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Nondiscrimination on the Basis of Disability in Air Travel: Draft Technical Assistance Manual; Proposed Rule

DEPARTMENT OF TRANSPORTATION**Office of the Secretary****14 CFR Part 382**

[Docket No. DOT-OST-2012-0098]

Nondiscrimination on the Basis of Disability in Air Travel: Draft Technical Assistance Manual**AGENCY:** Office of the Secretary, U.S. Department of Transportation (DOT).**ACTION:** Request for comments.

SUMMARY: The Department of Transportation is updating its technical assistance manual (TAM) for airlines and passengers with disabilities concerning their rights and responsibilities under the Air Carrier Access Act (ACAA) and its implementing regulation. This draft updated TAM is being published in the **Federal Register** to insure a full opportunity for public comment before the document is published in final form.

DATES: Comments must be received October 3, 2012. The Department will consider late-filed comments only to the extent practicable.

ADDRESSES: You may file comments identified by the docket number DOT-OST-2012-0098 by any of the following methods:

- *Federal eRulemaking Portal:* Go to <http://www.regulations.gov> and follow the online instructions for submitting written comments.
- *Mail:* Docket Management Facility, U.S. Department of Transportation, 1200 New Jersey Ave. SE., Room W12-140, Washington, DC 20590-0001.
- *Hand Delivery or Courier:* West Building Ground Floor, Room W12-140, 1200 New Jersey Ave. SE., between 9 a.m. and 5 p.m. ET, Monday through Friday, except Federal Holidays.
- *Fax:* (202) 493-2251.

Instructions: You must include the agency name and docket number DOT-OST-2012-0098 at the beginning of your comment. All comments received will be posted without change to <http://www.regulations.gov>, including any personal information provided.

Privacy Act: Anyone is able to search the electronic form of all comments received in any of our dockets by the name of the individual submitting the comment (or signing the comment if submitted on behalf of an association, a business, a labor union, etc.). You may review DOT's complete Privacy Act statement in the **Federal Register** published on April 11, 2000 (65 FR 19477-78), or you may visit <http://DocketsInfo.dot.gov>.

Docket: For access to the docket to read background documents or comments received, go to <http://www.regulations.gov> or to the street address listed above. Follow the online instructions for accessing the docket.

FOR FURTHER INFORMATION CONTACT: Lisa Swafford-Brooks, Chief of the Civil Rights Compliance Branch, Office of the Assistant General Counsel for Aviation Enforcement and Proceedings, Department of Transportation, 1200 New Jersey Avenue SE., Room W96-464, Washington, DC 20590.

Lisa.Swaffordbrooks@dot.gov. You may also contact Blane A. Workie, Deputy Assistant General Counsel, Office of the Assistant General Counsel for Aviation Enforcement and Proceedings, Department of Transportation, 1200 New Jersey Avenue SE., Room W96-464, Washington, DC 20590.

Blane.Workie@dot.gov. Arrangements to receive this notice in an alternative format may be made by contacting the above named individuals.

SUPPLEMENTARY INFORMATION: ON APRIL 5, 2000, THE WENDELL H. FORD AVIATION INVESTMENT AND REFORM ACT FOR THE 21ST CENTURY (AIR-21) REQUIRED DOT TO PROVIDE A TECHNICAL ASSISTANCE MANUAL TO AIR CARRIERS AND INDIVIDUALS WITH DISABILITIES CONCERNING THEIR RIGHTS AND RESPONSIBILITIES UNDER THE AIR CARRIER ACCESS ACT AND DOT REGULATIONS. IN RESPONSE TO THE LEGISLATIVE MANDATE, ON APRIL 20, 2005, THE DEPARTMENT PUBLISHED A DRAFT TAM IN THE Federal Register AND REQUESTED PUBLIC COMMENT. SEE 70 FR 20640. AFTER REVIEWING THE COMMENTS RECEIVED AND MAKING CHANGES TO THE TAM WHERE APPROPRIATE, THE DEPARTMENT ISSUED A FINAL TAM ON JULY 19, 2005. SEE 70 FR 41482. Since that time, DOT has made significant changes to Part 382, the rule implementing the Air Carrier Access Act. On May 13, 2008, DOT issued an amendment to 14 CFR part 382, which among other things, extended its applicability to foreign air carriers and added new provisions concerning the onboard use of respiratory assistive devices and accommodations for passengers who are deaf, hard of hearing, and deaf-blind. See 73 FR 27614. The final rule became effective on May 13, 2009. The Department has also issued guidance that interprets or explains further the text of the rule. See e.g., *Use of passenger-supplied electronic respiratory assistive devices on aircraft*, October 28, 2009; *Answers to Frequently Asked Questions Concerning Air Travel of People with Disabilities Under the Amended Air Carrier Access Act Regulation*, May 13, 2009. <http://airconsumer.dot.gov/rules/>

guidance.htm. We believe these guidance documents as well as the rule itself would be more readily understandable and useful if reflected in the TAM. As a result, DOT is now updating the 2005 TAM to provide guidance that covers the changes that have been made to Part 382. The Department recognizes that there are a number of ongoing rulemakings regarding Part 382 and that these rulemakings may necessitate future revisions to the TAM.

Purpose

Similar to the 2005 TAM, this updated draft manual does not expand U.S. or foreign air carriers' legal obligations or establish new requirements under the law. The primary purpose of the manual is to help employees and contractors of airlines to assist passengers with disabilities in accordance with the law. Another purpose is to provide air travelers with disabilities information about their rights under the ACAA and the provisions of Part 382.

Organization

The updated TAM, like its predecessor, follows the chronological path of an air traveler with a disability from making a reservation through the completion of the trip. Each section of the TAM is discussed in the context of the particular stage of a trip and is designed to be a separate stand-alone product. For example, the TAM includes separate chapters on assisting air travelers with disabilities planning a trip, assisting air travelers with disabilities at the airport, assisting air travelers with disabilities boarding, deplaning and during the flight, and assisting air travelers with disabilities with their complaints. In addition, the TAM contains a chapter on sensitivity and awareness issues when interacting with people with disabilities as well as a chapter on tips for communicating and interacting with individuals with specific types of disabilities.¹ The TAM also has four appendices providing additional information and, in some cases, resources for specific audiences. We believe organizing the information in this sequential manner will make it easier for employees and contractors of airlines, as well as air travelers with

¹ When the TAM is published in its final form, it will contain an Alphabetical Index and a Part 382 Index as well as specific page numbers for the various subject areas listed in the Table of Contents. However, because the pagination of the TAM is not yet final, the Table of Contents simply lists the topics covered in the TAM and the indices are not included in this publication of the document.

disabilities, to find the information most relevant and useful to them.

Issued this 15th day of June 2012, in Washington, DC.

Samuel Podberesky,

Assistant General Counsel for Aviation Enforcement and Proceedings, U.S. Department of Transportation.

What Airline Employees, Airline Contractors, and Air Travelers With Disabilities Need To Know About Access to Air Travel for Persons With Disabilities

A Guide to Air Carrier Access Act (ACAA) and Its Implementing Regulation, 14 CFR Part 382 (Part 382)

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Chapter 1: Understanding How To Use This Manual

- A. Introduction
- B. Background
- C. Scope of This Manual
- D. Keyword Definitions
- E. Acronyms

A. Introduction

Purpose of the Manual

This manual is a guide to the Air Carrier Access Act (ACAA), 49 U.S.C. 41705, and its implementing regulation, Title 14, Code of Federal Regulations (14 CFR) Part 382, Nondiscrimination on the Basis of Disability in Air Travel. It is designed to serve as an authoritative source of information about the services, facilities, and accommodations required by the ACAA and Part 382. Note, however, that this manual does not expand carriers' legal obligations or establish new requirements under the law.

The primary purpose of the manual is to help carriers and indirect carriers and their employees/contractors that provide services or facilities to passengers with disabilities, assist those passengers in accordance with Part 382. Knowing your legal responsibilities will help ensure consistent compliance with Part 382 and protect the civil rights of air travelers with disabilities when you provide services, facilities, and accommodations to them.

The second purpose of this manual is to offer air travelers with disabilities

information about their rights under the ACAA and Part 382.

Styles

1. Use of the Word "You"

Unless otherwise noted, throughout the manual the word "you" refers to carriers, indirect carriers, or the employees/contractors of both carriers and indirect carriers. In most cases, the word "you" refers to personnel who deal directly with the traveling public. In addition, the obligations and responsibilities under Part 382 as discussed in the manual must be read within the context of each specific employee's duties on the job.

2. Italics and Bold Text

Italics and boldfaced type are used throughout the manual to draw attention to a subtle requirement or for emphasis.

B. Background

U.S. Air Carriers

In 1986, Congress passed the ACAA, which prohibits discrimination by U.S. air carriers against qualified individuals with disabilities.² In 1990, the Department of Transportation (DOT) published Part 382, the regulations defining the rights of passengers with disabilities and the obligations of U.S. air carriers under the ACAA (55 FR 8008; March 6, 1990). Since then, these regulations have been amended many times.³ In addition, the DOT has provided guidance to air carriers to further explain the ACAA and Part 382 in the following ways:

- Preambles to regulatory amendments;
- Industry letters;
- Correspondence with individual carriers or complainants;
- DOT enforcement actions;
- Web site postings,
- Conducting public forums on Part 382, and
- Informal conversations between DOT staff and interested members of the public.

Foreign Air Carriers

On April 5, 2000, the Wendell H. Ford Aviation Investment and Reform Act for the 21st Century ("AIR-21"), Public Law 106–181, amended the ACAA

² See Section D of this chapter for keyword definitions including a definition of "qualified individuals with disabilities."

³ The dates and citations for these amendments are the following: April 3, 1990, 55 FR 12341; June 11, 1990, 55 FR 23544; November 1, 1996, 61 FR 56422; January 2, 1997, 62 FR 17; March 4, 1998, 63 FR 10535; March 11, 1998, 63 FR 11954; August 2, 1999, 64 FR 41703; January 5, 2000, 65 FR 352; May 3, 2001, 66 FR 22115; July 3, 2003, 68 FR 4088.

specifically to cover foreign air carriers. On November 4, 2004, the DOT published a notice of proposed rulemaking (NPRM) proposing to extend the provisions of Part 382 to foreign carriers (69 FR 64364). On May 13, 2008, the DOT published a final rule (73 FR 27614) amending Part 382 to cover foreign air carriers. That revised final rule became effective on May 13, 2009.

Other Part 382 Changes

The DOT also published NPRMs addressing medical oxygen and portable respiratory assistive devices (70 FR 53108; September 7, 2005) and accommodations for passengers who are deaf or hard-of-hearing (71 FR 9285; February 23, 2006). As a result of those NPRMs, the final rule revising Part 382 to cover foreign carriers, also included new provisions concerning passengers who use medical oxygen and passengers who are deaf or hard-of-hearing. The final rule also reorganized and updated the entire ACAA rule (Part 382).

Development and Update of Technical Assistance Manual

In 2000, Congress required DOT to create a technical assistance manual to provide guidance to individuals and entities with rights or responsibilities under the ACAA. See 49 U.S.C. 41705(c). Responding to that mandate, the DOT published a manual in the **Federal Register** on July 19, 2005 (70 FR 41482). This manual is the second version of DOT's Technical Assistance Manual and incorporates material from the most recent amendments to Part 382 and the DOT policy guidance discussed above. The DOT published the draft manual in the **Federal Register** to provide an opportunity for public comment before it published the manual in its final form. This manual supersedes the first Technical Assistance Manual dated July 19, 2005, and is available for download, in PDF format, from <http://airconsumer.dot.gov>.

C. Scope of This Manual

Organization

This manual is organized chronologically to reflect the steps in a passenger's trip and the associated requirements of Part 382, as follows:

- Planning a flight,
- At the airport,
- Boarding, deplaning, and making connections,
- Assistance services during a flight, and
- Responding to disability-related complaints.

This manual also contains the following tools to assist you in quickly

and easily finding the answer to your questions:

- A Table of Contents at the front of the manual;
- An Alphabetical Index at the back of the manual; and
- A Part 382 Index listing the citations to Part 382 at the back of the manual.

In addition, the following appendixes appear at the end of the manual:

- Appendix I: Table of Effective Dates
- Appendix II: Tips for Air Travelers with Disabilities as they relate to the most commonly-used accommodations, facilities, and services that carriers are required to make available to such passengers;
- Appendix III: Airline Management-Related Issues addressing topics applicable mainly to carrier management, as opposed to frontline customer service personnel;

Applicability

As with Part 382, the topics discussed in this manual apply to both U.S. and foreign carriers unless otherwise specified. (§ 382.7(e))

Web Links

The following web links are provided for you to review and download information related to Part 382 and/or the ACAA:

- A list of frequently asked questions and answers (http://airconsumer.dot.gov/SA_Disability.htm)
- A list of recent DOT enforcement orders related to the ACAA (http://airconsumer.dot.gov/SA_Disability.htm)
- The full text of Part 382 (http://airconsumer.dot.gov/SA_Disability.htm)
- A listing of conflict of law waiver determinations (<http://www.regulations.gov> under Docket Number DOT-OST-2008-0272)
- A listing of equivalent alternative determinations (<http://www.regulations.gov> under Docket Number DOT-OST-2008-0273)
- Guidance concerning service animals (<http://airconsumer.ost.dot.gov/rules/20030509.pdf>)
- Guidance on transporting service animals to the United Kingdom (<http://airconsumer.ost.dot.gov/rules/UK-ServiceAnimalGuidance.pdf>)

Legal Requirements and Customer Service

This manual highlights the difference between actions you must take to comply with Part 382 and actions that you may choose to take to provide superior customer service to passengers with disabilities. Legal requirements are generally designated by the word "must" in the manual. Words such as

"should" or "may," indicate accommodations that Part 382 does not require but that DOT recommends and that you may decide to provide as a matter of good customer service.

Safety

Where applicable, this manual discusses how to properly and lawfully consider aircraft and passenger safety when providing transportation to passengers with disabilities. Part 382 does not require or authorize you to disregard Federal Aviation Administration (FAA), Pipeline and Hazardous Materials Safety Administration (PHMSA), or foreign government safety regulations. Where an FAA, PHMSA, or foreign government safety regulation requires different treatment of passengers with disabilities or other restrictions, Part 382 states you must comply with the FAA, PHMSA, or foreign government safety regulation. For example, if an FAA safety rule provides that only persons who can perform certain functions can sit in an exit row, then you must request that an individual unable to perform those functions (regardless of whether that individual has a disability) sit in another row. If the passenger refuses, you may properly deny transportation to such passengers. (§ 382.7(g))

However, where an optional carrier action that is not required by FAA, PHMSA, or foreign government safety rules would result in different treatment of passengers with disabilities, or in other restrictions, then the ACAA and the provisions of Part 382 prohibit you from implementing the optional carrier action.

Example: Suppose ABC Airways required only passengers with disabilities—not all passengers—to provide correct answers to a quiz about the content of a safety briefing and a passenger with a disability either refused to respond or failed such a quiz. It would not be appropriate to deny transportation to a passenger with a disability on such grounds unless the carrier's policies and procedures consistently treated all passengers in a similar manner.

In short, Part 382 is consistent with FAA, PHMSA, and foreign government safety requirements, as it requires you to comply with those regulations and ensure that the safe completion of the flight or the health and safety of other passengers are not jeopardized. Determinations about whether an FAA, PHMSA, or foreign government regulation requires different treatment of a passenger with a disability for safety reasons often depend on the circumstances you encounter. Therefore, it is important that you seek information from passengers with

disabilities and their traveling companions and make a reasonable judgment considering all available information.

The FAA safety regulations can be found in 14 CFR parts 1 through 199, and in FAA guidance materials that provide additional information about these regulations (see <http://www.faa.gov>, click on Federal Aviation Regulations (FAR) under Regulations and Guidelines). The applicable PHMSA regulations can be found in 49 CFR parts 171 through 185 and PHMSA guidance materials that provide additional information about these regulations (see <http://www.phmsa.dot.gov>, click on Regulations under Promoting Safety and Security). For foreign government safety requirements consult the applicable government's civil aviation authority.

Security

This manual addresses security procedures which affect or may affect the types of accommodations and services provided to passengers with disabilities. You must comply with Transportation Security Administration (TSA) regulations and foreign government security regulations having a legally mandatory effect applicable to you. (§ 382.7(g))⁴

Part 382 is consistent with security requirements mandated by the TSA. For example, TSA has strict rules as to who can go beyond the airport screening checkpoints, but these TSA rules are consistent with Part 382 and do not invalidate your obligation to provide boarding and deplaning assistance requested by passengers with disabilities, including assistance beyond airport screening checkpoints. You have discretion in how that assistance is provided. You can provide (1) A "pass" allowing an individual who needs to assist a passenger with a disability to go through the airport screening checkpoint without a ticket; (2) assistance directly to the passenger; or (3) both. For foreign government security requirements, refer to screening procedures established by the law of the country in which the airport is located.

Contractors

This manual recognizes the important role that contractors play in providing services, equipment, and other accommodations to passengers with disabilities. A contractor is an entity

that has a business arrangement with a carrier to perform functions that the ACAA and Part 382 would otherwise require the carrier to perform with its own employees. Contractors provide a variety of services on behalf of carriers in furnishing assistance to persons with disabilities. For example, contractors often provide—

- Wheelchair service;
- Assistance to passengers with disabilities in getting on and off aircraft;
- Transportation to passengers with disabilities between departure gates; and
- Ground handling of passengers' wheelchairs and other assistive devices.

Contractors must provide the same services, equipment, and other accommodations as those required of a carrier and its employees under the ACAA and Part 382. As an employee of a contractor, you are required to follow the ACAA and Part 382 when providing services, equipment, and other accommodations to passengers with disabilities. If you do not follow the ACAA and Part 382, the carrier is subject to DOT enforcement action for your failure to comply with those mandates. In essence, although a carrier may contract out various services and accommodations required by Part 382, a carrier may not contract away its responsibilities to ensure compliance with the rule.

ACCESS

• ACCESS⁵ is a step-by-step process for resolving issues involving passengers with disabilities. A detailed discussion of ACCESS appears in Chapter 6: Assisting Air Travelers with Disabilities with their Complaints. Whether the issue involves the requirements of the ACAA and Part 382, customer service, or both, the ACCESS checklist will be useful in identifying the needs of passengers with disabilities and determining what accommodations carriers are required to provide. See Chapter 6, Section C, Access, An Approach for Resolving Complaints.

Training

• DOT regards thorough training of carrier personnel who interact with passengers with disabilities as vital for good service to those passengers and compliance with the ACAA and Part 382. A detailed discussion of employee/contractor training requirements can be found in Chapter 8: Personnel Training and Appendix II, Airline Management-Related Issues. In addition, the DOT has

developed an interactive model training program (MTP) on the ACAA and Part 382. You can view this module at <http://airconsumer.dot.gov>.

D. Keyword Definitions

Following is a list of keyword definitions to help you fully understand the information in this manual.

Air Carrier Access Act (ACAA): The Air Carrier Access Act of 1986, as amended, is the statute that provides the principal authority for 14 CFR part 382. The ACAA prohibits discrimination by U.S. and foreign carriers against qualified individuals with disabilities.

Air Transportation: Interstate or foreign air transportation, or the transportation of mail by aircraft, as defined in 49 U.S.C. 40102. (§ 382.3).

Assistive Device: Any piece of equipment that assists a passenger with a disability to cope with the effects of his or her disability. Such devices are intended to assist a passenger with a disability to hear, see, communicate, maneuver, or perform other functions of daily life, and may include medical devices and medications. (§ 382.3).

Battery-powered mobility aid: An assistive device that is used by individuals with mobility impairments, such as a wheelchair, a scooter, or a Segway when it is used as a mobility device by a person with a mobility-related disability. (§ 382.3).

Carrier: A U.S. citizen ("U.S. carrier") or foreign citizen ("foreign carrier") that undertakes, directly or indirectly, or by a lease or any other arrangement, to engage in air transportation. (§ 382.3).

Commuter carrier: An air taxi operator as defined in 14 CFR Part 298 that carries passengers on at least five round trips per week on at least one route between two or more points according to its published flight schedules that specify the times, days of the week and places between which those flights are performed. (§ 382.3).

Complaints Resolution Official (CRO): An individual designated by a carrier who has the authority to resolve disability-related complaints on behalf of the carrier. The CRO must be thoroughly familiar with—

- (1) The requirements of Part 382;
- (2) The carrier's policies and procedures addressing Part 382; and
- (3) The provision of services, facilities, and accommodations to passengers with disabilities.

A CRO must be available (1) in person at the airport; or (2) via telephone and Text Telephones (TTY), or a similarly effective technology, at all times the carrier is operating. As a foreign carrier, you must make a CRO available as noted above at each airport serving flights you

⁴The Transportation Security Administration has developed a Web site and a hotline for travelers with disabilities and medical conditions. The Web site is http://www.tsa.gov/travelers/airtravel/disabilityandmedicalneeds/tsa_cares.shtm and the hotline phone number is 1-855-787-2227.

⁵ACCESS is a memory aid to Ask, Call, Check, Evaluate, Solve, and Satisfy, for use when resolving complaints.

operate that begin and end at a U.S. airport. (§ 382.151).

Conflict of Law Waiver: Upon the request of a carrier, DOT may determine there is a contradiction between a Part 382 requirement and an applicable foreign legal mandate that precludes the carrier from compliance with both legal requirements. If DOT makes such a determination, the carrier would continue to follow the binding foreign legal mandate rather than the conflicting Part 382 provision. (§ 382.9).

Contractor: A contractor is an entity that has a business arrangement with a carrier to perform functions that the carrier would otherwise be required to perform with its own employees under the ACAA and Part 382. For example, carriers often have business arrangements with companies to provide wheelchair service to passengers with disabilities or to handle baggage and assistive devices. (§ 382.11).

Contractor Employee: An individual that works for an organization that has a business arrangement with one or more carriers to provide services, facilities, and other accommodations to passengers with disabilities. (§ 382.11).

CPAP machine: A continuous positive airway pressure machine. (§ 382.3).

Department or DOT: The United States Department of Transportation. (§ 382.3).

Direct Threat: A significant risk to the health or safety of others that cannot be eliminated by a modification of policies, practices, or procedures, or by the provision of auxiliary aids or services. (§ 382.3).

DOT Disability Hotline or Hotline: DOT's toll-free telephone hotline system that provides general information to consumers about the rights of air travelers with disabilities, responds to requests for printed consumer information, and assists air travelers with time-sensitive disability-related issues. The hours for the hotline are 9 a.m. to 5 p.m. eastern time, Monday through Friday except Federal holidays. Air travelers who experience disability-related air travel service concerns or issues may call the hotline at 1-800-778-4838 (voice) or 1-800-455-9880 (TTY) to receive assistance. Air travelers who would like the DOT to investigate complaints about a disability issue must submit their complaints in writing or via email. (see <http://airconsumer.dot.gov/hotline.htm>).

Equivalent alternative: A policy, practice, or other accommodation that provides substantially equivalent accessibility to passengers with disabilities, compared to compliance with a provision of Part 382. (§ 382.3).

Expected maximum flight duration: The carrier's best estimate of the total duration of the flight from departure gate to arrival gate, including taxi time to and from the terminals, based on the scheduled flight time and factors such as (1) Wind and other weather conditions forecast; (2) anticipated traffic delays; (3) one instrument approach and possible missed approach at destination; and (4) any other conditions that may delay arrival of the aircraft at the destination gate. (§ 382.3).

FAA: The Federal Aviation Administration, an operating administration of the DOT. The FAA's mission is to provide the safest, most efficient aerospace system in the world. (<http://www.faa.gov> and § 382.3).

Facility: A carrier's aircraft and any portion of an airport that a carrier owns, leases, or controls (for example, structures, roads, walks, parking lots, ticketing areas, baggage drop-off and retrieval sites, gates, other boarding locations, jet bridge) normally used by passengers or other members of the public. (§ 382.3).

High-Contrast Captioning: Captioning that is at least as easy to read as white letters on a consistent black background. (§ 382.3).

Indirect Carrier: A person not directly involved in the operation of an aircraft who sells air transportation services to the general public other than as an authorized agent of a carrier. (§ 382.3).

Individual with a Disability: Any individual who—

- Has a physical or mental impairment that, on a permanent or temporary basis, substantially limits one or more major life activities;
- Has a record of a physical or mental impairment that, on a permanent or temporary basis, substantially limits one or more major life activities; or
- Is regarded as having a physical or mental impairment that, on a permanent or temporary basis, substantially limits one or more major life activities.

(§ 382.3).

On-Demand Air Taxi: An air taxi operator that carries passengers or property and is not a "commuter carrier" as defined above. (§ 382.3).

PHMSA: The Pipeline and Hazardous Materials Safety Administration, an operating administration of the Department of Transportation. (<http://www.phmsa.dot.gov> and § 382.3).

POC: A portable oxygen concentrator. (§ 382.3).

Qualified Individual With a Disability: An individual with a disability—

- (1) Who, as a passenger—
- Purchases, offers to purchase, or otherwise validly obtains a ticket for air transportation;

- Presents himself or herself at the airport for the purpose of traveling on the flight; and

- Meets reasonable, nondiscriminatory contract of carriage requirements applicable to all passengers.

(2) Who accompanies or meets a traveler, using ground transportation or terminal facilities, or seeks to obtain information about schedules, fares, reservations, or policies and takes those actions necessary to use facilities or services offered by a carrier to the general public, with reasonable accommodations, as needed, provided by the carrier. (§ 382.3).

Scheduled Service: Any flight scheduled in the current edition of the Official Airline Guide, the carrier's published schedule, or the computer reservation system used by the carrier. (§ 382.3).

Service Animal: Any animal that is individually trained or able to provide assistance to a qualified person with a disability or any animal shown by documentation to be necessary to support a passenger with an emotional or mental disability.

