for wheelchairs and other assistive devices?

A passenger who takes advantage of the offer to preboard can stow his or her wheelchair in the aircraft's priority stowage area, with priority over other passengers' items brought onto the aircraft at the same airport. The passenger's wheelchair also takes priority over items that may be stowed in the space by the carrier and its personnel, such as onboard wheelchairs or crew luggage, even if these items came on board at an earlier stop of the plane's itinerary. If such items are in the space when a wheelchair user

comes on board, they must be moved to accommodate the passenger's wheelchair. Carriers must also offer this opportunity for other assistive devices, though wheelchairs retain priority. Passengers with wheelchairs or other assistive devices who do not preboard must still be allowed to use the priority stowage areas for their devices, but their use of the space is on a first-come-first-served basis with respect to other passengers' items.

The so-called "seat-strapping" method of carrying wheelchairs in cabins--strapping down a wheelchair across a row of seats in an aircraft that does not have the required space for stowing a folding wheelchair in the cabin--will not be permitted as an alternative to designated stowage spaces on new aircraft ordered after May 13, 2009 or delivered after May 13, 2011.

382.125 What procedures do carriers follow when wheelchairs, other mobility aids, and other assistive devices must be stowed in the cargo compartment?

Wheelchairs and other devices that are not required to be stowed in the cabin must be transported in the cargo compartment. These items have priority over other passengers' items. If other items are bumped, the carrier must use its best efforts to ensure that they are delivered to the passenger's destination on the carrier's next flight. Carriers must provide for the prompt return of wheelchairs and mobility aids and other devices as close as possible to the door of the aircraft and must ensure that these items are among the first items retrieved from the baggage compartment.

If the physical size of the compartment—its actual dimensions, not crowding caused by other items—do not permit a wheelchair to be carried upright safely without risk of serious damage to the wheelchair, or a load imbalance caused by a large wheelchair in a small baggage compartment may violate weight and balance safety requirements, carriers could legitimately decline transportation of the item on that flight and should assist the passenger in identifying a flight using an aircraft that can accommodate the chair.

382.127 What procedures apply to the stowage of battery-powered mobility aids?

Carriers may require a passenger wishing to check his or her device to check in an hour before the standard check-in time.

Carriers must accept battery-powered wheelchairs (and other battery-powered mobility aids) in baggage, subject to applicable hazardous materials rules. Wheelchairs powered by lithium batteries may not be permitted under the hazardous materials rules depending on the lithium content of the battery. Generally, non-spillable batteries do not need to be removed from wheelchairs and separately packaged, if the batteries are securely attached to the wheelchair and the batteries or their housing, if any, are clearly marked as being non-spillable. Wet cell batteries which are not non-spillable may require removal from the wheelchair if the wheelchair cannot be loaded and stowed in an upright condition and secured against movement in the cargo compartment.

Carriers may not disconnect the cables on non-spillable batteries unless a PHMSA or FAA safety regulation, or the safety regulation of a foreign government, requires them to do so.

Only devices that fit and that meet all applicable hazardous materials and other safety regulations need be carried.

Given that the rule allows the carrier to require 48 hours' advance notice with respect to carrying electric wheelchairs, the carrier should use this time period to find an arrangement that will get the passenger and his or her chair to the intended destination.

382.129 What other requirements apply when passengers' wheelchairs, other mobility aids, and other assistive devices must be disassembled for stowage?

(a) Carriers must permit passengers with a disability to provide written directions concerning the disassembly and reassembly of their wheelchairs, other mobility aids, and other assistive devices.

Carriers must carry out these instructions to the greatest extent feasible, consistent with FAA, PHMSA, TSA, or applicable foreign government.

(b) When wheelchairs, other mobility aids, or other assistive devices are disassembled by the carrier for stowage, carriers must reassemble them and ensure their prompt return to the passenger. Carriers must return wheelchairs, other mobility aids, and other assistive devices to the passenger in the condition in which they received them.

382.133 What are the requirements concerning the evaluation and use of passenger-owned electronic devices that assist passengers with respiration in the cabin during flight and do not contain hazardous materials?

With minor exceptions, carriers must permit passengers with a disability to use a portable oxygen concentrator (POC) and other respiratory assistive devices in the cabin. Such devices must meet FAA or foreign government requirements and display a manufacturer's label that indicates that the device meets the FAA or foreign government requirements.