Dogs, cats, and monkeys are among the types of animals that have been trained to act as service animals. Service animals may assist people with disabilities by, for example—

- Guiding persons with vision impairments;
- Alerting persons with hearing impairments to specific sounds;
- Alerting persons with epilepsy of imminent seizure onset;
- Pulling a wheelchair;
- Carrying items a passenger cannot readily carry while using his or her wheelchair;
- Assisting persons with mobility impairments to open and close doors, retrieve objects, transfer from one seat to another, and maintain balance; and
- Providing support for persons with emotional or mental disabilities.

(§ 382.117 and Appendix III, Guidance Concerning Service Animals, and Chapter 3, Section D, Service Animals.).

Text Telephones (TTY): TTYs are devices that allow individuals who are unable to use a regular telephone to make or receive telephone calls by enabling them to type their conversations. (Chapter 4, Section D, Accommodations for Air Travelers with Vision or Hearing Impairments).

Transportation Security Administration (TSA): An administration within the Department of Homeland Security that is charged with protecting the Nation's transportation systems to ensure freedom of movement

for people and commerce. (<http://www.tsa.gov> and § 382.3).

United States or U.S.: The United States of America, including its territories and possessions.

E. Acronyms

Following is a list of acronyms used in this manual.

ACAA Air Carrier Access Act
 ACCESS Ask, Call, Check, Evaluate, Solve, and Satisfy
 ADAAG Americans with Disabilities Act Accessibility Guidelines
 AIDS Acquired Immune Deficiency Syndrome
 AIR-21 Wendell H. Ford Aviation Investment and Reform Act for the 21st Century
 ATP Advanced Turboprop
 CBP U.S. Customs and Border Protection
 CFR Code of Federal Regulations
 CPAP Continuous Positive Airway Pressure
 CRO Complaints Resolution Official
 DEFRA U.K. Department for Environment Food and Rural Affairs
 DOJ Department of Justice
 DOT Department of Transportation
 DSM-IV Diagnostic and Statistical Manual of Mental Disorders
 FAA Federal Aviation Administration
 FAQ Frequently Asked Questions
 FAR Federal Aviation Regulations
 HIV Human Immunodeficiency Virus
 IATA International Air Transport Association
 MTP Model Training Program
 NPRM Notice of Proposed Rulemaking
 OST Office of the Secretary of Transportation
 PHMSA Pipeline and Hazardous Materials Safety Administration
 PNR Passenger Name Record
 POC Portable Oxygen Concentrator
 RMOP Required Method of Operation
 RTCA Radio Technical Commission for Aeronautics
 SARS Severe Acute Respiratory Syndrome
 SFAR Special Federal Aviation Regulation
 SMS Short Message Service
 SSR Special Service Request
 TSA Transportation Security Administration
 TTY Text Telephones

Chapter 2: Learning the Basics About the Law Protecting Air Travelers With Disabilities

- The Statute and the Regulation
- Applying Part 382 Requirements
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- Conflicts of Law Waivers
- Equivalent Alternative Determinations
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A. The Statute and the Regulation

- What does the Air Carrier Access Act (ACAA) say? The ACAA prohibits U.S. and foreign air carriers from discriminating against a qualified individual with a disability based on such disability in providing air transportation. See Chapter 1, Section C

of this manual for a definition of a qualified individual with a disability. (49 U.S.C. 41705).

- What is Title 14, Code of Federal Regulations (14 CFR) Part 382 (Part 382)? Part 382 is a detailed set of rules that define U.S. and foreign air carriers' responsibilities under the ACAA, as amended. Part 382 ensures that individuals with disabilities will be treated without discrimination, and requires U.S. and foreign air carriers (under certain conditions) to make aircraft, other facilities, and services accessible and take steps to accommodate a passenger with a disability. (§ 382.1).

B. Applying Part 382 Requirements

- Who is protected by Part 382? Part 382 protects three groups of individuals with disabilities:

- (1) Individuals with a physical or mental impairment that, on a permanent or temporary basis, substantially limits one or more major life activities;

- (2) Individuals with a record of such impairment; and

- (3) Individuals who are regarded as having such impairments, whether they have the impairment or not. (§ 382.3 and 49 U.S.C. 41705).

- Who must comply with Part 382? The following organizations and individuals must comply with Part 382:

- (1) A U.S. air carrier and its employees (for example, ticket agents, gate agents, flight attendants, pilots, baggage handlers) with respect to all operations and aircraft, regardless of where those operations take place (unless otherwise noted in Part 382).

- (2) A foreign air carrier, its employees (such as ticket agents, gate agents, flight attendants, pilots, and baggage handlers), and its aircraft for flights that begin or end at a U.S. airport. Part 382 does not apply to a foreign carrier for flights operating between two foreign points. However, a U.S. air carrier that participates in a codesharing arrangement with a foreign air carrier with respect to flights between two foreign points is responsible for ensuring compliance with Part 382, Subparts A through C, F through H, and K with respect to passengers traveling under its code on such a flight.

- (3) An authorized agent of a carrier (such as travel agents).

- (4) An organization and its employees that have business arrangements with a carrier to provide disability-related services (for example, wheelchair service, baggage handling).

- (5) An indirect air carrier and its employees (such as public charter operators) that provide facilities or

services for other carriers that are covered by §§ 382.17 through 157. (§§ 382.3, 382.7(a), (c), and (f), 382.11(b) and 382.15).

- When does Part 382 apply to U.S. carriers and foreign carriers? U.S. carriers and foreign carriers were required to comply with the requirements of current Part 382 on May 13, 2009, except as otherwise noted in individual sections of Part 382. (§ 382.5) See Appendix I for a table of exceptions to the May 13, 2009, effective date.

- What is the difference between an indirect air carrier and an agent? An indirect air carrier indirectly engages in air transportation by selling the services of a direct air carrier. (§ 382.3) An agent is an entity that has lawful authority to act on behalf of the operating carrier, indirect air carrier, or on behalf of the prospective passenger. An agent typically sells the product of a disclosed principal (e.g., a seat on a scheduled airline or on a charter flight), offering it at the price and terms set by the principal.

Example: A tour operator or an air freight forwarder contracts for space on a wholesale level with an airline and the tour operator or air freight forwarder then re-sells space on that flight on a retail basis, setting their own price and terms, bearing the entrepreneurial risk of profit or loss rather than acting as an agent, and controlling the inventory and schedule.

On the other hand, an agent, such as a retail travel agent, sells a product such as a seat on a scheduled airline or a charter flight, at a price and terms set by the airline. The travel agent is acting as an agent of the airline and is not an indirect air carrier. Concessionaires, suppliers, and other participants in the air travel system also are not indirect air carriers.

- Do carriers have to make contractors comply with Part 382 requirements? Yes, as a carrier, you must ensure that your contractors providing services to the public meet Part 382 requirements just as if you were performing those functions yourself. While you may contract out services, you may not contract away responsibilities. You must include an assurance of compliance with Part 382 in your contracts with any contractors who provide services to the public that are subject to Part 382 requirements. For a U.S. carrier, an assurance of compliance must be included in your contracts with U.S. travel agents but not foreign travel agents. The Department of Transportation expects you to monitor the performance of your contractors to ensure that the contractors' performance complies with Part 382. (§ 382.15).

C. Questions on Foreign Carrier Flights

- For a passenger with a disability traveling on a foreign carrier, what is considered a “flight” covered under Part 382? Flight means a continuous journey in the same aircraft or with one flight number that begins or ends at a U.S. airport. (§ 382.7(b)).

The following are examples of flight scenarios involving foreign carriers.

Example 1: A passenger books a nonstop flight on a foreign carrier from New York to Frankfurt, or Frankfurt to New York. Each of these is a “flight” covered by Part 382.

Example 2: A passenger books a trip on a foreign carrier from New York to Prague. The foreign carrier flies nonstop to Frankfurt. The passenger deplanes in Frankfurt and boards a connecting flight (with a different flight number), on the same foreign carrier or a different carrier, which flies to Prague. The New York–Frankfurt leg of the trip is a “flight” covered by Part 382; the Frankfurt–Prague leg is not a covered flight. On the reverse routing, the Prague–Frankfurt leg is not a covered flight for purposes of Part 382, while the Frankfurt–New York leg is a covered flight.

Example 3: A passenger books a trip on a foreign carrier from New York to Prague. The aircraft stops for refueling and a crew change in Frankfurt. If, after deplaning in Frankfurt, the passengers originating in New York reboard the aircraft (or a different aircraft, assuming the flight number remains the same) and continue to Prague, they remain on a covered flight for purposes of Part 382. This is because their transportation takes place on a direct flight between New York and Prague, even though it had an interim stop in Frankfurt. This example also would apply in the opposite direction (Prague to New York via Frankfurt).

Example 4: In Example 3 directly above, the foreign carrier is not subject to coverage under Part 382 with respect to a Frankfurt originating passenger who boards the aircraft and flies to Prague, or a Prague-originating passenger who deplanes in Frankfurt and does not continue to New York.

- Does Part 382 apply to foreign carriers operating between two foreign points under a codeshare arrangement with a U.S. carrier? No, Part 382 does not generally apply to foreign carriers operating between two foreign points and transporting passengers flying under the U.S. carrier’s code. However, Part 382 applies to the U.S. carrier with respect to passengers traveling under its code. A U.S. carrier, not the foreign carrier, would be responsible for any violation of the service provisions of Subparts A through C, F through H, and K of Part 382 for a passenger traveling under the U.S. carrier’s code. (§ 382.7(c)).

- Does Part 382 apply to foreign carrier charter flights? A charter flight on a foreign carrier originating from a foreign airport to a U.S. airport and

returning to a foreign airport would not be covered if the carrier does not board any new passengers in the United States for the return flight. (§ 382.7(d)).

D. Conflicts of Law Waivers

- What may a carrier do if a provision of a foreign nation’s law conflicts with Part 382 requirements? Part 382 contains a conflict of laws waiver provision to address conflicts with legally binding foreign legal mandates. For example, as a carrier, you may request a waiver from a Part 382 requirement if a foreign law—(1) Requires you to do something prohibited by Part 382 or (2) prohibits you from doing something required by Part 382. Your U.S. carrier code share partner may file a waiver request on your behalf when a foreign law conflicts with a service-related provision of Part 382. Note that a foreign carrier’s or foreign government’s policy, authorized practice, recommendation, or preference is not an appropriate basis for a conflict of laws waiver request. In addition, if you have discretion in complying with Part 382 under the foreign law then you must exercise that discretion by complying with Part 382. (§ 382.9).

- What must a conflicts of law waiver request include? A conflicts of law waiver request must include: (1) A copy of the conflicting foreign law (in English); (2) a description of how the law applies and how it precludes you from complying with Part 382; and (3) your proposal for an alternative means of meeting the objective of the requirement or a justification of why it would be impossible to meet the requirement in any way. (§ 382.9(c)).

- Is there a deadline for a carrier to file a conflict of law waiver request? DOT sought to encourage carriers to conduct a due diligence review of foreign legal requirements that may conflict with Part 382. Accordingly, foreign carriers that filed waiver requests by September 10, 2008 (within 120 days of the publication date of the rule (May 13, 2008)), had a commitment from DOT that it would not take any enforcement action related to implementing the foreign law in question pending DOT’s response to the waiver request. (§ 382.9(e)).

- Is a carrier subject to enforcement action while a conflict of law waiver request submitted after September 10, 2008, is under DOT review? If the conflicting foreign law did not exist on September 10, 2008, you may continue to implement the policy or practice that is the subject of your request until the DOT responds to your request. The DOT will not take enforcement action with respect to your policy or practice while

the waiver request is under its review. However, the DOT may begin an enforcement action if it finds that a carrier’s waiver request: (1) is frivolous or dilatory, (2) has not been submitted with respect to a certain policy or practice, or (3) has been previously denied and the carrier continues to follow the denied policy or practice. (§ 382.9(e) through (g)).

- What must DOT determine to grant a conflicts of law waiver request? The DOT may grant the waiver request, or grant the request subject to conditions, if DOT determines: (1) The foreign law applies; (2) the foreign law does preclude compliance with a provision of Part 382; and (3) the carrier has provided an effective alternative means of achieving the Part 382 objective or has demonstrated by clear and convincing evidence that it would be impossible to achieve that objective in any way. (§ 382.9(d)).

E. Equivalent Alternative Determinations

- What is an equivalent alternative determination and when does a carrier have to file one? If, with respect to a specific accommodation, a carrier can demonstrate that what it wants to do will provide substantially equivalent accessibility to passengers with disabilities as compared with literal compliance with a particular provision of Part 382, it can file for an equivalent alternative determination. If the DOT agrees, it will determine that the carrier can comply with the rule using its alternative accommodation. Carriers must comply with Part 382 and cannot use their proposed equivalent alternative until and unless DOT approves it. (§ 382.10).

- How does a carrier apply for an equivalent alternative determination? As a U.S. carrier or foreign carrier, you may apply to the DOT for a determination that you are providing an alternative to passengers with disabilities. Your application must be in English and include: (1) A citation of the specific provision to which you are proposing an equivalent alternative; (2) a detailed description of the alternative policy, practice, or other accommodation you are proposing to use in place of the Part 382 requirement cited above; and (3) an explanation of how it provides substantially equivalent accessibility to passengers with disabilities.

If the DOT grants your application, you may comply with Part 382 through implementing your equivalent alternative. If the DOT denies your application, you must comply with Part 382 as written. (§ 382.10).

F. Assisting Passengers With Disabilities

• What is a physical or mental impairment? Physical impairment includes—(1) Any physiological disorder or condition; (2) cosmetic disfigurement; or (3) anatomical loss affecting one or more of the following body systems:

- Neurological;
- Musculoskeletal;
- Special sense organs;
- Respiratory, including speech

organs;

- Cardiovascular;
- Reproductive;
- Digestive;
- Genitourinary;
- Hemic and lymphatic;
- Skin; and
- Endocrine.

Examples of physical impairments include—

- Orthopedic, visual, speech, and hearing impairments;
- Cerebral palsy;
- Epilepsy;
- Muscular dystrophy;
- Multiple sclerosis;
- Cancer;
- Heart disease;
- Diabetes; and
- Human Immunodeficiency Virus (HIV).

Mental impairments include any mental or psychological disorder, such as mental retardation, organic brain syndrome, emotional or mental illness, and specific learning disabilities. (§ 382.3).

• What is not considered a physical or mental impairment? Physical characteristics such as the color of one's eyes, hair, or skin; baldness; and left-handedness do not constitute physical impairments. Similarly, neither age nor obesity alone constitutes a physical impairment. Disadvantages due to cultural or economic factors are not covered by Part 382. Moreover, the definition of "physical or mental impairment" does not include personality traits such as poor judgment or a quick temper, where these are not symptoms of a mental or psychological disorder.

• What is a substantial limitation on one or more major life activities? To qualify as a "disability" under Part 382 a condition or disease must substantially limit a major life activity. Major life activities include, activities such as—

- Caring for oneself,
- Performing manual tasks,
- Walking,
- Seeing,
- Hearing,
- Speaking,

- Breathing,
- Learning, and
- Working. (§ 382.3).

• When does an impairment "substantially limit" a major life activity? There is no absolute standard for determining when an impairment is a substantial limitation. Some impairments obviously limit the ability of an individual to engage in a major life activity as noted in the following examples.

Example 1: A person who is deaf is substantially limited in the major life activity of hearing.

Example 2: A person with traumatic brain injury may be substantially limited in the major life activities of: (a) Caring for himself or herself; and (b) working, because of memory deficiency, confusion, contextual difficulties, and the inability to reason appropriately.

Example 3: An individual who is paraplegic may be substantially limited in the major life activity of walking.

• Are temporary mental or physical impairments covered by Part 382? Yes. The definition of individual with a disability addresses any individual who has a temporary physical or mental impairment. (§ 382.3) See the following example:

Example: While on a skiing trip, Jane breaks her leg and is placed in a cast that keeps her from bending her leg and walking without using crutches. Jane will eventually recover the full use of her leg, but in the meantime, she is substantially limited in the major life activity of walking. Because Jane's broken leg will substantially limit a major life activity for a period of time, Jane would be considered to have a disability covered by Part 382 during that period. As a carrier, you would be required to provide her certain services and equipment under Part 382 if requested (for example, boarding and deplaning assistance, connecting wheelchair assistance, seating with additional leg room to the extent required by Part 382, and safe stowage of her crutches in the aircraft cabin in close proximity to her seat).

• Who is a person with a "record of" a disability under Part 382? Part 382 protects from discrimination an individual (1) who has a "record of" (a history of) a physical or mental impairment that substantially limits one or more major life activities or (2) who has been classified, or misclassified, as having such an impairment. Therefore, an individual who does not have a current actual impairment that substantially limits a major life activity would still be protected under Part 382 based upon a past diagnosis (or a misdiagnosis) of an impairment that substantially limits a major life activity. Individuals with a history of cancer or epilepsy are examples of people with a record of impairment. (§ 382.3) The

following example illustrates such a situation:

Example: Adam, a passenger who has had severe epileptic seizures in the past that rendered him unable to work, is denied transportation by carrier personnel because of their concern that he may have a seizure on board the aircraft. This denial of transportation would be unlawful if based solely on the fact that Adam has had past seizures, because epilepsy may be controlled by medication. Carrier personnel can lawfully deny transport to Adam only if they reasonably believe, based on the information available, that his seizure disorder poses a real safety risk to him, or is a direct threat to other passengers.

• When is a person "regarded as" having a disability? Part 382 protects an individual who is "regarded as" having a physical or mental impairment that substantially limits a major life activity, whether or not that person actually has an impairment. A person can be "regarded as" disabled if—

(1) His or her non-limiting or slightly limiting impairments are treated by an air carrier as substantially limiting;

(2) He or she has no impairments but is treated by an air carrier as having a substantially limiting impairment; or

(3) His or her impairments become substantially limiting because of the attitudes of others toward such impairments. (§ 382.3).

See the following two examples.

Example 1: Carrier personnel deny John, an individual with a mild heart condition controlled by medication, transportation because they believe that flying will cause him to have heart problems requiring the pilot to divert the aircraft during the flight. John's condition does not substantially limit any major life activity. John has informed the air carrier personnel that his heart condition is controlled by medication and that for the past five years he has flown on a near weekly basis without incident. Even though John does not actually have an impairment that substantially limits a major life activity, he is protected by the provisions of Part 382 because he is treated as though he does. The air carrier personnel's refusal to provide transportation to John must be reasonable under the facts and circumstances presented. Arguably, excluding John from the flight was unreasonable because he had informed the air carrier employee that he was taking medication and that he had flown frequently in the recent past without incident. The reasonableness of the decision depends on John's credibility and any additional information provided. Regardless of the reasonableness of the decision, the air carrier employee is legally required under § 382.19(d) to provide a written explanation to John within 10 calendar days of the refusal of transportation detailing the specific safety or other reason(s) for excluding John from the flight.

Example 2: Karen, an individual born with a prominent facial disfigurement, has been refused transportation on the grounds that

her presence has upset several passengers who have complained to gate agents about her appearance. Karen's physical disfigurement becomes substantially limiting only because of the attitudes of others and she is protected by the provisions of Part 382. Refusing to provide transportation to Karen would violate § 382.19(b) because you must not refuse to provide transportation to a qualified individual with a disability, such as Karen, solely because her appearance may offend or annoy other passengers. As in example 1 above, and regardless whether the decision to refuse transportation was correct, a carrier must provide Karen with a written explanation of the specific basis for the refusal within 10 calendar days of the incident.

- When am I required to provide disability-related accommodations to an individual? You are required to provide such an accommodation when—

- (1) An individual with a disability or someone acting on his or her behalf, such as a travel companion, family member, or friend, requests an accommodation required by Part 382 or

- (2) You offer such a required accommodation to a passenger with a disability and he or she accepts such accommodation.

- How do I determine whether a person is an individual with a disability? Provide an opportunity for the passenger to self-identify by asking how you can best assist him or her. (See

for example, §§ 382.81, 382.85, 382.87, 382.91, 382.93, 382.111).

- May I ask an individual what his or her disability is? Generally, no. However, clarifying the nature of a disability may be required to determine if a passenger is entitled to a particular seating accommodation under sections 382.81 through 382.87. You may not make inquiries about an individual's disability or the nature or severity of the disability. However, you may ask questions about an individual's ability to perform specific air travel-related functions, such as boarding, deplaning, and walking through the airport. For example—

You may not ask a person

What is your disability?

You may ask

Are you deaf?

Can you walk from the gate area to your aircraft seat?

Are you able to transfer from the aisle chair over a fixed aisle seat armrest?

Can you walk from this gate to your connecting gate?

Do you need me to notify you if I make any announcements over the public address speaker?" (write a note if necessary)

Example: Susan asks for a bulkhead seat because the condition of her leg requires additional legroom. You may ask, "Are you unable to bend your leg or is your leg fused or immobilized?" For a passenger with a fused or immobilized leg, the carrier is required to provide a bulkhead seat or other seat that provides more legroom than other seats on the side of an aisle that better accommodates the individual's disability. (§ 382.81(d))

- How do I assist a passenger with a disability? Ask the passenger how you can best assist him or her. A passenger with a disability has the most information about his or her abilities, limitations, level of familiarity with the airport and air carrier, and needs in connection with air travel.

G. Part 382 Highlights

- What are some of the requirements of Part 382 that I should be aware of? Following are some of the principle requirements of Part 382. It is important to note that the list of Part 382 requirements below is not meant to be exhaustive. Rather, it is a list of requirements governing situations that you are likely to encounter regularly. In addition, these requirements may not be applicable in instances where a legally binding conflicts of law waiver exists. You should refer to the specific sections cited below for exceptions to these requirements.

- You must not discriminate against passengers with a disability. (§ 382.11(a)(1)).

- You must not require a passenger with a disability to accept special services (including preboarding) they do not request. (§ 382.11(a)(2)). Instead, you

may ask a person if he or she would like a particular service, facility, or other accommodation. However, you may require preboarding as a condition to receive certain seating or cabin stowage accommodations. (§§ 382.83(c), 382.85(b), and 382.123(a)).

- You must not exclude a passenger with a disability from or deny the individual the benefit of any air transportation or related services that are available to other persons. (§ 382.11(a)(3)). For example, if you choose to provide ground transportation and overnight accommodations to passengers because of a flight cancellation, you must ensure that the ground transportation to the hotel, and the hotel itself, are accessible to a passenger with a disability.

- You must not take any adverse action against an individual, such as refusing transportation, because an individual asserts, on his or her own behalf, or on behalf of another individual, rights protected under Part 382 or the ACAA. (§ 382.11(a)(4)).

- You must not limit the number of passengers with disabilities on a particular flight.⁶ (§ 382.17).

- You must not refuse transportation to a passenger solely based on a disability. (§ 382.19).

- You must provide transportation to a passenger with a disability who has an impairment that affects his or her

appearance or results in involuntary behavior except under limited circumstances specified below. You must provide transportation to such passengers with disabilities even if the disability may offend, annoy, or inconvenience crewmembers or other passengers. (§ 382.19(b)). However, if the person's disability results in involuntary behavior that would or might adversely affect the safety of the flight, then the person may be refused transportation. (§ 382.19(c)).

- You may refuse transportation to a passenger with a disability if transportation of that passenger would—

- (1) Endanger the safety of the aircraft or the health or safety of its passengers or

- (2) Violate a Federal Aviation Administration (FAA) or Transportation Security Administration (TSA) regulation or applicable requirement of a foreign government. (§ 382.19(c)).

- You must not require a passenger with a disability to travel with a safety assistant or to present a medical certificate, except in very limited circumstances. (§§ 382.23(a) and 382.29).

- You must not require a passenger with a disability to sign a release or waiver of liability to receive transportation or services or accommodations for a disability. (§ 382.35(a)).

- You must not exclude a passenger with a disability from any seat in an exit or other row solely based on his or her disability except to comply with FAA regulations or applicable foreign

⁶ The DOT has received Conflict of Laws waiver requests from some foreign carriers asserting that § 382.17 conflicts with the European Aviation Safety Agency's Joint Aviation Regulation—OPS 1.260. Visit <http://www.regulations.gov>, select "Agency Documents," and enter "DOT—OST—2008—0272" to view Conflict of Laws waiver requests.

government safety requirements. (§ 382.87(a)).

FAA regulations establish criteria that must be met for a passenger to occupy a seat in the emergency exit rows. (14 CFR 121.585). There also may be foreign government safety requirements for exit row seating. If a passenger with a disability meets these FAA criteria and applicable foreign government safety requirements, he or she should not necessarily be excluded from sitting in an emergency exit row. As with any other passenger, you must look at the individual passenger with a disability and reasonably assess whether he or she meets the applicable criteria for exit-row seating. (§ 382.87(b)).

○ You must provide prompt boarding, deplaning, and connecting assistance to passengers with disabilities requesting such assistance. As part of this assistance, you must provide, as needed—

(1) Equipment (for example, wheelchairs, electric carts, and aisle chairs);

(2) Personnel (for example, individuals to push wheelchairs and aisle chairs and individuals to assist passengers with disabilities in carrying and stowing their baggage); and

(3) Ramps or mechanical lifts (only required at any U.S. commercial service airport with 10,000 or more annual enplanements where level-entry boarding and deplaning is not available.) (§§ 382.91 and 382.95). See Appendix II for a discussion of the agreements carriers must have with airports for the provision of lifts where level-entry loading bridges are not available. (§ 382.99).

You must allow passengers with disabilities to bring their assistive devices including canes, crutches, walkers; or other assistive devices inside the cabin of the aircraft. Other assistive devices include items such as—

■ Prescription medications and any medical devices needed to administer them such as syringes or auto-injectors;

■ Vision enhancing devices;

■ Continuous positive airway pressure (CPAP) machines, portable oxygen concentrators (POC), respirators, and ventilators, using nonspillable batteries, and

■ A folding or collapsible wheelchair (see below).

These assistive devices may be stowed in designated priority stowage areas, in overhead compartments, or under seats consistent with FAA, PHMSA, TSA, or foreign government requirements concerning safety, hazardous materials, and security with respect to stowage of carry-on items.

You must not count the number of assistive devices described above toward the carry-on baggage limit. (§ 382.121).

○ On certain aircraft, the carrier must designate a priority stowage space (required dimensions 13" × 36" × 42") for at least one passenger's typical adult-sized folding, collapsible, or break-down manual wheelchair. You must not require removal of the wheels or any other disassembly to fit the manual wheelchair in this priority space. (§ 382.67) This space must be in addition to the overhead compartments and under-seat spaces routinely used for passenger carry-on items. You are not required to stow any kind of electric wheelchair in the aircraft cabin.

This requirement applies if the aircraft—(1) has a designed seating capacity of 100 or more seats and (2) *for a U.S. carrier*, was ordered after April 5, 1990, or delivered after April 5, 1992; *for a foreign carrier*, was ordered after May 13, 2009, or delivered after May 13, 2010. (§ 382.67)).

With regard to the priority stowage space, you, as a carrier, must comply with the following:

■ A passenger with a disability who takes advantage of the opportunity to preboard may stow his or her wheelchair in this area with priority over other carry-on items brought onto the aircraft by other passengers and crewmembers consistent with FAA, PHMSA, TSA, or foreign government requirements concerning safety, hazardous materials, and security with respect to the stowage of carry-on items. (§ 382.123).

■ You must move any item that you or your personnel have placed in the closet or other area designated for priority stowage of carry-on items such as crewmember luggage or a required on-board wheelchair to make room for the passenger's wheelchair even if the items were placed there before the passenger boarded the flight. This includes any items that were placed in the priority stowage area on an earlier originating or connecting flight. (§ 382.123).

■ A passenger with a disability who does not preboard may use the priority space to stow his or her wheelchair or other assistive device on a first-come, first-served basis along with other passengers stowing their carry-on items. (§ 382.123).

○ On new aircraft ordered after May 13, 2009, or delivered to carriers after May 13, 2011, carriers are not permitted to use seat-strapping (tying 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) as an alternative to designated stowage spaces. Subject to the outcome of the pending rulemaking, you may use seat strapping for manual wheelchairs on existing aircraft that do not have the required space for stowing a folding wheelchair in the aircraft cabin. ⁷ (§ 382.123).

○ A passenger with a disability who takes advantage of the opportunity to preboard may stow assistive devices other than folding wheelchairs in the priority stowage area over other carry-on items (except folding wheelchairs) brought onto the aircraft by other passengers and crewmembers enplaning at the same airport. Stowing these devices in the priority space must be consistent with FAA, PHMSA, TSA, or foreign government requirements concerning safety, hazardous materials, and security with respect to the stowage of carry-on items. (§ 382.123(a)(2)).

○ You must have a copy of Part 382 available at every airport you serve. For foreign carriers, you must keep a copy of Part 382 and make it available at each airport serving a flight you operate that begins or ends at a U.S. airport. You must make a copy available for review upon request by any member of the public. (§ 382.45(a)). If you have a Web site, it must also provide a notice that consumers may obtain a copy of Part 382 from the DOT—

■ By telephone (including the appropriate voice and Text Telephones (TTY) numbers) via a toll-free hotline for air travelers with disabilities or to the Aviation Consumer Protection Division;

■ By mail to the Aviation Consumer Protection Division, or

■ On the Aviation Consumer Protection Division's Web site (<http://airconsumer.dot.gov>). (§ 382.45(b)).

○ *As a U.S. carrier*, you must provide passengers with vision or hearing impairments who identify themselves as needing assistance prompt access to the same information given to other passengers at the airport. This information includes—

- Flight safety,
- Ticketing,
- Flight check-in,
- Gate assignments,
- Delayed flights,
- Cancellations,
- Schedule changes,
- Boarding information,
- Connections,
- Checking baggage,

⁷ On June 3, 2011, the Department published a Notice of Proposed Rulemaking regarding the use of seat-strapping as a method for in-cabin stowage of manual wheelchairs. See 76 FR 32107. The Department expects to publish a final rule concerning seat-strapping in 2012.

- Volunteer solicitation on oversold flights (offers of compensations for giving up a reservation),
- Individuals being paged by airlines,
- Aircraft changes, and
- Emergencies such as fire or bomb threats.

You must provide this information at each gate, ticketing area, and customer service desk that you own, lease, or control at any U.S. or foreign airport to the extent that this does not interfere with employees' safety and security duties under FAA, TSA, and foreign regulations. (§ 382.53(a)(1)).

As a *foreign carrier*, you must make the information listed above available at each gate, ticketing area, and customer service desk that you own, lease, or control at any U.S. airport. At foreign airports, you must make the information available only: (1) At gates, ticketing areas, or customer service desks that you own, lease, or control and (2) for flights that begin or end in the United States. (§ 382.53(a)(2)).

As a U.S. or foreign carrier, you and any U.S. airport you use are jointly responsible for providing the required passenger information to passengers with vision or hearing impairments when that airport has control over the gates, ticketing areas, and customer service desks, (§ 382.53(a)(3)).

○ You also must provide passengers with vision or hearing impairments prompt access to the same information given to other passengers on the aircraft. This means information that a reasonable consumer would deem important, such as information on—

- Flight safety,
- Procedures for takeoff and landing,
- Flight delays,
- Schedule or aircraft changes,
- Diversion to a different airport,
- Scheduled departure and arrival time,
- Boarding information,
- Weather conditions at the destination airport,
- Beverage and menu information,
- Connecting gate assignments,
- Claiming baggage,
- Individuals being paged by airlines, and
- Emergencies such as fire or bomb threats.

Crewmembers are not required to provide such information if it would interfere with the crewmember's safety duties required under FAA and applicable foreign regulations. (§ 382.119).

○ You must allow a service animal to accompany a passenger with a disability in the aircraft cabin consistent with FAA regulations or applicable foreign government requirements. As a foreign

carrier, you are not required to carry service animals other than dogs (except as noted in § 382.7(c) for codeshare flights with U.S. carriers).

You must allow the service animal to sit in close proximity to its user if the service animal does not block the aisle or other emergency evacuation route in violation of FAA regulations or applicable foreign government requirements. Often this will mean that the service animal will sit under the seat in front of the passenger with a disability to avoid obstructing an aisle or other space. Some service animals are held by their users in their arms as an adult would hold a human infant (limited to infants under 2 years of age) of roughly the same size. (§ 382.117).

○ You must designate one or more Complaints Resolution Official (CRO) if you provide service using aircraft with 19 or more passenger seats. The CRO must be available (in person, by telephone, or TTY service) to address disability-related complaints. You must provide a CRO to a passenger even if the passenger does not use the term "Complaints Resolution Official" or "CRO." When a passenger with a disability uses words such as "supervisor," "manager," "boss," or "disability expert" in connection with resolving a disability-related issue, you must provide a CRO.

As a *U.S. carrier*, you must make the CRO available at each airport you serve during all times that you operate at that airport.

As a *foreign carrier*, you must make a CRO available at each airport serving flights you operate that begin or end at a U.S. airport. For carriers that operate flights infrequently, for example, flying from Dulles Airport to a foreign airport at 5 p.m. on Mondays and Thursdays, you do not have to make a CRO available to persons at Dulles Airport on those days you do not operate flights or in the mornings on days when you operate flights. (§ 382.151).

○ You must not charge for services that are required by Part 382. This means, for example, you and your employees and contractors may not ask for a tip when providing wheelchair service to a passenger. You may, however, impose a reasonable charge for services not required by Part 382, that is, optional services. Examples of such optional services include carrier-supplied medical oxygen for use onboard an aircraft or stretcher service. (§ 382.31(a)).

○ You may charge a passenger for the use of more than one seat if the passenger's size or condition, such as use of a stretcher, causes the passenger

to occupy more than one seat. (§ 382.31(b)).

○ If you have a Web site that persons use to make reservations or purchase tickets that is inaccessible to a passenger with a disability, you must not charge a fee to the passenger with a disability who is unable to make a reservation or purchase a ticket from your Web site when using another reservation booking method such as by telephone. In addition, if you provide discounts or other benefits to individuals who book a flight online, then that discount or benefit must be given to a passenger with a disability who cannot use the Web site due to his or her disability when he or she buys a ticket using another method. (§ 382.31(c)).

Chapter 3: Assisting Air Travelers With Disabilities Planning a Trip

- A. Advance Notice
- B. Information About the Aircraft
- C. Mobility Aids and Assistive Devices
- D. Service Animals
- E. Accommodations for Air Travelers With Hearing Impairments
- F. Communicable Diseases
- G. Medical Certificates
- H. Your Obligation To Provide Services and Equipment
- I. Safety Assistants

A. Advance Notice

You cannot require a passenger with a disability to provide advance notice of his or her intention to travel except as noted below.

Advance Notice Only for Particular Services and Equipment

You may require up to 48 hours' advance notice (that is, 48 hours before the scheduled departure time of the flight) and 1 hours' advance check-in (that is, 1 hour before the check-in time for the general public) from a passenger with a disability who wishes to receive the following services:

- Transportation of an electric wheelchair on an aircraft with fewer than 60 passenger seats;
- Provision by the carrier of hazardous materials packaging for the battery of a wheelchair or other assistive device;
- Accommodations for 10 or more passengers with disabilities who make reservations and travel as a group;
- Provision of an on-board wheelchair on an aircraft with more than 60 passenger seats that does not have an accessible lavatory for passengers with disabilities who can use an inaccessible lavatory but need an on-board chair to do so;
- Transportation of an emotional support or psychiatric service animal in the cabin;

- Transportation of any service animal on a flight segment scheduled to take 8 hours or more; and

- Accommodation of a passenger with both severe vision and hearing impairments. (§ 382.27(c)(4) through (c)(10)).

Example 1: If you advise passengers to check-in 1 hour before the scheduled departure time of the flight, you may advise a passenger with a disability who seeks one of the accommodations listed above to check-in 2 hours before the scheduled departure time for the flight.

Example 2: While making his reservation, a passenger with a disability gave the reservation agent 48 hours' advance notice that he would need an aisle chair to access the lavatory on his upcoming flight. The flight is on an aircraft with more than 60 passenger seats and it does not have an accessible lavatory. During the telephone call, the reservation agent makes the passenger aware of the fact that the lavatory is inaccessible, but the passenger explains that he can use an inaccessible lavatory if he has access to an aisle chair provided by the carrier. The passenger has complied with the advance notice requirement. Normally this information would have been entered into the passenger's reservation record (also known as the passenger name record (PNR)) by the carrier and the request for an aisle chair would have been handled through that notification process. You are a new gate agent for your carrier and when this passenger approaches you at the gate of the flight and asks about the requested aisle chair, you are not sure how to reply. What should you do?

To begin, as a matter of good customer service, you should tell the passenger that you are not sure but you will find out. You should ask a colleague and, if necessary, contact a Complaints Resolution Official (CRO). When you ask your colleague, you are told that all aircraft with more than 60 passenger seats in your air carrier's fleet are equipped with an in-cabin aisle chair. Once you receive this information, you should assure the passenger that an aisle chair is available so he can use the inaccessible lavatory on the aircraft.

Advance Notice for POC or Carrier-Supplied Inflight Medical Oxygen

With respect to onboard use of supplemental oxygen during a flight, you can require advance notice of a passenger whether you, the carrier, provides the oxygen or the passenger supplies the POC.

International flights. You may require up to 72 hours' advance notice and 1-hour advance check-in (that is, 1 hour before the check-in time for the general public) from a passenger with a disability who wishes to receive carrier-supplied medical oxygen for use onboard the aircraft. You may require 48 hours' advance notice and check-in one hour before the check-in time for the general public to use his/her ventilator, respirator, CPAP machine or POC.

Domestic flights. You may require up to 48 hours' advance notice and 1-hour advance check-in (that is, 1 hour before the check-in time for the general public) from a passenger with a disability who wishes to use his or her own POC or wishes to receive carrier-supplied medical oxygen for use onboard the aircraft. (§ 382.27(b)).

Advance Notice for Other Electronic Respiratory Assistive Devices

With respect to onboard use of a ventilator, respirator, or continuous positive airway pressure (CPAP) machine during a flight, you may require up to 48 hours' advance notice and 1-hour advance check-in (that is, 1 hour before the check-in time for the general public) from a passenger with a disability when the passenger supplies the ventilator, respirator, or CPAP machine. (§ 382.27(b)).

Advance Notice for Optional Services and Equipment

Although carriers are not required to provide the following services or equipment, if you choose to provide them, you may require up to 48 hours' advance notice (that is, up to 48 hours before the scheduled departure time of the flight) and 1 hour's advance check-in (that is, 1 hour before the check-in time for the general public) for—

- Carriage of an incubator;
- Hook-up for a CPAP machine, POC, respirator, or ventilator to the aircraft's electrical power supply; and
- Accommodation for a passenger who must travel on a stretcher. (§ 382.27(c)(1)–(3)).

If a passenger with a disability provides the appropriate advance notice for a service you are required to provide or choose to provide, you must provide that the service or accommodation. (§ 382.27(d)).

Note: Since the issuance of the revised Part 382 on May 13, 2008, some carriers have denied passengers the use of POCs onboard the aircraft because the devices did not have a manufacturer's label indicating that the device complies with the standards of RTCA/DO-160 or other applicable Federal Aviation Administration (FAA) or foreign requirements for portable medical electronic devices, even though the POC has been approved by the FAA for onboard use. As stated in its Notice published on October 29, 2009, the Department of Transportation (DOT) strongly encourages carriers to allow passengers to use any FAA-approved POC if the conditions in Special Federal Aviation Regulation No. 106 (SFAR 106) for use of portable oxygen concentrator systems onboard aircraft are followed even if the device has not been labeled⁸. Under SFAR

106, the FAA reviews the tests of POCs and determines whether the POCs meet safety requirements for medical portable electronic devices and are safe for use in-flight subject to certain conditions. The FAA specifically lists any POC brands and models that it deems acceptable for use onboard aircraft in SFAR 106. (14 CFR part 121, SFAR 106) (A list of FAA-approved POCs can be found on the FAA's Web site at http://www.faa.gov/about/initiatives/cabin_safety/portable_oxygen/).

Make a Reasonable Effort To Accommodate, Even Without Advance Notice

If a passenger with a disability does *not* meet the advance notice or check-in requirement described above, you must make a reasonable effort to furnish the requested service or equipment, if making such accommodation would not delay the flight. (§ 382.27(g)).

Example 1: Mr. Thomas uses a battery-powered wheelchair. He travels frequently between Washington, DC, and New York for business. One day, he finds out that he has an important business meeting in New York and must travel to New York that afternoon. He has no time to provide advance notice regarding the transportation of his battery-powered wheelchair and arrives at the gate 45 minutes before his flight is scheduled to depart. The aircraft for the flight has fewer than 60 passenger seats. What should you do?

As a carrier, you may require 48 hours' advance notice and 1-hour advance check-in for transportation of a battery-powered wheelchair on a flight scheduled to be made on an aircraft with fewer than 60 passenger seats. You may require the same advance notice to provide hazardous materials packaging for a battery. However, carrier personnel are required to make reasonable efforts to accommodate a passenger who fails to provide the requisite notice to the extent it would not delay the flight. Therefore, you must make a reasonable effort to accommodate Mr. Thomas.

Mr. Thomas is a frequent traveler on this particular route and he knows that usually it is feasible to load, store, secure, and unload his battery-powered wheelchair and spillable battery in an upright position (§ 382.127(c)) or detach, "box", and store the spillable battery (§ 382.127(d)) within about 20 to 25 minutes. If this is possible under the existing circumstances, you must accommodate Mr. Thomas, his battery-powered wheelchair, and the spillable battery even though Mr. Thomas did not provide advance notice, because doing so would not delay the flight.

Example 2: Ms. Webster must travel with medical oxygen and arrives at the airport without providing advance notice of her need for medical oxygen. As a policy, your carrier does not provide medical oxygen on any flights. What should you do?

To begin, you should confirm that your carrier does not provide the optional service

⁸ The Use of Passenger-Supplied Electronic Respiratory Assistive Device on Aircraft, October

28, 2009. See http://airconsumer.dot.gov/rules/notice_10_28_09.pdf. The notice also covers other electronic respiratory assistive devices.

of medical oxygen for use onboard a flight. If no medical oxygen service is available on your carrier, you should explain this to Ms. Webster and tell her that the carrier cannot accommodate her.

As a matter of customer service, you may direct Ms. Webster to another carrier that provides medical oxygen service in that market. The passenger should be aware, however, that providing medical oxygen involves coordination with the passenger's physician to determine the flow rate and the amount of oxygen needed and arranging for the delivery of the oxygen by the carrier to the point of origin of the passenger's trip. Therefore, normally, it is not possible to accommodate a passenger who needs medical oxygen on a flight unless the advance notice is provided because the accommodation cannot be made without delaying the flight. If the customer cannot be accommodated, you should provide the customer with a written statement stating the specific basis for the refusal to provide transportation within 10 calendar days of the refusal in accordance with section 382.19(d).

If the Aircraft Is Substituted or Changed to Another Carrier, Make an Effort To Accommodate

Even if a passenger with a disability provides advance notice, sometimes weather or mechanical problems require cancellation of the flight or the substitution of another aircraft. Under these circumstances, you must, to the maximum extent feasible, assist in providing the accommodation originally requested by the passenger with a disability even if the new flight is on another carrier. (§ 382.27(f)).

B. Information About the Aircraft

You should be able to provide information about aircraft accessibility to passengers with a disability when they or persons on their behalf request this information. When feasible, you should provide information pertaining to a specific aircraft to be used for a specific flight. In general, you must take into account safety and feasibility when seating passengers with disabilities. (§ 382.41 and Subpart F—Seating Accommodations).

If Requested, You Should Be Able To Provide Information on the Following

- Any limitations concerning the ability of the aircraft to accommodate an individual with a disability. This includes limitations on the availability of level-entry boarding to the aircraft at any airport involved in the flight;
- The location of seats in a row with a movable aisle armrest, if any, by row and seat number and any seats which the carrier may not make available to individuals with a disability (for example, exit rows);
- Any limitation on the availability of storage facilities in the cabin or in the

cargo compartment for mobility aids or other assistive devices commonly used by an individual with a disability, including storage in the cabin of a passenger's wheelchair;

- Whether the aircraft has a lavatory accessible to passengers with a disability; and
- The type of services available and unavailable to passengers with a disability. (§ 382.41).

You Are Required To Provide the Following Information

For a passenger with a disability who communicates that he or she uses a wheelchair for boarding, you must provide information on any aircraft-related, service-related, or other accommodation limitation such as a limitation on the availability of level-entry boarding to the aircraft at any airport involved in the flight. The passenger does not have to request this information explicitly. (§ 382.41(c)).

Accuracy of Information

When an agent acting on your behalf provides inaccurate information to a passenger with a disability concerning a disability-related accommodation, you, the carrier, are responsible for any resulting information-related violation of Part 382.

In addition, if you agree to provide a service not specifically required under Part 382 to accommodate a particular passenger's disability, you are obligated to provide that service or risk being in violation of § 382.41. For example, if you inform a passenger that you will not serve peanuts on the passenger's flights to accommodate his or her peanut allergy then you must ensure peanuts are not served on those flights or be in violation of § 382.41.

Passenger-Supplied Electronic Respiratory Assistive Devices

U.S. carriers (except for on-demand air taxi operators).

You must permit passengers with a disability travelling on aircraft originally designed to have a maximum passenger seating capacity of more than 19 seats to use a continuous positive airway pressure (CPAP) machine, respirator, ventilator, or an FAA-approved POC in the aircraft cabin if the device—

- (1) Meets FAA or applicable foreign government requirements and displays a manufacturer's label indicating that the device meets those requirements; and
- (2) Can be stowed and used in the aircraft cabin under applicable FAA, PHMSA, and Transportation Security Administration (TSA) regulations. (§ 382.133(a)).

When during the reservation process a passenger with a disability asks you about bringing his or her electronic respiratory assistive device onboard the aircraft, you must tell the passenger about the requirements for carrying the device onboard the aircraft specifically—

- (1) Labeling (see Note on labeling in Section A),
- (2) Maximum weight and dimension limitations,
- (3) Bringing an adequate number of fully charged batteries (packaged and protected from short circuit and physical damage),
- (4) Any advance notice and check-in requirements (See Section A),
- (5) Medical certificate requirements (POCs), and
- (6) The maximum expected duration of the flight. (§ 382.133(c)(1) through (c)(6) and (f)(1)).

You may insist that passengers bring an adequate number of fully charged batteries onboard to power the device for not less than 150 percent of the expected maximum flight duration. (§ 382.133(f)(2)). If the passenger does not comply with the conditions for acceptance of a medical portable electronic device outlined in the regulation, you may deny the passenger boarding. (§ 382.133(f)(3)) If you deny the passenger boarding, you must provide the passenger with a written explanation within 10 calendar days of the refusal of transport as required under § 382.19(d).

Foreign Carriers (Except for Foreign Carriers Conducting Operations Equivalent to U.S. On-Demand Air Taxi Operators)

You must permit passengers with a disability traveling on aircraft originally designed to have a maximum passenger seating capacity of more than 19 seats to use a CPAP machine, respirator, ventilator, or a POC of a kind equivalent to an FAA-approved POC for U.S. carriers in the aircraft cabin during flights to, from, or within the United States if the device—

- (1) Meets requirements for medical portable electronic devices set by the foreign carrier's government and displays a manufacturer's label indicating that the device meets those requirements or, if there is no applicable foreign government provision, the device meets requirements for medical portable electronic devices set by the FAA for U.S. carriers and displays a manufacturer's label that the device meets FAA requirements and
- (2) Can be stowed and used in the aircraft cabin under applicable FAA, PHMSA, and TSA regulations, and the

safety or security regulations of the foreign carrier's government. (§ 382.133(b)).

When during the reservation process a passenger with a disability asks you about bringing his or her CPAP machine, respirator, ventilator, or a POC of a kind equivalent to an FAA-approved POC for U.S. carriers onboard the aircraft, you must tell the passenger about the foreign carrier's government requirements or FAA requirements, if applicable, for carrying the device onboard the aircraft specifically—

(1) Labeling (see Note on labeling in Section A),

(2) Maximum weight and dimension limitations,

(3) Bringing an adequate number of fully charged batteries (packaged in accordance with applicable government safety regulations),

(4) Any advance notice and check-in requirements (See Section A),

(5) Medical certificate requirements (POCs), and

(6) The maximum expected duration of the flight. (§ 382.133(d)(1) through (d)(7) and (f)(1)).

You may insist that passengers bring an adequate number of fully charged batteries onboard to power the device for not less than 150 percent of the expected maximum flight duration. (§ 382.133(f)(2)). If the passenger does not comply with the conditions for acceptance of a medical portable electronic device outlined in the regulation, you may deny the passenger boarding. (§ 382.133(f)(3)). If you deny the passenger boarding, you must provide the passenger with a written explanation within 10 calendar days of the refusal of transport as required under § 382.19(d).

Medical Certificate Requirements

While you may require a medical certificate from an individual who wishes to use a POC or carrier supplied oxygen during flight, it normally would not be appropriate for you to ask for such a certificate from someone wishing to use a CPAP machine, respirator, or ventilator aboard a flight. Consistent with § 382.23, a medical certificate should be required of an individual who uses a CPAP machine, respirator, or ventilator 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. See Section G., Medical Certificates.

Batteries

The appropriate number of batteries should be calculated using the manufacturer's estimate of the hours of battery life while the device is in use and as specified in the passenger's medical certificate (for example, flow rate for POCs). The expected maximum flight duration is defined as the carrier's best estimate of the total duration of the flight from departure gate to arrival gate, including taxi time to and from the terminals, based on the scheduled flight time and factors such as wind and other weather conditions forecast; anticipated air traffic delays; one instrument approach and possible missed approach at the destination airport; and any other conditions that may delay arrival of the aircraft at the destination. (§§ 382.3 and 382.133(f)).

You may deny boarding, on the basis of safety, to a passenger with a disability who does not carry the number of fully charged batteries prescribed in the rule or to a passenger with a disability who does not properly package the extra batteries needed to power his/her device. Information for passengers on how to travel safely with batteries is available at <http://safetravel.dot.gov>. However, you may not deny boarding due to an inadequate number of batteries unless you can provide information from a reliable source demonstrating that the number of batteries that the passenger has supplied will not provide adequate power for 150 percent of the expected maximum flight duration based on the battery life indicated in the manufacturer's specification when the device is operating at the flow rate specified in the medical certificate. In instances where you deny boarding to an individual, you must provide the individual a written statement of the reason for the refusal to provide transportation within 10 days of the incident. (§ 382.133(f)(3)).

Note: The requirement to bring an adequate number of batteries to operate the device continuously for up to 150 percent of the expected maximum flight duration does not apply in circumstances where the passenger will be using an FAA-approved POC while boarding or deplaning from the aircraft but will be using a carrier-supplied POC or carrier-supplied oxygen during the flight itself.

Codeshare Flights

As the carrier whose code is used on a flight itinerary, you must either inform the passenger with a disability who inquires about using an electronic respiratory device (CPAP, POC, respirator, or ventilator) onboard the aircraft to—

(1) Contact the carrier operating the flight for information about its requirements for use of electronic respiratory devices onboard the aircraft or

(2) Provide information on the use of electronic respiratory devices on behalf of the codeshare carrier operating the flight. (§ 382.133(e)).