When a passenger asks about bringing his or her electronic respiratory assistive device, the carrier must provide the requirements for carrying such a device on board including FAA requirements, having the manufacturer's label, bringing an adequate number of fully charged batteries, any check-in or advance notice requirements, medical certificate requirements, and the expected duration of the flight. Carriers may insist on passengers bringing on board fully charged batteries adequate to last for 150 percent of the expected maximum flight duration. If a passenger does not comply with the conditions outlined in the rule, the carrier can deny him or her transportation on the flight.

Carriers must inform passengers, on request, about any restrictions on using their personal respiratory assistive devices aboard the carrier's flights (e.g., device can only be used after takeoff and before landing, availability of electrical outlets).

Carriers, during the reservation process, must inform passengers who express a desire to use a respirator, ventilator, CPAP machine, or FAA-approved POC aboard an aircraft of the conditions that must be met before these devices can be approved for such use. For instance, this final rule requires carriers through their reservation agents to inform passengers of the maximum weight and dimensions of a device that can be accommodated in the aircraft cabin, the requirement that an electronic respiratory assistive device be labeled appropriately, any requirement for advance check-in, any requirement for the individual to contact the carrier before the scheduled departure to learn the expected maximum duration of his/her flight, the requirement to bring an adequate number of fully charged batteries (i.e., battery is charged to full capacity) to power the electronic respiratory device and to ensure that extra batteries are packaged properly, and the requirement that an individual who wishes to use a POC provide a physician's statement. While a carrier can require a physician's statement (i.e., medical certificate) from an individual who wishes to use a POC during flight, we note that it normally would not be appropriate for a carrier to ask for such a certificate from someone wishing to use a ventilator, respirator or CPAP machine aboard a flight. Consistent with section 382.23, a medical certificate should be required of an individual who uses a ventilator, respirator or CPAP machine only if the individual's medical condition is such that there is reasonable doubt that the individual can complete the flight safely, without requiring extraordinary medical assistance during the flight.

In a codeshare situation, the carrier whose code is used on the flight must either advise an individual who inquires about using his/her electronic respiratory assistive device onboard an aircraft to contact the carrier operating the flight for information about its requirements for use of such a device in the cabin, or provide such information on behalf of the codeshare carrier operating the flight. For example, if a passenger who buys a codeshare ticket from carrier A for a connecting itinerary from New York to Cairo through London, where carrier A operates the New York to London leg and carrier B operates the London to Cairo leg under carrier A's designator code, carrier A must upon inquiry from the passenger: (1) inform the passenger about carrier A's requirements for the use in the cabin of a ventilator, respirator, CPAP machine or POC and (2) inform the passenger about carrier B's requirements for the use in the cabin of the aforementioned devices or tell the passenger to contact carrier B directly to obtain this information.

A device's use during a particular phase of a flight (e.g., ascent and descent) should be prohibited only if the device cannot be safely used during that phase (e.g., interferes with navigation or communications equipment).

Foreign carriers need to permit the carriage and use of a ventilator, respirator, CPAP machine and POC only if among other things, the device can be stowed and used in the passenger cabin consistent with applicable TSA, FAA, and PHMSA regulations and the safety or security regulations of its government.

The FAA does not prohibit the operation of portable electronic devices aboard civil aircraft registered in a country other than the United States.

The device must have been tested and labeled by its manufacturer as meeting the requirements for medical portable electronic devices set by the foreign carrier's government. If the foreign carrier's government does not have applicable requirements, then the carrier may elect to apply requirements for medical portable electronic devices set by the FAA for U.S. carriers. The electronic respiratory assistive device must be stowed and used in the passenger cabin consistent with any applicable U.S. regulations and the regulations of the carrier's government.

U.S. and foreign carriers should inspect the device label at the departure gate to ensure that it is labeled by the manufacturer in accordance with the applicable regulations. For foreign carriers, devices containing labels indicating that the device meets requirements set by the foreign carrier's government or, if no such requirement exists, the requirements for medical portable electronics set by the FAA for U.S. carriers, should be accepted.

Carriers may require up to 48 hours' advance notice from individuals who wish to use electronic respiratory assistive devices aboard a domestic or international flight.