Example: A passenger 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 flight segment and carrier B operates the London to Cairo flight segment under carrier A's designator code. Carrier A must upon inquiry from the passenger inform the passenger about—

(1) Carrier A's requirements for the use in the cabin of a CPAP machine, POC, respirator, or ventilator and

(2) Carrier B's requirements for the use in the cabin of a CPAP machine, POC, respirator, or ventilator, or tell the passenger to contact carrier B directly to obtain this information.

C. Mobility Aids and Assistive Devices

If, in assisting a passenger with a disability, a carrier employee or contractor disassembles the passenger's wheelchair, mobility aid, or other assistive device, another carrier employee or contractor must reassemble it and ensure its prompt return to the passenger with a disability in the same condition in which the carrier received it. (§ 382.129(b)). You must permit passengers with a disability to provide written instructions concerning the disassembly and reassembly of their wheelchairs, other mobility aids, and other assistive devices. You must carry out these instructions to the greatest extent feasible consistent with FAA, PHMSA, TSA, or foreign government requirements concerning safety, hazardous materials, and security with respect to the stowage of carry-on items. (§ 382.129(a)). You cannot require passengers with disabilities to sign a waiver of liability for damage to or loss of wheelchairs or other assistive devices. However, you may note preexisting damage to wheelchairs or other assistive devices. (§ 382.35(b)).

D. Service Animals⁹

A service animal is an—

(1) Animal individually trained to perform functions to assist a person with a disability;

(2) Animal that has been shown to have the innate ability to assist a person

⁹Guidance Concerning Service Animals at <http://airconsumer.ost.dot.gov/rules/20030509.pdf>. This document describes how the DOT understands § 382.117 and provides suggestions and recommendations on how carriers can best accommodate service animals and their users.

with a disability, for example, a seizure alert animal; or

(3) Emotional support or psychiatric service animal.

You should be aware that there are many different types of service animals that perform a range of tasks for individuals with a disability. However, as a foreign carrier you are only required to accommodate dogs as service animals except on codesharing flights with U.S. carriers. For more information regarding service animals on such flights, see the Note under the heading *Unusual Service Animals* in this section.

Service Animal Permitted To Accompany Passenger on Flight and at Seat Assignment

You must permit a service animal used by a passenger with a disability to accompany the passenger on his or her flight. (§ 382.117(a)). In addition, you must permit a service animal to accompany a passenger with a disability to the passenger's assigned seat and remain there if the animal does not obstruct the aisle or other areas that must remain unobstructed to facilitate an emergency evacuation. (§ 382.117(b)). The service animal must be allowed to accompany the passenger unless it poses a direct threat to the health or safety of others or presents a significant threat of disruption to the cabin service.

If a service animal does not fit in the space immediately in front of the accompanying passenger with a disability and there is no other seat with sufficient space to safely accommodate the animal and the accompanying passenger, there are several options to consider for accommodating the service animal in the cabin in the same class of service. You should speak with other passengers to find a passenger—

(1) Seated in an adjacent seat who is willing to share foot space with the animal, or

(2) Who is willing to exchange seats with the passenger accompanying the service animal and is seated in a seat adjacent to—

(a) A location where the service animal can be accommodated (for example, in the space behind the last row of seats) or

(b) An empty seat.

You must not deny a passenger with a disability transportation on the basis that the service animal may offend or annoy persons traveling on the aircraft. (§ 382.117(a)(1)). See also Guidance Concerning Service Animals at <http://airconsumer.ost.dot.gov/rules/20030509.pdf>. The FAA issued a Flight Standards Information Bulletin for Air Transportation (FSAT) that deals with the "Location and Placement of Service

Animals on Aircraft Engaged in Public Air Transportation." That FSAT can be found in Appendix IV.

If Service Animal Cannot Be Accommodated at Assigned Seat

If a service animal cannot be accommodated at the seat of the passenger with a disability and if there is another seat in the same class of service where the passenger and the animal can be accommodated, you must offer the passenger the opportunity to move to the other seat with the service animal. (§ 382.117(c)).

Verification of Service Animals

Under particular circumstances (see Example 1 below), you may wish to verify whether an animal accompanying a passenger with a disability qualifies as a service animal under Part 382. Other than service animals used as emotional support or psychiatric service animals, you must accept the following as evidence that the animal is a service animal:

- The credible verbal assurances of a qualified individual with a disability using the animal,
- The presence of harnesses,
- Tags, or
- Identification cards or other written documentation. (§ 382.117(d)).

Note: Passengers accompanied by service animals may not have identification or written documentation regarding their service animals. Some service animals wear harnesses, vests, capes, or backpacks. Markings on these items or on the animal's tags may identify it as a service animal, however, the absence of such equipment does not necessarily mean the animal is not a service animal. Similarly, the presence of a harness or vest on a pet for which the passenger cannot provide a credible verbal assurance may not be sufficient evidence that the animal is a legitimate service animal. See also Appendix III of this manual titled DOT Guidance Concerning Service Animals in Air Transportation.

Required Documentation

If a flight is scheduled for 8 hours or more, you may require documentation that the service animal will not need to relieve itself on the flight or can do so in a way that will not create a health or sanitation issue on the flight. (§ 382.117(a)(2)).

Carriers also may require that passengers traveling with emotional support or psychiatric service animals present current documentation (that is, no older than 1 year from the date of the passenger's scheduled initial flight)¹⁰ on

¹⁰ Your carrier may, at its discretion, accept from the passenger with a disability documentation from his or her licensed mental health professional that

the letterhead of a licensed mental health professional, including a medical doctor, specifically treating the passenger's mental or emotional disability stating—

- The passenger has a recognized mental or emotional disability;¹¹
- The passenger needs the service animal as an accommodation for air travel and/or activity at the passenger's destination;
- The provider of the letter is a licensed mental health professional, or a licensed medical professional treating the individual for the recognized mental or emotional disability, and the passenger is under the individual's professional care; and
- The date and type of mental health professional's license and the state or other jurisdiction in which the license was issued. (§ 382.117(e)(1) through (e)(4)).

Even if you receive sufficient verification that an animal accompanying a passenger is a service animal, if the service animal's behavior in a public setting is inappropriate or disruptive to other passengers or carrier personnel, you may refuse to permit the animal on the flight and offer the passenger alternative accommodations in accordance with Part 382 and your carrier's policy (for example, carry the animal in the cargo compartment). Note that carriers are required to carry service animals even if the animal may offend or annoy carrier personnel or persons traveling on the aircraft. Pursuant to section 382.117(g), if you refuse to accept an animal as a service animal, you must explain the reason for your decision to the passenger and document it in writing. A copy of the explanation must be provided to the passenger within 10 calendar days of the incident.

Example 1: A passenger arrives at the gate accompanied by a pot-bellied pig. She claims that the pot-bellied pig is her service animal. What should you do?

Generally, you must permit a passenger with a disability to be accompanied by a service animal. However if you have a reasonable basis for questioning whether the animal is a service animal, you may ask for some verification. Usually written verification is not required.

You may begin by asking questions about the service animal, for example, "What tasks or functions does your animal perform for

is more than 1 year old. The DOT encourages carriers to consider accepting "outdated" documentation in situations where such passenger provides a letter or notice of cancellation or other written communication indicating the termination of health insurance coverage, and his/her inability to afford treatment for his or her mental or emotional disability.

¹¹ Referenced in the Diagnostic and Statistical Manual of Mental Disorders—Fourth Edition (DSM IV).

you?” or “What has its training been?” If you are not satisfied with the credibility of the answers to these questions or if the service animal is an emotional support or psychiatric service animal, you may request further verification. You should also call a CRO if there is any further doubt as to whether the pot-bellied pig is the passenger's service animal.

Finally, if you determine that the pot-bellied pig is a service animal, you must permit the service animal to accompany the passenger to her seat provided the animal does not obstruct the aisle or present any safety issues and the animal is behaving appropriately in a public setting. However, note that as a foreign carrier, you are not required to carry service animals other than dogs (except as noted in § 382.7(c) for codeshare flights with a U.S. carrier.).

Example 2: A passenger with a hearing impairment is planning to board the plane with his service animal. The service animal is a hearing-assistance dog and is small enough to sit on the passenger's lap. While waiting to board the flight, the hearing-assistance dog jumps off the passenger's lap and begins barking and nipping at other passengers in the waiting area. What should you do?

Although you have initially made the determination that the hearing-assistance dog is a service animal and may accompany the passenger with the hearing impairment on the flight, you may reconsider the decision if the dog is behaving in a manner that seems disruptive and infringes on the safety of other passengers. You should carefully observe the hearing-assistance dog's behavior and explain it in detail to a CRO (if the CRO is on the telephone). If, after careful consideration of all the facts presented, the CRO decides not to treat the dog as a service animal, you should explain your carrier's policy regarding traveling with animals that are not being allowed in the passenger cabin as service animals. As discussed later, you also must document your decision in writing and provide the passenger with a copy of your explanation at the airport or within 10 calendar days. (§ 382.117(g)).

Requests for Seat Assignments by a Passenger Accompanied by a Service Animal

For a passenger with a disability traveling with a service animal, you must provide, as the passenger requests, either a bulkhead seat or a seat other than a bulkhead seat. (§ 382.81(c)). Note that on some aircraft the bulkhead seat is also the emergency exit row. If this is the case, the passenger cannot sit in the bulkhead seat with the service animal.

Relief Areas for Service Animals

With respect to terminal facilities you own, lease, or control at a U.S. airport, you must, in cooperation with the airport operator, provide relief areas for service animals that accompany passengers with a disability who are departing, arriving, or connecting at an airport on your flights.

When establishing relief areas you should consider the size and surface material of the area, maintenance, and distance to relief area, which could vary, based on the size and configuration of the airport. In planning the relief area, it is critical to involve airline, airport, service animal training organization, TSA, and U.S. Customs and Border Protection.

In addition, you should advise passengers who request you provide them with assistance to an animal relief area, the location of the animal relief area. Additionally, if requested, it would be your responsibility to accompany a passenger traveling with a service animal to and from the animal relief area.

The DOT requirement to provide animal relief areas was effective on May 13, 2009, for U.S. carriers and May 13, 2010, for foreign carriers. See Chapter 4, Section A, Animal Relief Areas, for additional guidance on establishing and maintaining relief areas for service animals. (§ 382.51(a)(5)).

Unusual Service Animals

As a U.S. carrier, you are not required to carry certain unusual service animals in the aircraft cabin such as ferrets, rodents, spiders, snakes and other reptiles. Other commonly used service animals, such as miniature horses and monkeys, can travel as service animals on U.S. carriers. However, the carrier can decide to exclude a particular animal on a case-by-case basis if it—

- Is too large or heavy to be accommodated in the aircraft cabin;
- Would pose a direct threat to the health and safety of others;
- Would cause a significant disruption in cabin service; or
- Would be prohibited from entering a foreign country at the aircraft's destination.

For U.S. carriers, if none of the factors listed directly above preclude a service animal from traveling in the aircraft cabin, you must permit it to travel onboard the aircraft.

Note: As a foreign carrier, you are normally only required to accommodate dogs as service animals. However, if you are a foreign carrier that participates in a codesharing arrangement with a U.S. carrier on flights between two foreign points, the service provisions of Subparts A through C, F through H, and K with respect to passengers traveling under the U.S. carriers code would be in effect on the codeshare flight. Therefore, in such instances as a foreign carrier you would have to accommodate service animals other than dogs.

Exceptions to Requirement for Foreign Carriers To Accommodate Unusual Service Animals

A U.S. carrier advises the passenger that the foreign carrier does not accept service animals other than dogs and then assists the passenger in making alternate flight arrangements using alternate carriers and/or alternate routings.

Alternatively, the U.S. carrier could market and sell the flight segment between two foreign points as an interline connection¹² as opposed to a code-share flight, and fully disclose to the passenger that the foreign carrier will likely not provide the same service that is to accept service animals other than dogs as is required of a U.S. carrier.

Nonacceptance of a Service Animal

If you decide not to accept an animal as a service animal, you must explain the reason to the passenger and document your decision in writing. A copy of the explanation must be provided to the passenger at the airport or within 10 calendar days of the event. (§ 382.117(g)).

Destinations Outside the United States

You must promptly take all steps necessary to comply with foreign regulations such as animal health regulations, to permit the transportation of a passenger's service animal from the United States to a foreign destination. (§ 382.117(h)). See Appendix IV for DOT Guidance on transportation of service animals into the United Kingdom and into countries other than the United Kingdom. (§ 382.117(i)). This guidance also can be found on the DOT's Aviation Consumer Protection Division Web site at <http://airconsumer.dot.gov>.

E. Accommodations for Air Travelers With Hearing Impairments

If, as a carrier, you provide a telephone reservation and information service to the public, you must make this service available to individuals who use a text telephone (TTY), whether through your own TTY, voice relay, or other available technology to permit individuals with hearing impairments to make reservations and obtain information. You no longer are required to have a TTY; only your reservation service must be available to those who use a TTY. The TTY, voice relay, or other available technology must be available during the same hours as the telephone service for the general public and the same response time for answering calls and the same surcharges

¹² Interline connection means change of aircraft and airlines.

must apply to the TTY, voice relay, or other available technology as the telephone service for the general public (non-TTY users). You must also list your TTY number if you have one when in any medium in which you list the telephone number of your information and reservation service. If you do not have a TTY number, you must state how TTY users can reach your information and reservation service such as via voice relay or other technology. (§ 382.43(a)(1) through (4)).

Foreign Carriers

As a foreign carrier, information and reservation services must be accessible to individuals with hearing impairments for flights covered by this rule by May 13, 2010. (§ 382.43(a)(5)).

Exceptions to TTY Requirements

You do not have to meet the TTY, voice relay, or other available technology requirements in any country in which the telecommunications infrastructure does not readily permit compliance. (§ 382.43(b)).

F. Communicable Diseases

Passengers With a Communicable Disease or Other Medical Condition Are Permitted on a Flight

Except as described below in this section, you must not— (1) Refuse

transportation to; (2) require a medical certificate from; (3) delay the passenger's transportation (for example, require the passenger to take a later flight); or (4) impose any condition, restriction, or requirement not imposed on other passengers on a passenger with a communicable disease or infection. (§ 382.21)

If Direct Threat to Health or Safety of Others, Limitations May Be Imposed

Only if a passenger with a communicable disease or infection poses a *direct threat* to the health or safety of others, can you take any of the actions listed below. (§ 382.21(a)). A *direct threat* means a significant risk to the health or safety of others that cannot be eliminated by modifying policies, practices, or procedures, or by providing auxiliary aids or services. (§ 382.3) .

To be a direct threat—
A condition must be (1) readily transmittable by casual contact during a flight; and (2) have severe health consequences.

Direct Threat Determination

If you are faced with particular circumstances where you are required to make a determination as to whether a passenger with a communicable disease or infection poses a direct threat to the health or safety of others, you must make an individualized assessment

based on a reasonable judgment, relying on current medical knowledge or the best available objective evidence, to determine—

- (1) The nature, duration, and severity of the risk;
- (2) The probability that the potential harm to the health and safety of others will actually occur; and
- (3) Whether reasonably modifying policies, practices, or procedures will mitigate the risk. (§§ 382.19(c)(1)(i–iii) and 382.21(b)(1)(2)).

In making this assessment, you may rely on directives issued by public health authorities such as the U.S. Centers for Disease Control or Public Health Service, comparable agencies in other countries, and the World Health Organization. You must consider the significance of the consequences of a communicable disease and the degree to which it can be readily transmitted by casual contact in an aircraft cabin. (§ 382.21(b)(1)).

You should also confer with appropriate medical personnel and a CRO when making this assessment. The following table presents examples of communicable diseases and the degree to which they can be readily transmitted in an aircraft cabin, whether they involve severe health consequences and whether they pose a “direct threat” to other passengers:

Communicable disease	Readily transmissible in the aircraft cabin	Severe health consequences	Direct threat
Common Cold	Yes	No	No.
AIDS	No	Yes	No.
SARS	Yes	Yes	Yes.

(§ 382.21(b)(2)).

If the Passenger Poses a Direct Threat to the Health and Safety of Others

If, in your estimation, a passenger with a communicable disease or infection poses a direct threat to the health or safety of other passengers, you may—

- (1) Impose on that passenger a special condition or restriction (for example, wearing a mask);
- (2) Require that person to provide a medical certificate stating that the disease at its current stage would not be transmittable during the normal course of a flight or, if applicable, describing measures that would prevent transmission during the flight (§ 382.21(c));
- (3) Delay the passenger's transportation (for example, require the passenger to take a later flight); or
- (4) Refuse to provide transportation to that person.

You must choose the least restrictive of the four options described above that would accomplish the objective. (§ 382.19(c)(2)).

Medical Certificate Requirements—Direct Threat Determined

See Section G, Medical Certificates, Medical Certificate and a Passenger with a Communicable Disease or Infection.

Postponed Travel

If you deem a passenger as presenting a direct threat and determine he or she cannot travel as scheduled, you must allow the passenger to travel at a time *up to 90 days from the date of the postponed travel* at the same price or, at the passenger's discretion, provide a refund for any unused flights, including return flights. You may not apply cancellation or rebooking fees or penalties to this situation or subject the passenger to any fare increases that may occur in the meantime. In addition, you

may not apply cancellation or rebooking fees or penalties to any increase in that passenger's fare because a seat was unavailable in the fare class on his or her original ticket. (§ 382.21(d)). If you restrict a passenger's travel on the basis that the passenger has a communicable disease or other medical condition, you must, on the passenger's request, provide a written explanation within 10 days of the passenger's request. (§ 382.21(e)).

Example: A passenger purchases a one-way economy/coach class ticket for a flight from Los Angeles to Tokyo on March 15 for \$750. When the passenger arrives at the airport it is determined he has contracted Severe Acute Respiratory Syndrome (SARS). The carrier determines that because SARS is both able to be readily transmitted by casual contact during a flight and has severe health consequences the passenger presents a direct threat. Accordingly, the carrier forces the passenger to postpone his travel. On April 15, the passenger is completely healthy and

free of SARS and wishes to rebook a ticket from Los Angeles to Tokyo. Even though the current price of an economy/coach class ticket from Los Angeles to Tokyo is \$900 on April 15, the carrier may not charge this passenger more than \$750 for the economy/coach class ticket. Additionally, if there are no economy/coach class seats available when the passenger wants to travel and the passenger chooses to purchase a business or first class ticket to be on that particular flight, the carrier may not apply cancellation or rebooking fees or penalties to any increase in that passenger's fare because no seats were available for purchase at the economy/coach class fare. However, you may charge the passenger the difference between the price of the \$750 economy/coach class ticket and the price of a business class seat or a first class seat.

At all times, as a matter of good customer service, you should treat the passenger with courtesy and respect.

G. Medical Certificates

Medical Certificates for Passengers With a Disability (Other Than Passengers With a Communicable Disease)

A medical certificate is a written statement from the passenger's physician saying that the passenger is capable of completing the flight safely without requiring extraordinary medical assistance during the flight. Except under the circumstances described below, you must not require medical certification of a passenger with a disability as a condition for providing transportation. (§ 382.23(a) and (b)(2)).

You may require a medical certificate only if the passenger with a disability:

- Is traveling on a stretcher or in an incubator (where such service is offered);
- Will be using a passenger-supplied POC in-flight or needs carrier-supplied medical oxygen (where such service is offered);
- Has a medical condition that causes the carrier to have reasonable doubt that the passenger can complete the flight safely without requiring extraordinary medical assistance during the flight. (§ 382.23(b)); or
- Has a communicable disease that poses a direct threat to the health and safety of others on the flight. (§ 382.23(c)).

To be valid, the required medical certificate must be dated within 10 days of the scheduled date of the passenger's initial departing flight. (§ 382.23(b)(3)).

Note: The DOT's intent regarding the medical certificate provision was to allow carriers to impose the 10-day time limit to medical certificates only for passengers with communicable diseases, not to other individuals such as passengers who need supplemental oxygen (for example, to assist those individuals with asthma or

emphysema.) The DOT encourages carriers not to require the documentation to be dated within 10 days of the scheduled date of the passenger's flight for passengers who wish to use an FAA-approved POC as supplemental oxygen.

Example: A passenger schedules a flight from New York to London on January 15 with a return flight on April 15 and would like to use a POC onboard the aircraft. The carrier could require the passenger to show a medical certificate dated January 5 or later. For the passenger's return flight on April 15, the passenger would not have to show a second medical certificate dated April 5 or later.

Significant Adverse Change in Medical Condition

You may subject a passenger with a medical certificate to additional medical review if you believe that—

- (1) There has been a significant adverse change in the passenger's medical condition since the issuance of the medical certificate or
- (2) The certificate significantly understates the passenger's risk to the health or safety of others on the flight.

If this additional medical review shows that the passenger is unlikely to complete the flight without extraordinary medical assistance you may, notwithstanding the medical certificate, deny or restrict the passenger's transportation. (§ 382.23(d)).

Note: If you deny or restrict a passenger's travel, you must provide a written explanation upon the passenger's request within 10 days of the request explaining why you considered the restriction necessary. (§ 382.21(e)).

Medical Certificate and a Passenger With a Communicable Disease or Infection

If you determine that a passenger with a communicable disease or infection poses a direct threat to the health or safety of others on the flight, you may require a medical certificate from the passenger. (§ 382.23(c)(1)) The medical certificate is a written statement from the passenger's physician stating that the disease or infection would not under current conditions be communicable to other persons during the normal course of the flight and must include any conditions or precautions that would have to be observed to prevent the transmission of the disease or infection during the normal course of the flight. The medical certificate must be dated within 10 days of the flight date, not within 10 days of the initial flight. (§ 382.23(c)(2)).

In the event that you determine the need for a medical certificate for a passenger with a communicable disease

or infection, you should provide the passenger with the disability the reason for the request. You should base your request on the reasons provided in Part 382 and outlined above.

At all times, you should treat the passenger from whom you are requesting a medical certificate with courtesy and respect.

Example: A passenger arrives at the gate with her 6-year-old daughter. The girl's face and arms are covered with red lesions, resembling chicken pox. What should you do?

Generally, you must not refuse travel to, require a medical certificate from, or impose special conditions on a passenger with a communicable disease or infection. However, if a passenger appears to have a communicable disease or infection that poses a direct threat to the health or safety of other passengers, you may be required to make a determination about the best course of action based on the seriousness of the health risk and the ease of disease transmittal. As previously discussed, for a communicable disease or infection to pose a direct threat, the condition must both be readily transmitted under conditions of flight and have serious health consequences. An example of such a communicable disease is SARs. Medical conditions that do not pose a direct threat to the health or safety of passengers (1) are easily transmitted in aircraft cabins but have limited health consequences such as the common cold or (2) are difficult to transmit in aircraft cabins but have serious health consequences such as acquired immune deficiency syndrome (AIDS).

The first thing you should do is interview the passenger and her mother to obtain basic information about the girl's condition. This exchange should be done discreetly and in a courteous and respectful manner. If you still have a question about the nature of the child's condition that will affect decisions about transportation, you should contact a CRO and explain the situation.

Here, the mother tells you and the CRO that the child has chicken pox but is no longer contagious. The CRO would likely consult with appropriate medical personnel to verify whether the child could be contagious based on the mother's statement and the CRO's observations and confirm that contagious chicken pox would pose a direct threat to passengers.

If there is a reasonable basis for believing that the passenger poses a direct threat to the health or safety of others, you must choose the least restrictive alternative among the following options:

- (1) Refusing transportation to the individual;
- (2) Delaying the passenger's transportation (for example, requiring the individual to take a later flight);
- (3) Requiring a medical certificate; or
- (4) Imposing a special condition or limitation on the individual.

If the medical support people indicate there is a chance that the child is no longer contagious but only if a certain number of days have passed since the outbreak of the

lesions, you could request a medical certificate before you permit the child to travel.

Having discussed the situation with the passenger and her mother and consulted the CRO and the medical support personnel, the request for a medical certificate appears to be reasonable under the circumstances and the least restrictive of the four options.

As a reminder, § 382.23(c)(2) specifies that the medical certificate be from the child's physician and state that the child's chicken pox would not be communicable to other passengers during the normal course of a flight. The medical certificate must also include any conditions or precautions that would have to be observed to prevent the transmission of the chicken pox to other passengers during the normal course of a flight and be dated within 10 days of the date of the flight. If the medical certificate is incomplete, you cannot carry out the prescribed measures on the medical certificate. If you cannot carry out the prescribed measures on the medical certificate or if the passenger is attempting to travel before the date specified in the medical certificate or without implementing the conditions outlined to prevent transmission, the child would not be permitted to fly.

Note: If you restrict a passenger's travel, you must provide a written explanation upon the passenger's request within 10 days of the request explaining why you considered the restriction necessary. (§ 382.21(e)).

Significant Adverse Change in Medical Condition

You may subject a passenger with a medical certificate to additional medical review if you believe that—

(1) There has been a significant adverse change in the passenger's medical condition since the issuance of the medical certificate or

(2) The certificate significantly understates the passenger's risk to the health or safety of others on the flight.

If this additional medical review shows that the passenger is unlikely to complete the flight without extraordinary medical assistance or would pose a direct threat to other passengers, you may, notwithstanding the medical certificate, deny or restrict the passenger's transportation. (§ 382.23(d)).

H. Your Obligation To Provide Services and Equipment

Moving Through the Terminal Assistance

Terminal Entrance to Gate and Gate to Terminal Entrance

As a carrier, you must provide, or ensure the provision of, assistance to a passenger with a disability in moving from the terminal entrance through the airport to the gate for a departing flight or from the gate to the terminal entrance if the passenger or someone on behalf of

the passenger requests such assistance or you offer and the passenger with a disability accepts the assistance. This obligation extends to a vehicle drop-off or pick-up point adjacent to the terminal entrance and key functional areas of the terminal such as ticket counters and baggage claim. This does not include satellite parking or car rental drop-off areas that are not adjacent to the terminal entrance.