Carriers may require one hour advance check-in to enable the carrier personnel to inspect the label on the electronic respiratory assistive device to ensure that it was labeled by the manufacturer in accordance with the applicable regulations and to ensure that a passenger is carrying an adequate number of properly packaged batteries to power his/her assistive device. It would not be reasonable for a carrier to require one hour advance check-in in situations where a passenger is not able to check-in one hour in advance because the passenger's connecting flight arrived late.

Carriers are not required to allow users of respiratory assistive devices to plug their devices into the aircraft's power supply or to provide priority seating near such outlets. The Department does encourage carriers to permit passengers to hook up respiratory assistive devices to the aircraft electrical power supply in circumstances where the carrier is confident that the electrical outlet on the aircraft is reliable (e.g., uninterrupted service).

The Department will seek additional comment about the cost of carrier supplied oxygen in a supplemental notice of proposed rulemaking (SNPRM) that it plans to issue. In the interim, carriers can continue to charge for inflight medical oxygen that they choose to provide.

J. Training Requirements

382.141 What training are carriers required to provide for their personnel?

Foreign carrier training requirements apply only to employees involved with flights to and from U.S. points.

Foreign carriers must train employees concerning applicable requirements affecting the provision of air travel to a passenger with a disability including carrier procedures, and the proper and safe operation of equipment used to accommodate passengers with disabilities. Personnel who provide boarding and deplaning assistance must be trained in the use of applicable equipment and procedures. Carriers must

train employees regarding awareness and appropriate response to passengers with a disability including how to distinguish among the different abilities of individuals with a disability. Carriers must train employees to recognize requests for communication accommodation from individuals whose hearing or vision is impaired and to recognize requests for communication accommodation from deaf-blind passengers. Carriers must consult with organizations in their home countries representing persons with disabilities when developing training programs. If home country disability groups are not available, a carrier could consult individuals with disabilities or international organizations representing individuals with disabilities. Carriers must ensure that contract employees dealing directly with the traveling public receive appropriate training.

The Department has posted a model training program based on the current Part 382 at <http://airconsumer.ost.dot.gov/training/index.htm>.

Carriers must provide refresher training at least every three years. Carriers will be required to retain records concerning both initial and refresher training, including the instructional materials and individual employee training records, for three years.

Carriers must train those employees who come into contact with passengers whose hearing or vision is impaired or who are deaf-blind both to recognize requests for accommodation in communicating and to communicate with these passengers in ways that are common and readily available. Employees should be able to communicate with passengers whose hearing or vision is impaired via written notes or clear enunciation, respectively. The training must also cover deaf-blind passengers. Examples of communication accommodations for the latter include passing out Braille cards (which this rule does not require), reading any information sheet that a passenger provides, and communicating with the passenger through an interpreter.

382.143 When must carriers complete training for their personnel?

Current employees of foreign carriers that serve flights covered by the rule must be trained by May 13, 2010. After that date, new crewmembers must be trained before assuming their duties, and other new employees within 60 days after when they assume their duties. For employees who fall in between these categories—those who start work during the first year after the effective date of the rule—training must occur before May 13, 2010 or 60 days from their start date, whichever is later.

To ensure that foreign carriers have resource persons to deal with disability issues as soon as possible, foreign carriers will have to complete training for CROs by May 13, 2009.

382.145 What records concerning training must carriers retain?

Carriers must maintain records of manuals and other instructional materials concerning Part 382 compliance, and individual employee training records must be retained for three years.

K. Complaint Resolution Officials

382.151 What are the requirements for providing Complaints Resolution Officials?

Foreign carriers must make a CRO available in person or by phone at each airport serving flights the carrier operates that begin or end at a U.S. airport.

CROs are individuals trained to be the carrier's experts in ensuring that carrier personnel correctly implement ACAA requirements and that problems of passengers with disabilities are resolved in a way that is consistent with Part 382. The purpose of having a CRO is to resolve passengers' problems as quickly as possible, without resort to formal DOT enforcement procedures and, we hope, in many cases, before a violation occurs.

Carriers are responsible for making passengers aware of the availability of a CRO in some circumstances even if the passenger does not say “I want to talk to a CRO.” If a passenger raises a disability-related concern, and the carrier’s personnel do not immediately resolve the issue to the customer’s satisfaction, the carrier must say, in effect, “We have a CRO available that you can talk to about this problem if you want to. The CRO is our resource person who can help solve disability-related issues. Here is where you can find, or call, our CRO.”