Rest Room Stops

While providing assistance to a disabled passenger in going to, from and between gates, a carrier must, upon request, make a brief stop at the entrance to a rest room, including an accessible rest room when requested, if such a stop is available on the route and the stop can be made without unreasonable delay. (§ 382.91(b), (b)(1), and (b)(2)).

Luggage Assistance

As a carrier, you also must assist passengers who are unable to carry their luggage because of their disability with transporting their luggage for check-in at the ticket counter or gate, or as carry-on aboard the aircraft. This obligation exists only if the passenger requests such assistance and can make credible verbal assurances of his or her inability to carry the item because of his or her disability. If the passenger's verbal assurances are not credible, you may require the passenger to produce documentation as a condition of providing the service. (§ 382.91(d)).

Animal Relief Area Escort

At airports located in the United States, you must in cooperation with the airport operator, provide for escorting a passenger with a service animal to an animal relief area if the passenger requests. (§ 382.91(c)). See Section D above.

Connecting Assistance

The arriving carrier (the one that operates the first of the two flights that are connecting) is responsible for connecting assistance for passengers with a disability moving within the terminal. As an employee/contractor of the arriving carrier, on request, you must provide assistance to a passenger with a disability in making flight connections and providing transportation between gates. The arriving carrier may mutually agree with the carrier operating the departing connecting flight (the second flight of the two flights) that the departing carrier will provide the connecting assistance. However, the carrier operating the arriving flight *is ultimately responsible*

for ensuring that connecting assistance is provided to the passenger with a disability. (§ 382.91(a)). This service must be provided regardless of whether the passenger has a single ticket showing a connection or has two separate tickets for the journey.

Boarding and Deplaning Assistance

If assistance with boarding or deplaning, making flight connections, or transportation between gates is requested by or on behalf of a passenger with a disability, or offered by carrier personnel and accepted by the passenger, you must provide it.

More specifically, you must promptly provide, when needed and to the extent required by law, the following:

- Services personnel,
- Ground wheelchairs,
- Accessible motorized carts,
- On-board wheelchairs,
- Boarding wheelchairs, and/or
- Ramps or mechanical lifts.

(§ 382.95(a)).

At U.S. commercial service airports with 10,000 or more annual enplanements, as a carrier, you must provide boarding assistance using lifts or ramps where level-entry boarding and deplaning or accessible passenger lounges are not otherwise available. (§ 382.95(b)). This requirement applies to aircraft with a passenger seating capacity of 19 or more, with limited exceptions (float planes; Fairchild Metro; Jetstream 31 and 32; Beech 1900C and 1900D; Embraer EMB-120; and any other aircraft model the DOT determines unsuitable for boarding assistance by lift, ramp, or other suitable device). (§ 382.97).

On-Board Wheelchair Requirements

Aircraft with more than 60 passenger seats having an accessible lavatory must be equipped with an operable on-board wheelchair. The Aerospatiale/Aeritalia ATR-72 and the British Aerospace Advanced Turboprop (ATP) that have seating configurations between 60 and 70 passenger seats are exempt from this requirement. (§ 382.65(a)).

On-board wheelchairs must be equipped with—

- Footrests,
 - Armrests which are movable or removable,
 - Adequate occupant restraint systems,
 - A backrest height that permits assistance to passengers in transferring,
 - Structurally sound handles for maneuvering the occupied chair, and
 - Wheel locks or another adequate means to prevent chair movement during transfer or turbulence.
- (§ 382.65(c)(1)).

The on-board wheelchair must be designed to be compatible with the maneuvering space, aisle width, and seat height of the aircraft on which it is to be used, and to easily be pushed, pulled, and turned in the cabin environment by carrier personnel. (§ 382.65(c)(2)).

If the aircraft being used for the flight has more than 60 passenger seats but does not have an accessible lavatory, you must provide an on-board wheelchair upon request for a passenger who can use the inaccessible lavatory but cannot reach it from his or her seat without the use of an on-board wheelchair. You may require the passenger to provide up to 48 hours' advance notice and check in 1 hour before the check-in time for the general public when requesting the on-board wheelchair under these circumstances. (§ 382.65(b)) and 382.27(c)(7)).

Compliance Dates for On-Board Wheelchairs

Foreign carriers were required to meet the requirements for an on-board wheelchair by May 13, 2010. U.S. carriers were required to meet these requirements by May 13, 2009.

Assembly and Disassembly of Passenger's Wheelchairs

You must permit a passenger with a disability to provide written instructions and should accept oral advice from the passenger concerning the disassembly and reassembly of the passenger's wheelchair. (§ 382.129(a)).

In addition, consistent with good customer service, you should treat the passenger with a disability with courtesy and respect at all times by keeping the passenger informed about any problems or delays in providing personnel or equipment in connection with an accommodation.

I. Safety Assistants

Except under limited circumstances, you cannot require a passenger with a disability to be accompanied by a safety assistant. (§ 382.29(a)). See Chapter 4, Section E, Safety Assistants, for a discussion of the Part 382 requirements for a safety assistant.

Chapter 4: Assisting Air Travelers With Disabilities at the Airport

- A. Accessibility of Terminal Facilities and Services
- B. Security Screening for Air Travelers With a Disability
- C. Air Travelers With a Disability Moving Through the Terminal and Changing Airplanes
- D. Accommodations for Air Travelers With Vision or Hearing Impairments
- E. Safety Assistants

A. Accessibility of Terminal Facilities and Services

Airports Located in the United States Accessibility

All terminal facilities owned, leased, or controlled by carriers at U.S. airports, must be readily accessible to and usable by individuals with disabilities, including individuals who use wheelchairs. (§ 382.51(a)(1)). For example, terminals must provide accessible intra- and inter-terminal transportation systems, such as moving sidewalks, shuttle vehicles, and people movers. (§ 382.51(a)(3)).

As a carrier, you must ensure that there is an accessible route (one meeting the requirements of the Americans with Disabilities Act Accessibility Guidelines (ADAAG)) between the gate and boarding area when an accessible passenger lounge or other level entry boarding and deplaning is not available to and from an aircraft. For example, there must be an accessible path on the tarmac between the gate and the aircraft when level-entry boarding is not available. (§ 382.51(a)(2)).

Animal Relief Areas

In cooperation with the airport operator and in consultation with local service animal training organizations, you must provide animal relief areas for service animals that accompany passengers departing, connecting, or arriving at an airport on your flights. (§ 382.51(a)(5)).

The national and international service animal organizations below have directories of training organizations on their Web sites that you and the airport operator can use to find the nearest service animal training organization. Such groups are often able to put airlines and airports in touch with sources of the necessary technical expertise on establishing relief areas.

- American Dog Trainers Network. Web site address: <http://www.inch.com/~dogs/service.html>.

- Assistance Dogs International. Web site address: <http://www.assistedogsinternational.org/membersstatecountry.php>.

If the Department's Aviation Enforcement Office received a complaint alleging that an animal relief area was not available or not being properly maintained, the carrier involved would ultimately be responsible for ensuring these areas are available and maintained, with respect to terminal facilities the carrier owns, leases or controls. However, the actual establishment of the animal relief area, as well as its maintenance, could be

handled contractually with the airport operator since several carriers could be using the same designated animal relief area.

Relief Area Location. Although not specifically required by Part 382, you and the airport operator may wish to consider the benefits of establishing animal relief areas both inside and outside the secure area (for example, to accommodate passengers with short connection times, to minimize time needed for escort service or passenger convenience). In establishing animal relief areas inside the secure area, you and the airport operator should coordinate closely with the Transportation Security Administration (TSA) and the Customs and Border Protection (CBP) offices serving the airport to ensure that the animal relief area can be used consistent with TSA and CBP procedures.

Establishing a Relief Area. Factors to consider in establishing relief areas include the size and surface material of the area, maintenance, and distance to the relief area, which could vary based on the size and configuration of the airport. The best solution based on these factors could vary from airport to airport and therefore involvement of all the stakeholder groups in the planning is critical (for example, airline, airport, service animal training organization, TSA, and CBP).

Considerations for designating and constructing areas safe for humans and animals include:

(1) Designate relief areas solely for that purpose. This helps keep the area free of hazards and distractions, and helps prevent the spread of waste contamination.

(2) Establish relief areas that are:

(a) Accessible to passengers with all types of disabilities;

(b) Of a size adequate for larger dogs to use;

(c) Minimal travel distance to and from the gate for passengers making connecting flights; and

(d) Equipped with adequate lighting to enhance usability and security.

(3) Keep the area clean (for example, free of broken glass, bottle caps, and trash). When feasible, the area should also be free of loud noises and strong odors.

(4) Use a gravel or sand surface for relief areas. Gravel can be disinfected adequately to reduce the chance of germs being spread between animals or carried outside of the relief area.

(5) Install adequate drainage to allow cleaning by regularly hosing down the relief area.

(6) Provide trash cans for waste disposal that are emptied frequently.

Note: There is a requirement for carriers to consult with service animal training organizations in establishing animal relief areas. Where there is no local service animal training organization, the Department of Transportation (DOT) would consider consultation with a national or international service animal training organization to satisfy the requirement.

You should advise passengers who request you provide them with assistance to an animal relief area of the location of the animal relief area. Additionally, if requested, it would be your responsibility to accompany a passenger traveling with a service animal to and from the animal relief area. The requirement to provide animal relief areas was effective on May 13, 2009, for U.S. carriers and May 13, 2010, for foreign carriers.

High-Contrast Captioning on Televisions and Other Audio-Visual Displays

You must enable captioning at all times on all televisions and other audio-visual displays that are capable of displaying captions and that are located in any portion of the terminal where passengers have access. The captioning must be high contrast if feasible. (§ 382.51(a)(6)).

You must replace any televisions and other audio-visual displays providing passengers with safety briefings, information, or entertainment that do not have high-contrast captioning capability with equipment that has such

capability when you replace such equipment in the normal course of operations and/or whenever areas of the terminal in which such equipment is located are undergoing substantial renovation or expansion. (§ 382.51(a)(7)). If you newly acquire televisions and other audio-visual displays for passenger safety briefings (for example, safety briefings on the location of airport terminal emergency exists), information, or entertainment, on or after May 13, 2009, this equipment must have high-contrast captioning capability. (§ 382.51(a)(8)).

Compliance Dates

U.S. Carriers	You must meet the facility accessibility requirements described above at airports located in the United States on or after May 13, 2009, as specified in this section.
Foreign Carriers	You must meet the facility accessibility requirements described above at airports located in the United States by May 13, 2010.

(§ 382.51(c)).

Airports Located in a Foreign Country

The ADAAG requirements do not apply to foreign airports. However, Part 382 contains a performance requirement to ensure that passengers with a disability can readily use the facilities the carrier owns, leases, or controls at the airport. (§ 382.51(b)). As a foreign carrier, this requirement applies only at terminal facilities for flights covered by the rule.

Moving Through the Terminal

You must ensure that a passenger with a disability is able to move readily through the terminal facilities, to get to or from the gate and any other area from which passengers board your carrier's aircraft. This includes moving on the tarmac between the gate and the aircraft when an accessible passenger lounge is not available, and moving to and from an aircraft when level-entry boarding is not available. (§ 382.51(b)(1)). You may meet this obligation through any combination of accessible facilities, auxiliary aids, equipment, the assistance of personnel, or other means consistent with ensuring the safety and dignity of the passenger (for example, lifting a passenger in a boarding chair). (§ 382.51(b)(2)).

Compliance Dates

Foreign and U.S. carriers must have met the facility accessibility requirements described above at foreign airports by May 13, 2010. (§ 382.51(c)).

Restrictions

As a carrier, you must not subject passengers with disabilities to

restrictions that do not apply to other passengers unless otherwise permitted for certain services such as the advance notice requirements under § 382.27. You must not—

- (1) Restrict the movements of individuals with disabilities within terminals;
- (2) Require them to remain in a holding area or other location to receive assistance, such as transportation, services, or accommodations;
- (3) Mandate separate treatment for individuals with disabilities except as required or permitted under Part 382 or other applicable Federal requirements; or
- (4) Make passengers with disabilities wear badges or other special identification (unless the passenger gives consent). (§ 382.33).

Automated Kiosks

If existing automated kiosks are inaccessible (for example, to wheelchair users because of height or reach issues or to passengers with vision impairments because of issues related to visual displays or touch screens), as a carrier, you must provide equivalent service for persons with disabilities who cannot use the kiosks for ticketing and obtaining boarding passes. For example, you could allow a passenger who cannot use the kiosk 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. (§ 382.57).

B. Security Screening for Air Travelers With a Disability

Security Screening for Passengers With a Disability Same as for Other Passengers

All passengers including those with disabilities are subject to TSA security screening requirements at U.S. airports. Passengers at foreign airports, including those with disabilities, may be subject to security screening measures required by the law of the country where the airport is located. (§ 382.55(a)).

If, as a carrier, you want to go beyond mandated security screening procedures, you must conduct the security screening of a passenger with a disability in the same manner as any other passenger. You must not subject a passenger with a disability who possesses a mobility aid or other assistive device used for independent travel to a special screening procedure if the passenger and the aid or assistive device clears security without activating the security system. (§ 382.55(b)(2)).

Screening Mobility Aid or Assistive Device

Your security personnel may examine a mobility aid or assistive device if, in their judgment, it may conceal a weapon or other prohibited item even if the mobility aid or assistive device does not activate the security system.

In the event a passenger's mobility aid or assistive device activates the security system, you may conduct the security search of the passenger with a disability in the same manner as you would for other passengers who activate the system. (§ 382.55(b)(2)(ii)).

Passenger With a Disability Requests Private Screening

You must not require a private security screening for a passenger with a disability for any reason different from the reasons other passengers would be subject to a private security screening. (§ 382.55(b)(3)). However, if a passenger with a disability requests a private security screening in a timely manner, you must provide it in time for the passenger to board the flight. (§ 382.55(c)). If you use technology to conduct a security screening of a passenger with a disability without the need for a physical search of the person, you are not required to provide a private screening. (§ 382.55(d)).

Finally, under certain circumstances, safety considerations may require you to exercise discretion in making the above decisions. You must always seek assistance from the appropriate designated personnel, including your carrier's Complaints Resolution Official (CRO), in making such a decision.

C. Air Travelers With a Disability Moving Through the Terminal and Changing Airplanes

Moving Through the Terminal (Terminal Entrance to Gate and Gate to Terminal Entrance)

As a carrier, you must provide, or ensure the provision of, assistance to a passenger with a disability in moving from the terminal entrance through the airport to the gate for a departing flight or from the gate to the terminal entrance if the passenger or someone on behalf of the passenger requests such assistance or you offer and the passenger with a disability accepts the assistance. This obligation extends to a vehicle drop-off or pick up point adjacent to the terminal entrance and key functional areas of the terminal such as ticket counters and baggage claim. This does not include satellite parking or car rental drop-off areas that are not adjacent to the terminal entrance.

While providing assistance to a disabled passenger in going to, from and between gates, a carrier must, upon request, make a brief stop at the entrance to a rest room, including an accessible rest room when requested, if such a stop is available on the route and the stop can be made without unreasonable delay. (§ 382.91(b), (b)(1), and (b)(2)).

As a carrier, you also must assist passengers who are unable to carry their luggage because of their disability with transporting their luggage for check-in at the ticket counter or gate, or as carry-on aboard the aircraft. This obligation exists only if the passenger requests

such assistance and can make credible verbal assurances of his or her inability to carry the item because of his or her disability. If the passenger's verbal assurances are not credible, you may require the passenger to produce documentation as a condition of providing the service. (§ 382.91(d)).

At airports located in the United States, you must in cooperation with the airport operator, provide for escorting a passenger with a service animal to an animal relief area if the passenger requests. (§ 382.91(c)).

Connecting Assistance

The arriving carrier (the one that operates the first of the two flights that are connecting) is responsible for connecting assistance for passengers with a disability moving within the terminal. As an employee/contractor of the arriving carrier, on request, you must provide assistance to a passenger with a disability in making flight connections and providing transportation between gates. The arriving carrier may mutually agree with the carrier operating the departing connecting flight (the second flight of the two flights) that the departing carrier will provide the connecting assistance. However, the carrier operating the arriving flight *is ultimately responsible* for ensuring that connecting assistance is provided to the passenger with a disability. (§ 382.91(a)). This service must be provided regardless of whether the passenger has a single ticket showing a connection or has two separate tickets for the journey.

When needed and to the extent required by law, you must provide the services of personnel, and the use of ground wheelchairs, accessible motorized carts, boarding wheelchairs, and/or onboard wheelchairs, and ramps or mechanical lifts. This requirement is discussed in more detail in Chapters 3 and 5. (§ 382.95(a)).

Note: A carrier and its contractors must not leave a passenger with a disability who has requested assistance unattended in a wheelchair or other device in which the passenger is not independently mobile for more than 30 minutes. This requirement applies even if another person such as a family member or personal care attendant accompanies the passenger unless the passenger with a disability clearly waives this obligation. (§ 382.103)).

Example 1: A passenger who developed a progressive onset of weakness in his legs during his flight requests a wheelchair when he deplanes to assist him in making his connecting flight. What should you do?

Because the arriving carrier is responsible for providing transportation to a passenger with a disability to the gate of his connecting flight, you must provide timely assistance so

he makes it to his connecting flight. In addition, you should keep in mind that you cannot leave the passenger unattended for more than 30 minutes in a wheelchair or other device if the passenger is not independently mobile. For purposes of section 382.103, a person who is not independently mobile is a person who would not be able to get up from the wheelchair and maneuver to areas of the terminal such as the restroom or a food service provider without mobility assistance. As a matter of good customer service, you should treat the passenger with courtesy and respect throughout this process.

Example 2: As an arriving air carrier, you provide connecting assistance to a passenger with a disability to the departing carrier's gate. Upon arrival at the departing carrier's gate, you and the passenger find there is no staff at any of the gates yet. What should you do?

If the departing carrier has no staff at any of its gates in that terminal at the time the passenger is brought there (for example, if the passenger missed the second flight because the first flight was delayed), you should advise the passenger of this fact and offer to take the passenger to a staffed location such as the departing carrier's ticket counter, or office location. You should not leave the passenger at an unstaffed gate unless he or she has agreed.

If no departing carrier staff can be located, you should advise the passenger of this fact. If the passenger asks to be taken to the terminal entrance or motor vehicle pickup point (for example, to go to a hotel) you must take the passenger to the terminal entrance or pickup point. If the passenger wishes to remain at the airport, your obligation to an ambulatory passenger ends. For a nonambulatory passenger, you are subject to § 382.103, which states that a carrier must not leave a passenger who has requested connecting assistance unattended in a wheelchair or comparable device, in which the passenger is not independently mobile, for more than 30 minutes. In that situation, you must take the passenger to one of your staffed locations, or at a minimum, you must check on the passenger at least every 30 minutes. Your obligation to provide connecting assistance ends 12 hours after you began the connecting assistance for that passenger, or when the airport closes, or when your carrier's operations at that airport end, whichever comes first.

D. Accommodations for Air Travelers With Vision or Hearing Impairments

U.S. Carriers

As a U.S. carrier, you must ensure that passengers with a disability, including those who identify themselves as persons needing visual or hearing assistance, receive *prompt* access to the same information that you provide to other passengers at each gate, ticketing area, and customer service desk that you own, lease, or control at any U.S. or foreign airport. In this context, "prompt" means that you must provide this information to passengers

with vision or hearing impairments as close as possible to the time that the information is transmitted to the general public. However, you are not required to provide information if it would interfere with employee safety and security duties under applicable Federal Aviation Administration (FAA) and foreign government regulations. (§ 382.53(a)(1)).

This requirement applies to a wide variety of areas such as—

- Flight safety,
- Ticketing,
- Flight check-in,
- Flight delays or cancellations,
- Schedule changes,
- Boarding information,
- Connections,
- Gate assignments,
- Claiming baggage,
- Volunteer solicitation on oversold

flights (for example, offers of compensation for surrendering a reservation),

- Individuals being paged by airlines,
 - Aircraft changes that affect the travel of persons with disabilities, and
 - Emergencies (for example, fire, bomb threat) in the terminal.
- (§ 382.53(b)).

Foreign Carriers

As a foreign carrier, you must make the same information listed in the section above available to passengers with a disability, including those who identify themselves as needing visual or hearing assistance, at each gate, ticketing area, and customer service desk that you own, lease, or control at any U.S. airport.

At foreign airports, you must make this information available only at gates, ticketing areas, or customer service desks that you own, lease, or control and only for flights that begin or end in the United States. (§ 382.53(a)(2)).

Claiming Baggage

As a carrier, you must provide information on claiming baggage to passengers who identify themselves as persons needing visual or hearing assistance no later than you provide this information to other passengers. (§ 382.53(c)). For example, if you provide information on baggage collection to arriving passengers at the baggage claim area, you can comply with this requirement by giving the information to self-identifying passengers onboard the aircraft or at the gate.

TTY (Text Telephone)

U.S. Carriers

As a U.S. carrier, if you provide a telephone reservation and information

service to the public, you must make that service available to individuals who use a TTY (by your own TTY, voice relay (real time text streaming to an Internet connected computer), or other available technology) to permit individuals with hearing impairments to obtain this information. See also Chapter 3, Section E, Accommodations for Air Travelers with Hearing Impairments.

You must make access to the telephone reservation and information service available to TTY users during the same hours as the telephone service is available for the general public. The same wait time and surcharges must apply to TTY users as for non-TTY users of the telephone information and reservation service. In addition, you must ensure that the response time for answering calls and the level of service provided to TTY users is substantially equivalent to the response time and level of service provided to non-TTY users. These requirements ensure that passengers with hearing impairments are on a substantially equivalent footing with the rest of the public in their ability to communicate with carriers about information and reservations by telephone. (§ 382.43(a)(1)–(3)).

If you list the telephone number of your information and reservation service for the general public, you must list your TTY number if you have one. If you do not have a TTY number, you must state how TTY users can reach your information and reservation service for example using a voice relay service. The media used to state these information and reservation services may include Web sites, ticket jackets, telephone books, and print advertisements. (§ 382.43(a)(4)).

The TTY or similar technology also must be available if the passenger with a hearing impairment wishes to contact a CRO. (§ 382.151(b)). You should be familiar with the use of the TTY or similar technology and its locations within the terminal.

In addition, you should be aware of the option of using a relay operator to connect one party who is using a TTY and one party who is using a voice-operated telephone. By dialing 711 on any telephone in the United States (TTY or voice operated) you can contact a relay operator who serves as a “go between” between a person using a TTY and a person using a voice-operated telephone. (<http://www.fcc.gov/cgb/consumerfacts/711.html>).

Example: A passenger with a hearing impairment complains to you about another employee whom she believes has been rude and humiliated her when she asked for an alternate means of communication because

she was unable to hear what was being said to passengers waiting to board the flight. What should you do?

As a matter of good customer service, you should apologize to the passenger for any insensitive behavior on the part of carrier personnel. In general, you should carefully observe and gauge the manner in which this passenger with a hearing impairment communicates. When communicating, try to use the same method, for example, speaking slowly, communicating in writing or with the assistance of an aid or device. Try to find out what happened and what information she missed by communicating in an accessible manner.

You may also consult with a CRO about sign language or other assistive services that might be available for this passenger. If the CRO is made available by telephone and the passenger requests, TTY service must be available for the passenger to communicate directly with the CRO. You should also notify the appropriate crewmembers to ensure that the transmittal of information onboard the aircraft is accessible to this passenger.

Foreign Carriers

As a foreign carrier, you must have met the TTY requirements that apply to U.S. carriers and described above in this section by May 13, 2010. (§ 382.43(a)(5)). However, these requirements apply only with respect to information and reservation services for flights that begin or end at a U.S. airport. TTY services apply only with respect to flights for which reservation telephone call from the United States are accepted.

Exception

The TTY requirements do not apply to carriers in any country in which the telecommunications infrastructure does not readily permit compliance. (§ 382.43(b)).

E. Safety Assistants

You should know that you must not require a passenger with a disability to be accompanied by another person in order to travel unless you determine that a safety assistant is essential for safety. (§ 382.29(a) and (b)). Similarly, even if you have concerns about a passenger's ability to access the lavatory or the passenger's need for extensive special assistance which airline personnel are not obligated to provide (for example, assistance in eating, assistance within the lavatory, or provision of medical services (§ 382.113)), you must not require the passenger with a disability to travel with a safety assistant or personal care attendant except in the circumstances described below. (§ 382.29(f)).

Safety Considerations May Necessitate a Safety Assistant

In the interest of safety, you may require that a passenger with a disability travel with a safety assistant if the passenger is—

- Traveling on a stretcher or in an incubator (where such service is offered);
- Because of a mental disability is unable to comprehend or respond appropriately to safety instructions including the safety briefing;
- Severely mobility impaired and would be unable to assist in the passenger's own evacuation from the aircraft; or
- Severely hearing and vision impaired such that the passenger could not adequately communicate with airline employees with regard to the safety briefing and assist in his or her evacuation in the event of an emergency. (§ 382.29(b)(1) through (b)(4)).

Carrier Contends That Attendant Is Required for Safety Reasons and Passenger Disagrees

If after careful consultation with a CRO and any other personnel you are required to consult, you determine that a passenger with a disability must travel with a safety assistant for one of the reasons described in § 382.29(b) (see list above), then you may require that the passenger be accompanied by a safety assistant. If your decision differs from the self-assessment of the passenger with a disability, then you must not charge for the transportation of the safety assistant. (§ 382.29(c)(1)). In addition, if a seat is not available on the flight for the safety assistant whom you have determined to be necessary and, as a result, the passenger with a disability with a confirmed reservation is unable to travel on the flight, the passenger with a disability is eligible for denied boarding compensation. (§ 382.29(d)). For purposes of determining whether a seat is available for a safety assistant, you must consider the assistant to have checked in at the same time as the passenger with a disability. (§ 382.29(e)).

In the event you choose to recruit a safety assistant to accompany the passenger with a disability, even though carriers are not obligated to do so (§ 382.29(c)(1)), you may ask—

- (1) An off-duty airline employee traveling on the same flight to function as the safety assistant;
- (2) A volunteer from among the other customers traveling on the flight and offer compensation, such as a free ticket, for their assistance; or

(3) The passenger with a disability to provide his or her own safety assistant and you must offer a free ticket to that assistant.

If the safety assistant is accompanying a passenger traveling on a stretcher or in an incubator, the assistant must be capable of attending to the passenger's in-flight medical needs. (§ 382.29(b)(1)). Otherwise, the purpose of the assistant is to assist the passenger with a disability in an emergency evacuation. Other than the situation described above when a safety assistant is accompanying a passenger who is on a stretcher or in an incubator, the assistant is not obligated to provide personal services to the passenger with a disability such as assistance with eating or accessing the lavatory.

Example: A passenger with quadriplegia¹³ traveling alone approaches the check-in counter. You have concerns as to whether the passenger's mobility impairment is so severe that he would be unable to assist in his own evacuation from the aircraft. What should you do?

You should begin by communicating with the passenger to determine the extent of his mobility impairment. As a matter of good customer service, you should treat the passenger with courtesy and respect at all times. Under the circumstances, you should contact a CRO to discuss the situation and determine whether a safety assistant must accompany the passenger. You and the CRO could begin by asking the passenger about his mobility impairment and whether he would be able to assist with his own evacuation in the event of an emergency. More specifically, you should determine whether the passenger has the functional ability to make any progress toward an exit during an evacuation. If the passenger tells you that his ability to assist in his evacuation is limited to shouting, "Help!" you and the CRO should explain to him that the issue is whether he can physically assist in his own evacuation. If not, he must travel with a safety assistant.

If, after speaking with the passenger, you and the CRO determine that a safety assistant must accompany him because of his severe mobility impairment, you should explain this requirement to the passenger. Next, at the carrier's option you can explain that he can choose someone to serve as his safety assistant or you can assist him by recruiting an off-duty employee or another passenger on the flight to serve as his safety assistant. You must not charge for the transportation of the safety assistant if selected by the passenger who is disabled. You also should explain that the purpose of the safety assistant is to assist in the case of an emergency evacuation.

Passenger With a Disability Voluntarily Chooses To Travel With a Personal Care Attendant or Safety Assistant

If a passenger with a disability chooses to travel with a personal care

attendant or safety assistant that you, the carrier, do not require, or you feel that the passenger requires a safety assistant and the passenger agrees, then you may charge for the transportation of that attendant or assistant. (§ 382.29(c)(3)).

Advance Notice Requirements for Individuals With Both Severe Hearing and Vision Impairment

As a carrier, you may require a passenger with both a severe hearing and vision impairment who wishes to travel without a safety assistant to notify you at least 48 hours in advance. However, you still must accommodate the passenger to the extent practicable even if the passenger fails to meet the 48-hour advance notice requirement. (§ 382.29(b)(4)).

You may require an individual with a severe hearing and vision impairment to travel with a safety assistant if you determine that the means of communication that the individual plans to use with you does not (1) satisfy the communication objectives for a safety briefing contained in Part 382 or (2) enable the individual to assist in his or her own evacuation. You also may require the individual with a severe hearing and vision impairment to travel with a safety assistant if the individual proposes to communicate by finger spelling and you cannot within the time following the individual's notification arrange for the availability on the passenger's flight of a flight crewmember who can communicate using this method. (§ 382.29(c)(2)).

Chapter 5: Assisting Air Travelers With Disabilities Boarding, Deplaning, and During the Flight

- A. Aircraft Accessibility
- B. Seating Assignments and Accommodations
- C. Boarding and Deplaning Assistance
- D. Stowing and Treatment of Assistive Devices
- E. Services and Information Provided in the Cabin
- F. Safety Briefings

A. Aircraft Accessibility

Aircraft Accessibility Features

To assist passengers with a disability, it is important for you to understand how aircraft have been made accessible to accommodate those passengers. You should be aware that Part 382 addresses the following features depending on the size of the aircraft:

- Movable aisle armrests,
- Priority stowage space for passenger wheelchairs,
- Accessible lavatories,

¹³ Quadriplegia means the inability to move all four limbs or the entire body below the neck.

- On-board wheelchairs, and
 - New in-flight audio-visual services.
- Each of these features is discussed separately in detail below.

Movable Aisle Armrests

Aircraft with 30 or more passenger seats must be equipped with movable aisle armrests on at least one-half of the aisle seats in rows in which passengers with mobility impairments are permitted to sit under Federal Aviation Administration (FAA) or applicable foreign safety regulations (§ 382.61(a)), and you are not required to provide movable armrests on aisle seats of rows in which a passenger with a mobility impairment is not allowed to use by an FAA safety regulation. (§ 382.61(b)).

You must configure aircraft cabins or establish an administrative system to ensure that passengers with a disability can readily identify and obtain seating in rows with movable aisle armrests. You must provide this information to passengers by specific seat and row number. (§ 382.61(d))

Note: The revised rule removes the infeasibility provision prescribed in old

§ 382.21(a)(1)(ii). Therefore, carriers can no longer claim it is not feasible to install movable armrests on aisle seats in which the carrier has chosen to install, for example, integrated food trays, controls for in-flight video systems, etc.

(1) Seat Ratio

Movable aisle armrests must be provided proportionately in all classes of service in the aircraft cabin. (§ 382.61(c)).

Example: If 80 percent of the aisle seats in which passengers with mobility impairments may sit are in economy/coach class, and 20 percent are in first class, then 80 percent of the movable aisle armrests must be in economy/coach class, with 20 percent in first class.

However, if the seats without a movable aisle armrest in a given class of service can be accessed by a passenger using a wheelchair by horizontally transferring the passenger from a boarding wheelchair to the aircraft seat without lifting the passenger over the aisle armrest or other obstacle, a carrier may request an equivalent alternative determination.

(2) Replacement Seats

As a carrier, you are not required to retrofit cabin interiors of existing aircraft to include movable aisle armrests. However, when you remove aisle seats on existing aircraft and replace them with newly manufactured seats, one-half of the replacements seats must have movable armrests. (§ 382.61(e)).

Example: As a carrier, if you replace four aisle seats with newly manufactured seats, then two of these seats must have movable armrests. If you are replacing an odd number of seats, a majority of the newly manufactured aisle seats installed must have movable armrests. If you replace five aisle seats with newly manufactured seats, at least three of the newly manufactured aisle seats must have movable armrests. However, you are not required to have more than 50 percent of the aisle armrests in the cabin be moveable. Suppose your aircraft has 40 aisle seats, 20 of which have movable armrests, and you decide to replace 5 aisle seats that do not have movable armrests with newly manufactured seats. These new seats do not have to include movable armrests.

3. Compliance Dates

U.S. Carrier	Movable aisle armrests	You must meet the requirements for movable aisle armrests, except for the seat ratio requirement, for all new aircraft you operate that were initially ordered after April 5, 1990, or delivered after April 5, 1992.
	Replacement aisle seats	You must meet this requirement for all new aircraft you operate that were initially ordered after April 5, 1990, or delivered after April 5, 1992.
	Seat ratio	You must meet these requirements for new aircraft you operate that were initially ordered after May 13, 2009, or are delivered after May 13, 2010. (§ 382.61(f)).
Foreign Carrier	Movable aisle armrests	You must meet these requirements, except with respect to replacement aisle seats discussed above, for new aircraft you operate that were initially ordered after May 13, 2009, or are delivered after May 13, 2010. (§ 382.61(f)).
	Seat ratio.	
	Replacement aisle seats	You must meet the requirement regarding replacement aisle seats for seats ordered after May 13, 2009. (§ 382.61(g)).

Priority Storage Space for Passenger Wheelchairs

(1) Aircraft With 100 or More Passenger Seats

You must have a priority storage space in the cabin to stow at least one typical adult-sized folding, collapsible, or break-down manual wheelchair. This priority storage space must be at least 13 inches by 36 inches by 42 inches (13 x 36 x 42) to allow storage of the wheelchair without removing its wheels or disassembling the wheelchair. (§ 382.67(a)). Priority storage space for a passenger's wheelchair in the cabin is

important for two reasons. It is often more convenient for a passenger to have a wheelchair close by when he or she leaves the aircraft and to be able to get as close as possible to the aircraft door for boarding. In addition, passengers with disabilities have the same concerns as other passengers about the loss of or damage to their property when it is checked.

The priority storage space for a passenger's wheelchair must be in addition to the normal under seat and overhead compartment storage available for carry-on items. (§ 382.67(b)). In addition, if you use a closet or other

storage area for stowing the passenger's wheelchair, the wheelchair has *priority* over other possible uses including passenger bags and crewmember luggage.

You should be aware that this requirement for priority space to stow a passenger's manual wheelchair is *in addition* to requirements you may have to carry an onboard wheelchair as discussed below. (§ 382.65).

Note: Carriers are not required to carry electric wheelchairs in the cabin.

(2) Compliance Dates

U.S. Carrier	You must meet the priority stowage space requirement for new aircraft you operate ordered after April 5, 1990, or delivered after April 5, 1992.
Foreign Carrier	You must meet the priority stowage space requirement for new aircraft ordered after May 13, 2009, or delivered after May 13, 2010.

Accessible Lavatories

(1) Aircraft With More Than One Aisle

Aircraft with more than one aisle that are equipped with lavatories must have at least one lavatory accessible to passengers with a disability. This accessible lavatory must allow the passenger to enter the lavatory, maneuver within it and use all of its facilities, and leave the lavatory using the aircraft's on-board wheelchair. The accessible lavatory must afford privacy

to persons using the on-board wheelchair equivalent to that afforded ambulatory persons. The lavatory must include door locks, accessible call buttons, grab bars, faucets and other controls and dispensers usable by passengers with a disability including wheelchair users and persons with manual impairments. (§ 382.63(a)).

You are not required to retrofit aircraft with accessible lavatories. However, if you replace an inaccessible lavatory on an existing twin-aisle aircraft, you must

install an accessible lavatory. (§ 382.63(c)).

(2) Aircraft With One Aisle

You are not required, but may provide, an accessible lavatory on aircraft with only one aisle. (§ 382.63(b)).

You are not required to retrofit aircraft with one aisle with accessible lavatories. (§ 382.63(c)).

(3) Compliance Dates

U.S. Carrier	You must meet all of the accessible lavatory requirements for new aircraft you operate that were initially ordered after April 5, 1990 or delivered after April 5, 1992. (§ 382.63(d) and (e)).
Foreign Carrier	You must meet the requirement for an accessible lavatory for new aircraft you operate that were initially ordered after May 13, 2009 or delivered after May 13, 2010. (§ 382.63(d)). However, beginning May 13, 2009, if you replace an inaccessible lavatory on an existing twin-aisle aircraft you must install an accessible lavatory. (§ 382.63(e)).

On-Board Wheelchairs

(1) Aircraft With More Than 60 Passenger Seats With an Accessible Lavatory

You must provide an on-board wheelchair if the aircraft has an accessible lavatory. You must meet this requirement whether or not an accessible lavatory is required as discussed above. However, the Aerospatiale/Aeritalia ATR-72 and the British Aerospace Advanced Turboprop (ATP) configured with between 60 and 70 passenger seats are exempt from this requirement. (§ 382.65(a)).

(2) Aircraft With More Than 60 Passenger Seats With an Inaccessible Lavatory

Some passengers with limited mobility may be able to use an inaccessible lavatory on their own but may need assistance to the lavatory in an on-board wheelchair. Therefore, in an aircraft with *more than 60 passenger seats* and an inaccessible lavatory, you must provide an on-board wheelchair if a passenger with a disability informs you that he or she is able to use an inaccessible lavatory but cannot reach the lavatory from a seat without the use of an on-board wheelchair. You may require the passenger to provide up to 48 hours' advance notice and check-in 1 hour before the check-in time for the general public to receive this service. (§§ 382.65(b) and 382.27(c)(7)).

In summary, with respect to *all aircraft with more than 60 passenger seats*, regardless of the age of the aircraft, you must provide an on-board wheelchair if—

(1) The aircraft has an accessible lavatory, or

(2) A passenger with a disability gives up to 48 hours' notice that the passenger can use an inaccessible lavatory. (§ 382.65)(b)).

You should be aware that if a particular aircraft is required to have an on-board wheelchair and a storage space within the cabin for at least one passenger's manual folding wheelchair, that aircraft must have storage spaces for *both* of these wheelchairs and must accommodate *both* of these wheelchairs.

(3) Compliance Dates

U.S. Carrier	You must have met the on-board wheelchair requirements by May 13, 2009.
Foreign Carrier	You must have met the on-board wheelchair requirements by May 13, 2010.

New In-Flight Audio-Visual Services

(1) High-Contrast Captioning

As a carrier, you must ensure that all *new* videos, DVDs, and other audio-visual displays used on the aircraft for safety and informational purposes are high-contrast captioned. This requirement, however, does not apply to informational audio-visual displays that were not created under your control. (§ 382.69(a)). The Department of

Transportation (DOT) considers audio-visual displays as being created under your control even if a contractor or other third party produces the display as long as you have significant editorial control or approval of the video's content. The use of the word "new" means that you are not required to replace or retrofit existing audio-visual displays.

"High-contrast captioning" means captioning that is at least as easy to read as white letters on a consistent black

background. (§ 382.3). The captioning must be in the predominant language or languages that you use to communicate with passengers on the flight. If you communicate in more than one language on the flight (for example, French and English on a Canadian carrier), the captioning must be in all of these languages. (§ 382.69(a)).

(2) Compliance Dates

As a U.S. or foreign carrier, you must have met the high-contrast captioning requirement with respect to audio-visual displays used for safety purposes by November 10, 2009. (§ 382.69(b)). The captioning requirement with respect to informational displays was effective January 8, 2010. (§ 382.69(d)).

Maintaining Accessibility and Replacing or Refurbishing the Aircraft Cabin

You must maintain aircraft accessibility features in proper working order. (§ 382.71(a)). In addition, any replacement or refurbishing of the aircraft cabin must not reduce existing accessibility to a level below that required under Part 382 for new aircraft. (§ 382.71(b)). As discussed above, if you replace an inaccessible lavatory on an existing twin-aisle aircraft, you would have to install an accessible lavatory, unless the aircraft is already equipped with another accessible lavatory. (§ 382.63(c)). If you remove aisle seats on existing aircraft and replace them with newly manufactured seats, one-half of the replacements aisle seats must have movable armrests. (§ 382.61(e)).

B. Seating Assignments and Accommodations

Only Safety Affects Seat Assignments

You must not exclude a passenger with a disability from any seat or require a passenger with a disability to sit in a particular seat based on the passenger's disability, except to comply with FAA or foreign government safety requirements. (§ 382.87(a)). If a passenger's disability results in an involuntary active behavior that would result in you properly refusing to provide the passenger transportation under § 382.19 and the passenger could be transported safely if seated in another location, you must offer the passenger that particular seat location as an alternative to refusing to provide the passenger transportation. (§ 382.87(c)).

Example: A passenger with Tourette's syndrome (a neurological disability that manifests itself by episodes of shaking, muscle tics, and/or spasms and uncontrolled shouting, barking, screaming, cursing, and/or abusive language) approaches the check-in desk, self-identifies himself as a passenger with a disability, and presents brochures explaining the disability to the agent. What should you do?

If safety is not an issue, you cannot restrict this passenger from any particular seat, including an exit row. If this passenger's disability causes him to physically touch other passengers or crewmembers involuntarily, safety considerations could require that he be seated in his own row, if available, as an alternative to you refusing to provide the passenger transportation.

However, if the physical and/or verbal manifestations of this passenger's Tourette's syndrome jeopardize the safety of others it might create a safety concern. For example, if the passenger with Tourette's syndrome involuntarily touches or strikes other passengers or crewmembers, or the passenger is yelling "fire" or yelling continuously. Continuous yelling could hinder other passengers from hearing important crewmember announcements. Therefore, refusing to provide the passenger with transportation could be appropriate.

Although the passenger's conduct may create an uncomfortable experience for other passengers, if the involuntary behavior is only an annoyance and not a safety concern, you must not restrict the passenger with Tourette's syndrome from any seating assignment.

Required Seating Accommodations for Passengers With Disabilities—Four Specific Situations

If a passenger self-identifies as a passenger with a disability, there are four specific situations where you must provide a particular seating accommodation. You must meet this requirement for passengers who self-identify as having certain qualifying disabilities if the passenger requests the accommodation and the type of seating accommodation requested exists on the particular aircraft. (§ 382.81). The four situations are as follows:

(1) *Moveable armrests.* If the passenger uses an aisle chair to access the aircraft and cannot readily transfer over a fixed aisle armrest, you must provide a seat in a row with a movable armrest. You must train your personnel in the location and proper use of the movable aisle armrests, including appropriate transfer techniques. In addition, you must ensure that aisle seats with movable armrests are clearly identifiable. (§ 382.81(a)).

Note: Some carriers that have requested and been granted equivalent alternative determination approvals for the movable armrest requirement have training requirements stated in the grant of approval that exceed those required under Part 382.

(2) *Adjoining seats.* You must provide an adjoining seat for a person assisting a passenger with a disability if the passenger is—

- Traveling with a personal care attendant who will be performing functions during the flight that airline personnel are not required to perform (for example, assistance with eating); (§ 382.81(b)(1))
- Visually impaired and traveling with a reader/assistant who will be performing functions for the passenger during the flight; (§ 382.81(b)(2))
- Hearing impaired and traveling with an interpreter who will be

performing functions for the passenger during the flight; (§ 382.81(b)(3)) and

- Traveling with a safety assistant that you have required under § 382.29. (§ 382.81(b)(4)).

(3) *Service animal.* If the passenger with a disability is traveling with a service animal, you must provide either a bulkhead seat or a seat other than a bulkhead seat, depending on the passenger's request. (§ 382.81(c)).

Note: A passenger traveling with a service animal would not be permitted to sit in the bulkhead seat if that seat is located in an emergency exit row. (14 CFR 121.585).

(4) *Fused or immobilized leg.* If the passenger has a fused or immobilized leg (that is, an inability to bend the leg as opposed to a passenger whose legs are paralyzed but which can bend at the knees), you must provide a bulkhead seat or other seat with more legroom than other seats on the side of the aisle that best accommodates the passenger's disability. (§ 382.81(d)).

Seat Assignment Methods

The type of seat assignment method your carrier uses will determine how you are to provide appropriate seating accommodations. You should be aware of your carrier's method for managing seat assignments and be able to explain it to passengers with disabilities and the general passenger population depending on the circumstances.

Advance Seat Assignments

Carriers providing advance seat assignments may use either the block seating method or the priority seating method to provide the seating accommodations discussed above. (§ 382.83(a)).

Block Seating Method

Carriers may block an adequate number of seats to be used by passengers who meet the requirements of § 382.81. (§ 382.83(a)(1)). If your carrier employs the block method, you must not assign these "blocked seats" to passengers other than the types of passengers entitled to the accommodation until 24 hours before the scheduled departure of the flight. (§ 382.83(a)(1)(i)). At any time up until 24 hours before the scheduled departure of the flight, you must assign a blocked seat to any passenger who qualifies for such a seating accommodation. (§ 382.83(a)(1)(ii)).

If a passenger with a disability who is entitled to a seating accommodation listed above does *not* make a request for the accommodation at least 24 hours before the scheduled departure of the flight, you must provide the requested seating accommodation to the extent

practicable, but you are not required to reassign a seat already assigned to another passenger to do so. (§ 382.83(a)(1)(iii)).

Example: A passenger with a service animal calls and speaks to you, a reservation agent, several days before the scheduled departure of her flight and requests a bulkhead seat. What should you do?

The aircraft has four bulkhead seats, two of which are blocked under your carrier's reservation system for passengers traveling with a service animal or passengers with an immobilized leg. Because the passenger has requested the seating accommodation more than 24 hours in advance of the scheduled departure of the flight, you must assign one of the blocked bulkhead seats to this passenger with the service animal.

If, on the other hand, the passenger with the service animal requests the bulkhead seat within 24 hours of the scheduled departure of the flight, you must provide the bulkhead seat to the passenger and the service animal if available, but you are not required to reassign a bulkhead seat already assigned to another passenger.

Note: Part 382 requires carriers to block an adequate number of bulkhead seats for passengers with a fused or immobilized leg or a passenger traveling with a service animal. DOT's Office of Aviation Enforcement and Proceedings has interpreted "adequate" to mean, for example, (in the context of bulkhead seating) that if an aircraft has six total bulkhead seats, three on each side separated by the main aisle, an "adequate" number of bulkhead seats that must be blocked would be at least two of the six bulkhead seats.

Priority Seating Method

Carriers may designate an adequate number of priority seats for passengers with a disability who meet the requirements of § 382.81. (§ 382.83(a)(2)). Carriers that have chosen to use this seating method must provide notice to any passenger assigned to a priority seat (other than a passenger with a disability listed in § 382.81) that he or she may be reassigned to another seat if necessary to provide a seating accommodation required under Part 382. (§ 382.83(a)(2)(i)). A carrier may provide this potential reassessment notice through—

- Its computer reservation system,
- Verbal information provided by reservations personnel,
- Ticket notices,
- Gate announcements,
- Counter signs,
- Seat cards or notices,
- Frequent-flyer literature, or
- Other appropriate means.

(§ 382.83(a)(2)(ii)). You must assign a "priority seat" to a passenger with a disability entitled to such accommodation at the time the

passenger requests the accommodation. A carrier may require that the passenger check in and request the seating accommodation at least 1 hour before the standard check-in time for the flight. (The purpose for this advance check-in is to allow carriers sufficient time to conduct any seat reassignment that this method sometimes requires.) If all of the designated priority seats have been assigned to other passengers who do not have qualifying disabilities, you must reassign the seats of the other passengers to accommodate the passenger with a disability entitled to the seating accommodation. (§ 382.83(a)(2)(iii)).

If a passenger with a disability who is entitled to a seating accommodation does *not* check in at least 1 hour before the standard check-in time for the general public, you must provide the requested seating accommodation, to the extent practicable, but you are not required to reassign a seat assigned to another passenger to do so. (§ 382.83(a)(2)(iv)).

Example: A passenger with an immobilized leg requests a bulkhead seat and checks in 2 hours before the standard check-in time for the general public. Your carrier employs the "priority" seating method and has designated two of the six bulkhead seats on the aircraft as priority seating. The four non-priority bulkhead seats have been previously assigned to passengers without any disabilities. One of the two priority bulkhead seats has already been assigned to a passenger traveling with a small service animal who requested the seating accommodation and checked in at least 1 hour before the standard check-in time for the general public. The second priority bulkhead seat has been assigned to a passenger who also checked in 2 hours before the flight and who uses an aisle chair to board but prefers the bulkhead seat to a seat in a row with a movable armrest. What should you do?

The passenger who uses the aisle chair to board should have received notice that he has been assigned a "priority" seat. Because that passenger does not have a fused or immobilized leg or is not traveling with a service animal, the passenger is not automatically entitled to a "priority" bulkhead seat. (However, that passenger would be entitled to a "priority" seat in a row with a movable armrest if he or she requested such a seat and checked in at least 1 hour before the standard check-in time for the flight.) The passenger using the aisle chair to board should have been notified that you might have to reassign his seat if a passenger with a service animal or a passenger with an immobilized leg requests a "priority" bulkhead seating accommodation and checks in at least 1 hour before the standard check-in time for the flight. Therefore, the passenger using the aisle chair should be reassigned to a seat in a row with a movable armrest and the passenger with the immobilized leg should

be assigned to the second "priority" bulkhead seat.

Seat Assignment Only on the Day of Flight

If a carrier does not provide seat assignments until the day of the flight, the carrier must use the priority seating method for passengers with a disability who meet one of the four criteria described in § 382.81. (§ 382.83(b)).

No Advance Seat Assignments (Use the Preboarding Method)

If your carrier does not provide advance seat assignments including the ability to pay for a seat in advance,¹⁴ you must allow passengers who identify themselves as passengers with a disability in need of a seating accommodation to preboard before all other passengers, including other passengers entitled to preboard, and select the seats that best meet their needs. (§ 382.83(c)).

Other Possible Seating Methods

If your carrier wishes to use a method of assigning seats to passengers with disabilities other than one of the methods provided for in Subpart F of Part 382, it must receive written approval from DOT. (§ 382.83(d)).

Seating Accommodations for Passengers With a Disability—Other Than One of Those Specifically Discussed Above

Carriers are also required to provide seating accommodations for passengers who self-identify as having a disability other than one involving any of the four criteria discussed above, and who need a particular seat to "readily access and use" the carrier's services. (§ 382.85). (This is referred to as the catchall category). Carriers should evaluate a passenger's request for a seating accommodation covered by the catchall category based on a case-by-case analysis of the nature of the passenger's specific disability and the extent to which that disability necessitates the requested seating accommodation for the passenger to readily access the aircraft.

For example, if a passenger self-identified as being deaf or diabetic and requested a bulkhead seat assignment, a carrier would not be required to assign such a passenger to a bulkhead seat because the passenger is able to readily access a seat other than in a bulkhead row. On the other hand, a very large non-ambulatory passenger boarding with an aisle wheelchair whose size makes it very difficult for

¹⁴ If a carrier allows passengers to pay for advance seating, the carrier must use either the block or priority seating method.

him to fit down the main aisle would probably be entitled to an available bulkhead seat (provided that the bulkhead row is not an emergency exit row) because he could not otherwise readily access the aircraft.