CROs must have authority to definitively resolve complaints. They must have the power to overrule decisions of other carrier personnel, except that they are not required to have authority to countermand a safety decision of a pilot-in-command of an aircraft.

382.153 What actions do CROs take on complaints?

When a complaint is made directly to a CRO, the CRO must take, or direct other carrier personnel to take, whatever action is necessary to ensure compliance with this Part.

If an alleged violation of a provision of this Part has already occurred, the CRO must provide to the complainant a written statement setting forth a summary of the facts and what steps, if any, the carrier proposes to take in response to the violation.

If the CRO determines that the carrier’s action does not violate a provision of this Part, the CRO must provide to the complainant a written statement including a summary of the facts and the reasons, under this Part, for the determination.

The statements required to be provided under this section must inform the complainant of his or her right to pursue DOT enforcement action under this Part. The CRO must provide the statement in person to the complainant at the airport if possible; otherwise, it must be forwarded to the complainant within 30 calendar days of the complaint.

382.155 How must carriers respond to written complaints?

If a CRO determines that a violation has already occurred, the CRO must write the complainant and describe the carrier’s corrective action. If the CRO decides that a violation did not occur, the CRO must also write the complainant and explain this determination. CRO responses are due 30 days from the date of the complaint.

Except for complaints DOT refers to a carrier, the carrier is not required to respond to a complaint transmitted more than 45 days after the incident in question.

L. Disability Discrimination Complaint Reporting Requirements

382.157 What are carriers’ obligations for recordkeeping and reporting on disability-related complaints?

(a) A disability-related complaint means a specific written expression of dissatisfaction received from, or submitted on behalf, of an individual with a disability concerning a difficulty associated with the person’s disability, which the person experienced when using or attempting to use an air carrier’s or foreign carrier’s services.

(b) Foreign carriers are covered by this section only with respect to disability-related complaints associated with any flight segment originating or terminating in the United States.

(c) Carriers must categorize disability related complaints that they receive according to the type of disability and nature of complaint. Data concerning a passenger’s disability must be recorded separately in the following areas: vision impaired, hearing impaired, vision and hearing impaired, mentally impaired, communicable disease, allergies (e.g., food allergies, chemical sensitivity), paraplegic, quadriplegic, other wheelchair, oxygen, stretcher, other assistive device (cane, respirator, etc.), and other disability. Data concerning the alleged discrimination or service problem related to the disability must be separately

recorded in the following areas: refusal to board, refusal to board without an attendant, security issues concerning disability, aircraft not accessible, airport not accessible, advance notice dispute, seating accommodation, failure to provide adequate or timely assistance, damage to assistive device, storage and delay of assistive device, service animal problem, unsatisfactory information, and other.

(d) Carriers must submit an annual report summarizing the disability-related complaints that they received during the prior calendar year using the form specified at the following internet address:

<http://382reporting.ost.dot.gov>. Carriers must submit this report by the last Monday in January of each year for complaints received during the prior calendar year. Carriers must make submissions through the World Wide Web except for situations where they can demonstrate that they would suffer undue hardship if not permitted to submit the data via paper copies, disks, or e-mail, and DOT has approved an exception. All fields in the form must be completed; carriers are to enter "0" where there were no complaints in a given category. Each annual report must contain the following certification signed by your authorized representative: "I, the undersigned, do certify that this report has been prepared under my direction in accordance with the regulations in 14 CFR Part 382. I affirm that, to the best of my knowledge and belief, this is a true, correct, and complete report." Electronic signatures will be accepted.

(e) Carriers must retain correspondence and record of action taken on all disability-related complaints for three years after receipt of the complaint or creation of the record of action taken.

(f)(1) Either carrier in a codeshare relationship, must comply with paragraphs (c) through (e) of this section for—

(i) Disability-related complaints receive from or on behalf of passengers with respect to difficulties encountered in connection with service you provide;

(ii) Disability-related complaints received from or on behalf of passengers when you are unable to reach agreement with your codeshare partner as to whether the complaint involves service you provide or service your codeshare partner provides; and

(iii) Disability-related complaints forwarded by another carrier or governmental agency with respect to difficulties encountered in connection with service you provide.

(2) Either carrier in a codeshare relationship must forward to the codeshare partner disability-related complaints received from or on behalf of passengers with respect to difficulties encountered in connection with service provided by the codesharing partner.