Advance Seat Assignments

Block Seating Method (For the "Catchall" Category)

When a passenger with a disability, which does not meet one of the four specific criteria described in § 382.81 makes a reservation more than 24 hours before the scheduled departure time of a flight and the carrier uses the block seating method, the carrier is *not* required to offer one of the seats blocked for the passengers with disabilities who are specifically entitled to the seating accommodations described above in § 382.81. However, you must assign the passenger with a disability any seat not already assigned to another passenger that accommodates the passenger's needs, even if that seat is not available for assignment to the general passenger population at the time of the request. (§ 382.85(a)(1)(i)).

Example: A passenger with arthritis in his spine, making his back extremely stiff, calls a week before his flight and asks you, the reservation agent, for a bulkhead seat. He explains that it is much easier and less painful for him to access a bulkhead seat because he has to be lowered into the seat with assistance from another person, and that this process is much more difficult, if not impossible, in any row other than a bulkhead row. The aircraft has six bulkhead seats, two of which are "blocked" under your carrier's reservation system for passengers traveling with service animals or passengers with a fused or immobilized leg. One of the four remaining bulkhead seats is unassigned when he calls. What should you do?

Although your carrier normally reserves such seats for its frequent flier passengers, you must assign the remaining bulkhead seat to the passenger with arthritis in his spine because the seat was unassigned at the time of his request and he has a reasonable argument that he needs the bulkhead seat to readily access the aircraft.

Priority Seating Method (For the "Catchall" Category)

If your carrier uses the priority seating method, you must assign a passenger with a disability (which does not meet one of the four specific criteria described in § 382.81) any seat not already assigned to another passenger that accommodates the passenger's needs, even if that seat is not available for assignment to the general passenger population at the time of the request. Your carrier may require the passenger to check in 1 hour before the standard check-in time for the flight. If this passenger with a disability is assigned

to a designated priority bulkhead seat, the passenger is subject to being reassigned to another seat if necessary to provide a seating accommodation to a passenger with a disability entitled to and who requests a required seating accommodation described above. (§ 382.85(a)(2)).

Example: The same passenger, with arthritis in his spine, from the previous example, calls your carrier, asking for a bulkhead seat, but your carrier uses the "priority" seating method. The aircraft has six bulkhead seats, two of which are "priority" seats for passengers traveling with service animals or passengers with immobilized legs. At the time of the call, all four of the other "non-priority" bulkhead seats have been assigned to other passengers, but the two priority seats are unassigned. What should you, as a reservation agent, do?

You should assign the passenger with arthritis in his spine one of the two unassigned "priority" seats, but you must notify him that he may have his "priority" seat reassigned if another passenger who is specifically entitled to a "priority" seat requests one. On the day of the flight, a passenger with a service animal and a passenger with a fused leg arrive more than 1 hour before the standard check-in time for the same flight and request bulkhead seats. In this instance, you would inform the passenger with arthritis in his spine that his "priority" seat must be assigned to one of those passengers and that he must be moved to another seat. As a matter of good customer service, he may be assigned an aisle seat because it would be easier for him to access, or you could ask a passenger with a bulkhead seat who does not have a disability if he or she would mind trading seats with the passenger.

No Advance Seat Assignments (Use the Preboarding Method)

If your carrier does not provide advance seat assignments including the ability to pay for an advance seating assignment,¹⁵ you must allow passengers who identify themselves as passengers with a disability in need of a seating accommodation to preboard before all other passengers, including other passengers entitled to preboard, and select the seats that best meet their needs. (§ 382.85(b))

Seat Assignments Only on the Day of Flight (For the "Catchall" Category)

If your carrier does not assign seats to passengers until the day of the flight, it must use the priority seating method for passengers with a disability. (§ 382.85(c)).

¹⁵ As previously noted, if a carrier allows passengers to pay for advance seating, the carrier must use either the block or priority seating method.

Other Issues Relating to Seat Assignments

As a carrier, you—

- Must comply with all FAA and applicable foreign government safety requirements, including exit row seating requirements in 14 CFR 121.585, when responding to requests from passengers with a disability for seating accommodations. (§ 382.87(b)).

- Must not deny transportation to any passenger on a flight in order to provide a seat accommodation required by Subpart F to a passenger with a disability. (§ 382.87(e)).

- Cannot reassign the seat of a passenger with a disability who has received a seat assignment as required by Subpart F even if another passenger with a disability requests the same seat unless the first passenger agrees to the reassignment. (§ 382.87(d)) The only exception is when you assign a designated "priority" seat to a passenger with a disability who is not required to receive a seating accommodation specified in § 382.81. (§ 382.85(a)(2)(ii)).

- Are not required to provide more than one seat per ticket or a seat in a class of service other than the one the passenger has purchased to accommodate a passenger with a disability who requests a seating accommodation. (§ 382.87(f)).

Example: A passenger with an economy/coach class ticket and an immobilized leg (with a full-leg cast) arrives more than 1 hour before the standard check-in time for his flight. He arrives at the check-in counter, explains his disability, and insists that he is entitled to a seat in first class to accommodate his extended leg. Your carrier uses the priority seating method for advance seat assignments. What should you do?

Because the passenger has identified himself as a passenger with a disability and requested a seat assignment to accommodate his disability, you must provide a bulkhead seat or other seat with more legroom than other seats on the side of the aisle that best accommodates him. While first class seats generally have more legroom than economy/coach class seats, you are not required to provide a seat in a class of service other than the one the passenger has purchased to accommodate the passenger. You should explain politely and respectfully that under the law, you must seat him in either a bulkhead seat or an aisle seat in economy/coach class on the side of the aircraft that would best accommodate his leg. At his subsequent request for a bulkhead seat in economy/coach class, you must arrange to move another passenger from the bulkhead seat in economy/coach class and give it to the passenger with the immobilized leg unless the seats have already been assigned to passengers entitled to retain those seats under the rules discussed above. Although you are not required to do so, you may choose to seat him in a first class seat that would accommodate his immobilized leg.

As previously noted, some carriers now offer passengers the option of paying an extra fee for obtaining advance seat assignments for preferred seats that provide, for example, greater legroom than other seats in the same class of service. Such policies are permitted, provided that carriers also reserve (that is, block or prioritize) an adequate number of seats to comply with DOT rules providing seating accommodations for qualified individuals with disabilities at no extra cost to such passengers, as discussed above.

C. Boarding and Deplaning Assistance

Preboarding Passengers With a Disability

As a carrier, you 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. (§ 382.93) This obligation exists regardless of your preboarding policies for other passengers (for example, families traveling with small children). You are not obligated to make a general announcement about preboarding in the gate area for passengers with disabilities if you do not make preboarding announcements for other passengers. However, as a matter of general nondiscrimination principles, if a passenger self-identifies as needing preboarding and if you make a preboarding announcement in the gate area for other passengers you would have to make such an announcement for passengers with a disability.

General Obligations for Boarding and Deplaning Assistance

If a passenger with a disability requests assistance getting on or off an aircraft, or you or the airport operator offer assistance, and the passenger consents to the type of boarding or deplaning assistance offered, you must *promptly* provide such assistance. (§ 382.95(a)) In the case of deplaning a non-ambulatory passenger, if the passenger has provided advance notice that he or she will need wheelchair deplaning assistance to exit the aircraft and the carrier has documented the passenger's reservation record with a Special Service Request (SSR) notation to that effect, "promptly" means that personnel and an appropriate deplaning aisle wheelchair should be available to assist the passenger with a disability in exiting the aircraft as soon as the last ambulatory passenger has deplaned. If the passenger with a disability is able to walk off the aircraft along with the other passengers but needs a wheelchair to travel from the aircraft into the terminal, carrier personnel and a wheelchair should be waiting at the door of the

aircraft when the deplaning process begins.

The type of assistance you must offer includes the services of personnel and the use of wheelchairs, accessible motorized carts, ramps, or mechanical lifts as required under Part 382. (§ 382.95(a)). Be mindful that a wheelchair is not required or desired in all cases. A wheelchair may not be an appropriate assistive device in a particular situation. For example, a passenger with a vision impairment may request a sighted guide rather than a wheelchair, and requiring such a passenger to accept wheelchair service that is neither requested nor required to accommodate the passenger's disability would violate DOT's rule. (§ 382.11(a)(2)).

You must train employees to proficiency in the use of the boarding assistance equipment and procedures regarding the safety and dignity of passengers receiving boarding assistance. (§ 382.141(a)(1)(iii) and (b)) See Chapter 8: Personnel Training, for additional information on employee/contractor training requirements.

Boarding and Deplaning Assistance Where Level-Entry Boarding Is Unavailable

As a carrier operating aircraft with 19 or more passenger seats at U.S. commercial service airports with 10,000 or more annual enplanements, you must provide boarding and deplaning assistance to passengers with a disability using lifts or ramps if level-entry loading bridges or accessible passenger lounges are not available. (§ 382.95(b)). U.S. carriers have been required to provide level-entry boarding at such U.S. airports for many years, and foreign carriers have been required to provide it no later than May 13, 2011. See Appendix II for a discussion of the agreements carriers must have with airports for the provision of lifts where level-entry loading bridges are not available. (§ 382.99).

However, boarding assistance using a lift is not required on:

- Aircraft with fewer than 19 passenger seats;
- Float planes;
- The following 19-seat capacity aircraft models that are unsuitable for boarding assistance using a lift: the Fairchild Metro, the Jetstream 31 and 32, the Beech 1900 (C and D Models), and the Embraer EMB-120; or
- Any other aircraft model the DOT determines to be unsuitable for boarding and deplaning assistance by lift, ramp, or other suitable device. (§ 382.97(a) through (c)).

As a carrier at a U.S. airport that you own, lease, or control, you must ensure that there is an accessible route (one meeting the requirements of the Americans with Disabilities Act Accessibility Guidelines (ADAAG)) between the gate and boarding area whenever an accessible passenger lounge to and from an aircraft or other means of level-entry boarding and deplaning is not available. An "accessible route" essentially means that a passenger should be able to travel from the gate area to the tarmac level while remaining in a wheelchair, and does not include stairs, steps, or escalators. (§ 382.51(a)(2)).

As a carrier, you may require that a passenger seeking boarding and deplaning assistance using a lift or ramp check in for the flight 1 hour before the standard check-in time for the flight. However, if the passenger checks in after this time you must make a reasonable effort to accommodate the passenger and provide the boarding assistance using a lift or ramp if it would not delay the flight. (§ 382.99(d)).

When Level-Entry Boarding and Deplaning Is Not Required

When level-entry boarding and deplaning assistance is not required, you must still provide assistance to passengers with a disability in boarding and deplaning aircraft. (§ 382.101). For example, boarding and deplaning assistance using lifts is not required at smaller U.S. airports (that is, airports with less than 10,000 annual enplanements) or at any foreign airports; when severe weather or unexpected mechanical breakdowns prevent the use of a lift; or when you are using one of the unsuitable aircraft listed in the previous discussion. (§ 382.101(a), (b), (c), and (e)).

Boarding assistance must be provided by any available means to which the passenger consents. In such situations, you should present the various options available to the passenger. However, as discussed below, you must never physically hand-carry the passenger even if the passenger consents unless this is the only way to evacuate the passenger in the event of an emergency. (§ 382.101). If the passenger does not consent to the available means of boarding assistance, you should contact a Complaints Resolution Official (CRO).

Attending to Passengers in a Wheelchair

You may not leave a passenger unattended in a ground wheelchair, boarding wheelchair or other device in which the passenger is not independently mobile for more than 30 minutes. This requirement applies even

if another person, including a family member or personal care attendant, is accompanying the passenger unless the passenger explicitly consents. A person who is not independently mobile is a person who would not be able to get up from the wheelchair and maneuver to areas of the terminal such as the restroom or a food service provider without mobility assistance. (§ 382.103).

Except in an Emergency Evacuation, No Hand-Carrying of Passengers

Under no circumstance, except for emergency evacuations, should you hand-carry a passenger with a disability to provide boarding or deplaning assistance. Hand-carrying is defined as directly picking up the passenger's body in the arms of one or more carrier personnel to move the passenger from the tarmac level to the aircraft door for boarding or, vice versa, for deplaning. (§ 382.101).

Note: Transferring a passenger from a wheelchair to a boarding chair or a boarding chair to an aircraft seat is not considered hand-carrying a passenger, and is often required for passengers who are unable to conduct such transfers without assistance.

Example: A woman asks for assistance in boarding a flight with 30 passenger seats. General boarding for passengers is by a set of stairs on the tarmac. When she arrives at the gate and asks for boarding assistance, she is provided a boarding wheelchair, but you inform her that the mechanical lift is not working. The passenger tells you to physically pick her up and carry her up the stairs and onto the aircraft because she really needs to make the flight. What should you do?

Under the law, you must never physically hand-carry the passenger onto the aircraft. Hand-carrying is only appropriate in the case of an emergency evacuation. Even though the law states that a passenger with a disability must consent to the type of boarding assistance and she has requested to be hand carried, you must not hand-carry her onto the aircraft. Instead, you should contact a CRO for advice about options for alternative means of boarding the passenger. You and the CRO should explain to the passenger that, under the law, you are not permitted to physically hand-carry her onto the aircraft. In addition, you should explore other available options for assisting this passenger with boarding the aircraft, including carrying the passenger onto the aircraft in a boarding wheelchair or arranging for another flight with a working lift or a loading bridge. If the passenger consents to being carried onto the aircraft in the boarding wheelchair, you may do so. Regardless, you should notify the appropriate personnel that the mechanical lift is not functioning properly and arrange for repair as quickly as possible.

Connecting Assistance

If a passenger with a disability requests transportation between gates to

make a connecting flight, you must provide, or ensure the provision of, such assistance. If the arriving flight and departing flight are operated by different carriers, the carrier that operated the arriving flight has this responsibility. (§ 382.91(a)). Chapter 4: Assisting Air Travelers with Disabilities at the Airport, has a more detailed discussion of the assistance a carrier must provide to passengers with a disability who are moving within the airport terminal.

Airport Operators at Foreign Airports—Boarding, Deplaning, and Connecting Assistance

At some foreign airports, the airport operators rather than the carriers are responsible for providing boarding, deplaning, or connecting assistance for passengers. If the airport operator provides this assistance rather than carriers, you, as a carrier, may rely on the services provided by the airport operator. However, if the boarding, deplaning, or connecting services the airport operator provides are not sufficient to meet Part 382, you must supplement those services to ensure the assistance requirements are met. If you believe you are not legally permitted to supplement the airport operator's services, you may apply for a conflict of laws waiver under § 382.9. (§ 382.105).

D. Stowing and Treatment of Assistive Devices

You should be familiar with the regulatory requirements for storage and treatment of assistive devices used by passengers with a disability, including ventilators and respirators; spillable and nonspillable batteries; canes; and wheelchairs. (Part 382, Subpart I).

Storing Mobility Aids and Other Assistive Devices in the Aircraft Cabin

You must allow passengers with a disability to bring the following mobility aids and assistive devices into the aircraft cabin consistent with FAA, PHMSA, Transportation Security Administration (TSA or applicable foreign government requirements concerning safety, security, and hazardous materials:

- Manual wheelchairs, including folding or collapsible wheelchairs;
- Other mobility aids, such as canes, crutches and walkers; and
- Other assistive devices, such as prescription medications and the devices needed to administer them (such as syringes or auto-injectors); vision-enhancing devices; and portable oxygen concentrators (POCs), ventilators, and respirators that use nonspillable batteries as long as they comply with applicable safety, security

and hazardous materials rules. (§ 382.121(a)(1) through (a)(3)).

Note: Carriers are not required to permit passengers to bring electric wheelchairs, Segways, or scooters into the aircraft cabin.

You must not count mobility aids and other assistive devices brought on board the aircraft by a passenger with a disability toward your airline's limit for passenger carry-on baggage. (§ 382.121(b)). Wheelchairs and other assistive devices that cannot be stowed in the cabin must be stowed in the baggage compartment with priority over other cargo and baggage. (§ 382.125(a) and (b)). In addition, because carriers cannot charge for facilities, equipment, or services required under Part 382, no charges may be imposed for assistive devices brought into the cabin or checked or if a wheelchair or other assistive device exceeds the normal weight limit on checked baggage. (§ 382.31(a)).

Chapter 3: Assisting Air Travelers with Disabilities Planning a Trip, above, also discusses a carrier's obligations with regard to mobility aids and assistive devices.

Priority Stowage of Wheelchairs and Other Assistive Devices

A passenger with a disability who takes advantage of preboarding may stow his or her folding wheelchair in the aircraft's priority storage space (discussed above in Section A, *Aircraft Accessibility*) with priority over all other items. You must move items that carrier personnel have stowed in this area, including crewmember luggage and on-board wheelchairs, even if these items were stowed before the passenger boarded the aircraft. This includes items placed in this area on a previous leg of the flight. (§ 382.123(a)(1)). You must also allow passengers with a disability who preboard to stow other assistive devices in this area with priority over other items except wheelchairs.¹⁶ (§ 382.123(a)(2)).

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-serve basis with respect to other passengers' items. (§ 382.123(a)(3)).

If a passenger's wheelchair exceeds the dimensions of the priority storage space while folded but otherwise fully assembled but will fit if the wheels or other components are removed without the use of tools, you must remove those components and stow the wheelchair in

¹⁶ A carrier might require FAA approval to stow assistive devices other than a wheelchair in the priority stowage space.

the priority space. You must store the removed components in the areas provided for carry-on luggage. (§ 382.123(b)).

Note: The rule currently prohibits the use of the “seat-strapping” method of carrying a wheelchair in any aircraft you ordered after May 13, 2009, or which is delivered after May 13, 2011. (§ 382.123(c)). There is currently DOT rulemaking pending regarding the use of the “seat-strapping” method and whether this practice should be permitted. (76 FR 32107)¹⁷

Mobility Aids and Other Assistive Devices That Cannot Be Stowed in the Aircraft Cabin

You must stow mobility aids, including wheelchairs, and other assistive devices in the baggage compartment with priority over other cargo and baggage if an approved stowage area is not available in the cabin or the items cannot be transported in the cabin consistent with FAA, PHMSA, TSA, or applicable foreign government requirements. (§ 382.125(a)). You need to transport only those items that fit into the baggage compartment and can be transported consistent with FAA, PHMSA, TSA, or applicable foreign government requirements on stowage of items in the baggage compartment. (§ 382.125(b)). DOT recognizes there may be some circumstances in which it is not practical to stow an electric wheelchair or some other assistive device in the baggage compartment, and you are not required to do so if it would constitute an undue burden. (§ 382.13(c)). For example, some larger scooters may not fit in smaller aircraft.

If other passengers' items are removed from the aircraft to accommodate assistive devices, you must use your best efforts to ensure that the items are delivered to the passenger's destination on your next flight. The “next flight” may be a flight within 1 or 2 hours for domestic destinations or a matter of days with respect to some international destinations. (§ 382.125(b)).

When a passenger's wheelchair, other mobility aids, or other assistive devices cannot be stowed in the cabin as carry-on baggage, you must ensure these items

are timely checked and returned as close as possible to the door of the aircraft so that the passenger with a disability can use his or her own equipment, where possible, consistent with Federal regulations concerning transportation security and the transportation of hazardous materials. (§ 382.125(c)(1)). If, on the other hand, a passenger with a disability requests that these items be returned at the baggage claim area instead of at the door of the aircraft, you must do so. (§ 382.123(c)(2)). To ensure the timely return of a passenger's wheelchair, other mobility aids, or other assistive devices, they must be among the first items retrieved from the baggage compartment. (§ 382.125(d)).

Example: A passenger with multiple sclerosis is one of many passengers on a flight who is informed that the flight is cancelled because of mechanical problems. It is late at night and the carrier has announced that the passengers will be provided a hotel room for the night and rescheduled on a flight leaving the following morning. The passenger with multiple sclerosis approaches you when she hears the announcement and explains that she needs access to her checked luggage because it contains her syringes and medication for her multiple sclerosis, which she must take on a daily basis. What should you do?

The passenger's syringes and medication would be considered assistive devices. (§§ 382.3 and 382.121(a)(3)). Because the passenger requested the return of her assistive device, you must return it to her if no extenuating circumstances prohibit the return of the items, for example, the carrier placed the baggage on an earlier flight to the passenger's final destination. (§ 382.125(c)). As a matter of customer service, you may also advise such passengers (for example, through the carrier's Web site or other consumer information materials) that your carrier recommends to all of its passengers who require such medication or other items for medical necessity to bring a carry-on bag containing the medication or other items on board. Such medication carry-on bags would not be counted toward the passenger's carry-on baggage allowance.

Battery-Powered Mobility Aids

As a carrier, you must accept a passenger's battery-powered wheelchair or other similar mobility device, including the battery, as checked baggage unless baggage compartment size and aircraft airworthiness considerations prohibit it. (§ 382.127(a)).

Check-In and Advance Notice Requirements (for Passengers With Battery-Powered Mobility Devices)

Aircraft with 60 or more passenger seats. You may require that the passenger check in for the flight 1 hour before the check-in time for the general public. However, even if the passenger

does not check in within this time, you must make a reasonable effort to accommodate the passenger and transport the battery-powered wheelchair or other similar mobility aid provided it would not delay the flight. (§ 382.127(b)).

Aircraft with fewer than 60 passenger seats. You may require a passenger with a disability to provide up to 48 hours' advance notice and check in 1 hour before the check-in time for the general public if the passenger wishes transportation of an electric (battery-powered) wheelchair. (§ 382.27(c)(4)).

Battery Handling (for Wheelchairs, Scooters, and Other Mobility Devices Using Traditional Spillable or Nonspillable Battery Technology)¹⁸

You must not require that the battery be removed and separately packaged if the—

- Manufacturer has labeled the battery on a wheelchair or other similar mobility device as nonspillable, or
- For a spillable battery, the battery-powered wheelchair can be loaded, stored, secured, and unloaded in an upright position.

However, you must remove and package separately any battery that (1) is inadequately secured to a wheelchair or (2) if the battery is spillable and it is contained in a wheelchair that cannot be loaded, stowed, secured and unloaded in an upright position consistent with DOT hazardous materials regulations. Whenever your carrier is required to remove and provide hazardous material packaging for a battery, your carrier may require a passenger to provide up to 48 hours' advance notice and check in 1 hour before the standard check-in time. (§ 382.27(c)(5)). A damaged or leaking battery should not be transported. (§ 382.127(c)).

Finally, you must not disconnect the battery on a wheelchair or other mobility device if the battery is nonspillable and it is completely enclosed within a case or compartment integral to the design of the device unless you are required to do so under FAA, PHMSA, or foreign government safety regulations. (§ 382.127(e)).

When it is necessary to detach a battery from a wheelchair or other

¹⁷ Pursuant to JetBlue Airways' petition to stay the effectiveness of 14 CFR 382.67 and 14 CFR 382.123(c), the Office of the Assistant General Counsel for Aviation Enforcement and Proceedings will not enforce the requirement that aircraft ordered after May 13, 2009, or delivered after May 13, 2010, have a priority space in the cabin of sufficient size to stow a passenger's manual folding wheelchair as required by section 382.67 and will allow carriers to continue using seat-strapping, as permitted by the Federal Aviation Administration or, if applicable, foreign safety authorities, until the rulemaking process is complete. See DOT-OST-2010-0115.

¹⁸ PHMSA has several rules that govern the carriage of battery-powered devices as checked baggage. 49 CFR 175.10(a)(15) regulates non-spillable battery powered devices as checked baggage; 49 CFR 175.10(a)(16) regulates spillable battery powered devices as checked baggage; and, 49 CFR 175.10(a)(17) regulates lithium ion battery powered devices as carry-on or checked baggage. See FN 18 below. Note that Part 382 never requires that carriers allow battery powered wheelchair in the cabin as carry-on baggage.

mobility device, you must provide packaging for the battery, if requested, and package the battery consistent with appropriate hazardous materials regulations. However, you are not required to use packaging materials or devices you do not normally use for this purpose. (§ 382.127(d)). You must not charge for such packaging. (§ 382.31(a)). You must not drain batteries. (§ 382.127(f)).

If the physical size of a cargo compartment does not permit you to safely carry a wheelchair, other mobility aid, or assistive device upright without the risk of serious damage to the wheelchair, aid, or device, or the carriage of such a mobility aid in a small baggage compartment causes a load imbalance that violates weight and balance safety requirements, you may legitimately decline transportation of the item on the flight. However, you should assist the passenger in identifying a flight using an aircraft that can accommodate the wheelchair, aid, or device.

Assembly and Disassembly of Wheelchairs, Mobility Aids, and Assistive Devices

You must permit passengers with a disability to provide written instructions concerning the disassembly and reassembly of their wheelchairs, other mobility aids and other assistive devices. (§ 382.129(a)). When you disassemble these items, you must reassemble them and ensure their prompt return to the passenger with a disability. In addition, you must return a wheelchair, other mobility aid or other assistive device to the passenger in the same condition in which you received it. (§ 382.129(b)).

Passenger-Supplied Electronic Respiratory Assistive Devices

U.S. carriers conducting passenger service (except for on-demand air taxi operators)

You must permit a passenger with a disability to use the following passenger-supplied electronic respiratory assistive devices in the passenger cabin *during all phases of flight* on all aircraft designed with a maximum passenger seating capacity of more than 19 seats:

- Ventilators;
- Respirators;
- Continuous positive airway pressure (CPAP) machines; and
- FAA-approved POCs.

You must allow such devices to be used in the cabin during air transportation if they—

- Meet applicable FAA requirements for medical portable electronic devices,

- Display a manufacturer's label indicating such compliance (see Note on labeling below), and

- The device can be stowed and used in the cabin consistent with applicable TSA, FAA, and PHMSA regulations. (§ 382.133(a)(1) and (a)(2))¹⁹

Carrier personnel should inspect the device's label at the departure gate to ensure the device is labeled properly and that the passenger has an adequate number of batteries (that is, 150 percent of the maximum expected duration of the flight) for the flight and that they are properly packaged.)

Foreign Carriers Conducting Passenger Service (Except Operations Equivalent to a U.S. Carrier On-Demand Air Taxi Operation)

You must permit passengers with a disability to use the electronic respiratory assistive devices listed above (ventilator, respirator, CPAP machine, or POC of a kind equivalent to an FAA-approved POC for U.S. carriers) during flight in the passenger cabin of aircraft, originally designed with a maximum passenger seating capacity of more than 19 seats during operations to, from or within the United States. However, this requirement does not apply to foreign operations that are equivalent to on-demand air taxi operations by U.S. carriers. (§ 382.133(b)).

You must permit the use of such devices if they—

- Meet requirements for medical portable electronic devices established by your foreign government (or if no such requirements exist you may apply applicable FAA requirements for U.S. carriers),
- Have a manufacturer's label indicating such compliance (see Note on labeling below), and
- The device can be stowed and used in the cabin consistent with TSA, FAA

¹⁹For applicable PHMSA regulations regarding "portable electronic devices" that use cells or batteries, see 49 CFR 175.10(a)(18). This rule is not specific to disability assistive devices. DOT recognizes that the International Civil Aviation Organization (ICAO) states that portable medical electronic devices containing lithium metal or lithium-ion batteries may be carried by passengers for medical use but "no more than two spare batteries may be carried in carry-on baggage." DOT's Pipeline and Hazardous Material Safety Administration (PHMSA) rule currently does not contain a limit on the number of lithium metal or lithium-ion batteries that may be carried by passengers for medical use. Therefore, DOT currently require carriers through its disability regulation to allow a passenger to transport in carry-on baggage as many spare lithium metal or lithium-ion batteries as needed for medical use subject to the gram content restrictions stated in the PHMSA regulation cited above. U.S. and foreign carriers are obligated to comply with the current PHMSA regulation unless a conflict of law request has been filed and approved by DOT.

and PHMSA regulations and the safety and security regulations of your foreign government. (§ 382.133(b)(1) through (b)(3)).

Carrier personnel should inspect the device's label at the departure gate to ensure the device is labeled properly and that the passenger has an adequate number of batteries for the flight and that they are properly packaged.²⁰

Note: Since the issuance of revised Part 382 on May 13, 2008, some carriers have denied passengers the use of POCs onboard the aircraft because the devices did not have a manufacturer's label indicating that the device complies with the standards of RTCA/DO-160 or other applicable FAA or foreign requirements for portable medical electronic devices, even though the POC has been approved by the FAA for in-flight use. The DOT strongly encourages carriers to allow passengers to use any such FAA-approved POC if the conditions in Special Federal Aviation Regulation No. 106 (SFAR 106) for use of portable oxygen concentrator systems onboard aircraft are followed even if the device has not been labeled.²¹ (See DOT Notice on this issue at http://airconsumer.ost.dot.gov/rules/Notice_10_28_09.pdf). Under SFAR 106, the FAA reviews the tests of POCs and determines whether the POCs meet safety requirements for medical portable electronic devices and are safe for use in-flight subject to certain conditions. The FAA specifically lists any POC brands and models that it deems acceptable for use onboard aircraft in SFAR 106. (14 CFR part 121, SFAR 106). (A list of FAA-approved POCs can be found on the FAA's Web site at http://www.faa.gov/about/initiatives/cabin_safety/portable_oxygen/).

Chapter 3, *Assisting Air Travelers with Disabilities Planning a Trip*, also discusses passenger-supplied electronic respiratory assistive devices. Specifically, Chapter 3 discusses the information a carrier must provide during the reservation process to passengers with a disability who wish to use such devices during a flight and the conditions a passenger must meet to bring the device on the aircraft.

Baggage Liability Limits

On domestic U.S. flights the baggage liability limits (14 CFR Part 254, *Domestic Baggage Liability Limits*), do

²⁰In regards to lithium ion battery-powered respiratory devices, PHMSA has no prohibition or limitation on the number of batteries a passenger is allowed to carry on to power their respiratory device. PHMSA's rules differ from the ICAO standards which permit only two extra batteries. As PHMSA has not adopted the same rule, U.S. carriers are obligated to allow a passenger to bring the lithium-ion batteries on-board as long as they are packaged according to PHMSA standards. Foreign carriers are also obligated to carry the lithium-ion batteries unless there is a conflict of law.

²¹The Use of Passenger-Supplied Electronic Respiratory Assistive Device on Aircraft, October 28, 2009. See http://airconsumer.dot.gov/rules/notice_10_28_09.pdf. The notice also covers other electronic respiratory assistive devices.

not apply to loss, damage, or delay concerning wheelchairs, other mobility aids, or other assistive devices. Rather, the basis for calculating the compensation for lost, damaged, or delayed mobility aids, including wheelchairs, or other assistive devices must be the original purchase price of the device. (§ 382.131).

Note: Baggage liability limits for international travel, including flights of U.S. carriers, are governed by the Montreal Convention and other international agreements instead of 14 CFR part 254.

You also must not require a passenger with a disability to sign a waiver of liability for damage to or loss of a wheelchair or other assistive device, although you may make notes about preexisting damage or the condition of these items to the same extent you do this for other checked baggage. (§ 382.35(b)).

Example: A passenger with a battery-powered wheelchair with a spillable battery arrived for his domestic flight and carrier personnel determined that the wheelchair could not be loaded, stored, secured, and unloaded in an upright position in the cargo compartment of the aircraft. Therefore, the appropriate personnel removed the battery and stored the battery and wheelchair as checked baggage. When the passenger arrives at his destination and the battery is reconnected, it is done incorrectly and the entire electronic circuit board of the wheelchair is severely damaged, rendering the wheelchair temporarily unusable. What should you do?

As a matter of good customer service, you should apologize to the passenger for the problem and the resulting inconvenience. In addition, you should explain to the passenger that the carrier will compensate him for the damaged wheelchair in an amount based on the original purchase price of the device. If, for example, the passenger provides you with documentation that the original cost of the wheelchair was \$10,000 and verification that it cost \$2,900 to be repaired, the carrier would pay the passenger or the repair company \$2,900 to cover the cost of the wheelchair repair. Repair costs in excess of the original cost of the wheelchair need not be paid. The passenger could also recover from the carrier reasonable costs associated with the rental of a wheelchair during the repair period or while awaiting a new wheelchair.

E. Services and Information Provided in the Cabin

Services on Aircraft

You must provide certain services within the aircraft cabin when requested by a passenger with a disability or when offered to and accepted by a passenger with a disability. Specifically, you must provide assistance:

- Moving to and from a seat as part of boarding and deplaning;

- Preparing for eating, such as opening packets and identifying food;
- If there is an on-board wheelchair, using the on-board wheelchair to enable the passenger to move to and from the lavatory (if requested, this could involve transferring the passenger from a seat to an aisle chair);

- Moving a passenger who is semi-ambulatory to and from the lavatory, without lifting or carrying the individual;

- Ensuring effective communication with passengers with vision or hearing impairments so that these passengers have timely access to information you provide to other passengers, such as information about weather, on-board services, flight delays, and connecting gates at the next airport; and

- Stowing and retrieving carry-on items, including mobility aids and other assistive devices stowed in the cabin (a passenger must self-identify as an individual with a disability needing such assistance). (§ 382.111).

Example 1: A passenger using an aisle chair for boarding asks for help storing her carry-on item in the overhead compartment because, as is apparent, her disability prevents her from being able to reach up to the overhead compartment. What should you do?

You must either assist the passenger directly or indicate that you will find the appropriate employee to assist her in stowing her carry-on bag in the overhead compartment.

Example 2: A passenger who walks onto the plane for an evening flight with a rolling carry-on bag asks for help lifting his bag and putting it in the overhead storage compartment. What should you do?

Because he has not identified himself as, and it is not obvious that he is, a passenger with a disability, you may want to ask for further clarification. Because, under the law, normally you cannot ask a passenger if he has a disability, you might ask, "Is there any particular reason you need assistance sir?" or "Are you unable to lift it yourself?" If, for example, the passenger explains that he has multiple sclerosis and his muscles are particularly fatigued at the end of the day and, therefore, he needs help lifting things, you must either assist the passenger directly or indicate that you will find the appropriate employee to assist him in stowing his carry-on bag. If, on the other hand, the passenger states that he is merely tired and does not feel like lifting the bag, he may be considered not to be a passenger with a disability and, therefore, you are not obligated to assist him. You may politely decline to assist him, depending on your carrier's policies regarding assistance with stowing carry-on items for passengers.

You are *not* required to provide extensive special assistance to passengers with a disability such as:

- Help with actual eating, for example, feeding the passenger;

- Assistance within the restroom or at the passenger's seat with elimination functions; or
- Provision of medical services. (§ 382.113(a) through (c)).

You cannot require that a passenger with a disability sit on a blanket or wear badges or other special identification. (§ 382.33(b)(3) and (b)(4)).

Timely and Complete Access to Information for Passengers With a Vision or Hearing Impairment

You must ensure that passengers with a disability who identify themselves as needing visual or hearing assistance have *prompt* access to the same information provided to other passengers on the aircraft. In this context, "prompt" means that you must provide this information to passengers with vision or hearing impairments as close as possible to the time the information is transmitted to the other passengers. However, you are not required to provide information if it would interfere with your crewmember safety duties under applicable FAA and foreign regulations. (§ 382.119(a)).

You must provide information on—

- Flight safety,
 - Procedures for takeoff and landing,
 - Flight delays,
 - Schedule or aircraft changes that affect the travel of passengers with a disability,
 - 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,
 - Individuals being paged, and
 - Emergencies (for example, fire or bomb threat).
- (§ 382.119(b)).

You may need to provide passengers with information not included on this list. In addition, if you use audio-visual displays to convey this information to passengers with hearing impairments you must provide high-contrast captioning as previously discussed in Section A, Aircraft Accessibility, of this chapter. (§ 382.69).

F. Safety Briefings

The FAA requires that you provide a safety briefing to all passengers before each takeoff. (§§ 121.571 and 135.117). With regard to passengers with a disability you must not require that the passenger demonstrate he or she has listened to, read, or understood the information presented, except to the extent that you impose such a requirement on all passengers with

respect to the general safety briefing or for an exit row briefing. In addition, you must not take any action adverse to a passenger with a disability on the basis the individual has not "accepted" the briefing. (§ 382.115(c)).

Individual Safety Briefings

Under certain circumstances, you must provide individual safety briefings to a passenger with a disability. (§ 382.115(a)). FAA regulations require you to conduct an individual briefing for each passenger who may need assistance to move expeditiously to an emergency exit. (§§ 121.571(a)(3) and (4) and 135.117(b)). You must brief the passenger and the attendant, if any, on the routes to the appropriate exit and on the most appropriate time to move toward the exit in the event of an emergency. In addition, you must ask the passenger and the attendant, if any, the most appropriate manner of assisting the passenger. You may offer an individual briefing to any other passenger. (§ 382.115(b)). When you conduct an individual safety briefing for a passenger with a disability, you must do so as inconspicuously and discreetly as possible. (§ 382.115(d)).

Safety Briefings for Passengers With Hearing Impairments

If you present safety briefings to passengers using audio-visual displays, you must ensure that the presentation is accessible to passengers with hearing impairments. (§ 382.115(e)). The accessibility requirements for onboard audio-visual safety presentations are discussed in Section A, Aircraft Accessibility of this chapter. (§ 382.69).

Chapter 6: Assisting Air Travelers With Disabilities With Their Complaints

- A. Complaints Resolution Officials (CROs)
- B. Handling Passenger Complaints
- C. ACCESS: An Approach for Resolving Complaints
- D. General Complaint Resolution Tips
- E. Categorizing, Recording and Reporting Written Disability-Related Complaints

A. Complaints Resolution Officials (CROs)

Carriers providing service using aircraft with 19 or more passenger seats must designate one or more CROs. (§ 382.151(a)). CROs are individuals trained as the carrier's experts in ensuring that carrier personnel correctly implement the Air Carrier Access Act (ACAA) requirements and Part 382. Each CRO must be trained and thoroughly familiar with (1) the rights of passengers with disabilities under Part 382 and (2) the carrier's procedures with respect to passengers with a disability. The primary purpose of having a CRO

is to resolve a passenger's problem as quickly as possible without using formal Department of Transportation (DOT) enforcement procedures and before a violation occurs.

(§§ 382.141(a)(7) and 382.151(d)).

A CRO must have the authority to resolve complaints by passengers with a disability on behalf of the carrier. Therefore, CROs must have the power to overrule decisions of other carrier personnel, except that they are not required to have the authority to countermand a safety decision made by the pilot-in-command. (§ 382.151(e)).

Availability of the CRO

As a U.S. carrier, you must make a CRO available at each airport you serve during all times you are operating at that airport. As a foreign carrier, you must make a CRO available either in person or by telephone or Text Telephones (TTY) at each airport serving flights you operate that begin or end at a U.S. airport. Part 382 recognizes that, in some cases, carriers operate flights infrequently and it is not necessary to have a CRO available during those times the carrier is not operating flights at that airport. (§ 382.151(b)).

Example: A foreign carrier may fly from Dulles International Airport to a foreign airport only at 5 p.m. on Mondays and Thursdays. On other days and on Monday and Thursday mornings, the foreign carrier would not have to make a CRO available at Dulles.

If the CRO is available by telephone, it must be at no cost to the passenger. In addition, if a telephone link to the CRO is used, a TTY service or a similarly effective technology must be available to passengers with hearing impairments. You must ensure that CRO services are available in the languages in which you provide services to the general public. (§ 382.151(b)).

B. Handling Passenger Complaints

If a passenger with a disability, or someone on behalf of a passenger with a disability, complains or raises a concern with you about discrimination, accommodations, or services with respect to passengers with a disability, and you do not immediately resolve the issue to the customer's satisfaction or provide a requested accommodation, you must immediately inform the passenger of the right to contact a CRO. You must then contact a CRO on the passenger's behalf or provide the passenger with the means to contact the CRO such as by providing a telephone, a phone card plus the location and/or phone number of the CRO. The requirement to provide this information applies to your carrier's reservation agents, contractors, and Web sites when

a passenger with a disability using those services complains or raises a concern about a disability related issue. (§ 382.151(c)). Carriers are responsible for making a passenger aware of the availability of a CRO anytime a disability-related concern is raised even if a passenger does not specifically ask to speak with a CRO.

Example: A passenger with a disability states that he wishes to carry-on and stow his personal folding wheelchair in the cabin as he has done on several similar flights on your carrier in the same market and on the same aircraft type. As the ticket agent, you inform the passenger that you are unsure if wheelchairs can be stowed in the cabin, but state "We have a CRO available that will be able to provide guidance. The CRO is our carrier's expert in disability related questions or concerns."

Complaints Made Directly to a CRO During the Trip

When a passenger with a disability makes a complaint directly to a CRO during the course of the trip (for example, over the telephone or in person at an airport), the CRO must promptly take action to resolve the problem as follows:

- If a passenger complains about a disability-related issue to a CRO *before* Part 382 has been violated, the CRO must promptly take action or direct other employees to take action to ensure compliance with the law. (§ 382.153(a)). However, as previously discussed, only the pilot-in-command of an aircraft has final authority to make decisions regarding safety onboard his or her aircraft and the CRO may not have the authority to override a pilot's decisions regarding safety. (§ 382.151(e)).
- If a passenger complains about a disability-related issue or alleges that a violation of Part 382 already has occurred and the CRO agrees that a violation has occurred, the CRO must provide the complaining passenger with a written statement summarizing the facts and the steps, if any, the carrier proposes to take in response to the violation. (§ 382.153(b)). Note, some carriers use their legal department to provide a written response.
- If a passenger alleges a violation of Part 382 but the CRO determines that no violation has occurred, the CRO still must provide a written statement including a summary of the facts and the reasons for that determination. (§ 382.153(c)).

Note: In both instances discussed above, the written statement responding to the passenger's complaint must either be provided in person to the passenger at the airport or it must be forwarded to the passenger within 30 calendar days of the complaint. The written statement must

inform the complaining passenger about his or her right to pursue DOT enforcement action under Part 382. (§ 382.153(d)).

Written Complaints Received After the Trip

Generally, as a carrier, you must respond to written complaints from passengers with a disability. Written complaints may be received by letter, facsimile, email, electronic instant messaging, and short message service (SMS) via the Internet. (§ 382.155(a)). In regards to complaints received through Facebook and Twitter, in the context of consumer complaints, the Department allows carriers to not respond to those complaints provided the carrier clearly indicates on the its primary page on Facebook and/or Twitter that it will not reply to consumer complaints on that site and directs the consumer to the carrier's mailing address and email or Web site location for filing written complaints. The Enforcement Office will adopt this policy for disability-related complaints as well. However, you are not required to respond to a written complaint postmarked or transmitted more than 45 days after the date of the incident, except complaints referred to you by DOT. (§ 382.155(c)).

You must provide your response in writing to the complaining passenger within 30 days of receiving his or her written complaint. Your response must describe how you resolved the complaint and must specifically admit or deny that a violation of Part 382 occurred. (§ 382.155(d)). As a matter of good customer service, you should provide all information regarding written complaints in a polite and respectful manner.

Depending on your carrier's determination, the response to a written complaint must include the following:

- If your carrier agrees that a violation has occurred, you must provide a written statement to the complaining passenger summarizing the facts and stating what steps, if any, your carrier

proposes to take in response to the violation. (§ 382.155(d)(1)).

- If your carrier denies a violation occurred, the written response must include a summary of the facts and your carrier's reasons under Part 382 for making the determination. (§ 382.155(d)(2)).

Note: As with the response to oral complaints, the response to a written complaint must inform the complaining passenger about his or her right to pursue DOT enforcement action under the law. (§ 382.155(d)(3)).

Responsibilities of Employees/Contractors Other Than the CRO

Each employee/contractor dealing with the traveling public should be trained to proficiency, as appropriate to the duties of the employee/contractor, on the legal requirements and the carrier's policies concerning the provision of air travel to passengers with disabilities. (§ 382.141). These employees/contractors must receive training on awareness about and appropriate responses to individuals with physical, sensory, mental, and emotional disabilities, including how to distinguish among the differing abilities of individuals with a disability. (§ 382.141(a)(2)). A discussion of employee/contractor training requirements can be found in Chapter 8: Personnel Training; and Appendix II on Airline Management Related Issues.

You should be familiar with your carrier's established procedures and the CRO's duties and responsibilities with respect to resolving a complaint raised by a passenger with a disability. You should convey this information to passengers with a disability under the appropriate circumstances.

When resolving complaints from a passenger with a disability, you should:

- Request assistance from a CRO immediately or assist the passenger with a disability in doing so, if the passenger requests to speak with a "supervisor" or "manager" about a disability-related issue.

- Contact a CRO if you are having *any* difficulty providing an accommodation required by Part 382 or carrier policy to a passenger with a disability.

- Carry the information about how to contact a CRO with you at all times. Remember, a U.S. carrier must make a CRO available, in person or by telephone, at each airport the carrier serves during all times the carrier is operating at that airport. A foreign carrier must make a CRO available, in person or by telephone, at each airport serving flights the carrier operates that begin or end at a U.S. airport. (§ 382.151(b)).

C. ACCESS: An Approach for Resolving Complaints

When you receive a complaint from a passenger with a disability, there are certain requirements under the law with which you, your carrier, and a CRO must comply. Even if you call a CRO, it is important to be able to assess the situation firsthand through observation, communication, and information gathering because a CRO is not always available onsite and may only be involved in resolving the complaint by telephone.

Having a consistent process for handling these complaints will assist you in meeting your legal obligations and providing good customer service. Learning what the particular problem is, finding the applicable rule, regulation, or policy that addresses the situation, and remedying the situation by taking positive action are important aspects of the process.

The ACCESS²² checklist below is provided as a memory aid for responding to these complaints. Remember ACCESS as a thorough and useful process through which you can address the complaint or refer it to a CRO as needed.

BILLING CODE 4910-9X-P

²² ACCESS is a memory aid to Ask, Call, Check, Evaluate, Solve, and Satisfy for use when resolving complaints.

ACCESS

Ask the passenger with a disability how you may assist with his or her concerns. Listen actively and carefully to what the passenger tells you and ask for further clarification when necessary.

Call a CRO and report the complaint if you are unable to immediately resolve the problem. (§ 382.151(c)) If a passenger with a disability would like to contact a CRO directly, you must assist the passenger in doing so. If your carrier has an internal procedure for documenting complaints that requires CRO involvement or other types of passenger complaints, complete the appropriate forms, if any, and provide relevant and detailed information to satisfy that internal carrier policy.

Check this manual, the full text of Part 382 at <http://airconsumer.dot.gov>, and your carrier's policies concerning the law, as well as policies for providing good customer service, to identify the issue at hand. If you need assistance, ask the CRO on duty.

Evaluate the relevant provisions of this manual, the full text of Part 382 at <http://airconsumer.dot.gov>, and your carrier's policies to determine the appropriate options for resolving the problem considering the following factors:

- Does the solution comply with the law?
- Does the solution comply with your carrier's policies?
- Is there a question of carrier or passenger safety? (Remember, the pilot-in-command is the final authority on a safety issue onboard his or her aircraft.)
- Does the solution meet the needs of the passenger with a disability?
- Can the solution be implemented in a timely manner, for example, to help the passenger with a disability make the flight or receive the accommodation?

Solve the problem by providing the passenger with a disability with the information, services, or appropriate action required under the Part 382.

Satisfy the passenger with a disability to the extent possible when complying with Part 382. Communicating the basis for the action taken (or not taken) to the passenger with a disability is critical. Thank the passenger for bringing the problem to your attention and ask if the passenger has any additional questions about the solution you or the CRO has provided. Ask if you are able to assist with any other concerns.

D. General Complaint Resolution Tips

To ensure that you can appropriately resolve a complaint from a passenger with a disability, you should:

- Familiarize yourself with this manual, the full text of Part 382 at http://airconsumer.ost.dot.gov/SA_Disability.htm, and your carrier's policies concerning Part 382, and for

providing good customer service. Primarily, you must not violate the civil rights of passengers with a disability. In addition, you should treat passengers in

a manner consistent with good customer service.

- Work as quickly as possible to ensure prompt service and, at the same time, respect the needs of passengers with a disability.
- Be aware of your carrier's procedures for addressing complaints. You should take the time necessary to resolve the complaint while maintaining flight schedules. If an unfamiliar situation presents itself or you have any doubts or questions, you should contact your immediate supervisor or a CRO for prompt resolution of the issue.
- Make reasonable attempts to keep the passenger with a disability informed about your or other carrier personnel's progress with respect to resolving a complaint.
- Do not argue with a passenger with a disability who presents a complaint.
- Listen carefully and actively, evaluate appropriate options under Part 382 and your carrier's policy, and communicate the basis for the action taken (or not taken) to the passenger with a disability in a respectful and polite manner to ensure effective complaint resolution.
- Assess the situation firsthand through observation, communication, and information gathering even if you call a CRO, because a CRO is not always available on site and may only be involved in resolving the complaint by telephone.

E. Categorizing, Recording, and Reporting Written Disability-Related Complaints

As a carrier covered by Part 382 that conducts passenger operations with at

least one aircraft having a designated seating capacity of more than 60 passengers on flights to, from, or in the United States, you must categorize, record, and report annually to the DOT written disability-related complaints you receive. (§ 382.157). This requirement applies to foreign carriers only with respect to disability-related complaints associated with any flight segment beginning or ending in the United States. (§ 382.157(b)).

As a carrier, you must have a system for categorizing and recording disability-related complaints by the passenger's type of disability and the nature of the passenger's complaint. (§ 382.157(c)) In addition, you must submit an annual report on the last Monday of January of every year summarizing the disability-related complaints you received during the previous year. This annual report must be submitted online using the form specified at the Web site address <http://382reporting.ost.dot.gov> unless you demonstrate undue hardship if not permitted to submit the information via paper copies, disks or email. (§ 382.157(d)). If DOT approves your request not to submit the annual report through the Web site address above, you must use the form in Appendix A to Part 382. (§ 382.157(h)).

Note: The recording and reporting responsibilities discussed above apply to carriers in a codeshare relationship. As carrier in such a relationship, you must record and report disability-related complaints concerning services you provide. In addition, you must forward to your codeshare partner any disability-related complaints you receive from or on behalf of

passengers regarding difficulties encountered in connection with service provided by your codesharing partner. As a codeshare carrier, you must report disability-related complaints even 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.

Each carrier, including those carriers in a codeshare relationship, must record and report disability-related complaints forwarded to it by another carrier or governmental agency with respect to difficulties encountered in connection with services you provide. (§ 382.157(f)(1) and (f)(2), and (g)).

Finally, each carrier must retain correspondence and records of action on all disability-related complaints for 3 years after receiving the complaint or creating the record of action. You must make these records available to the DOT on request. (§ 382.157(e)).

Chapter 7: Interacting With Individuals With Disabilities

- A. Terminology
- B. Physical, Mental, and Psychological Impairments
- C. Tips for Interacting With Individuals With Disabilities

A. Terminology

When assisting and interacting with individuals with disabilities, you should use language that reflects a positive view of them. You should focus on the person first, not the disability, and avoid language that reinforces myths, stereotypes, and discrimination.

This chart lists some currently acceptable terminology and terminology you should avoid when addressing or referring to an individual with a disability.

Use	Avoid
Person with a disability	Handicapped or deformed.
Person with a hearing impairment	The deaf.
Person with a vision impairment	The blind; the visually-impaired.
Person with an emotional disorder, psychiatric illness, or psychiatric disability.	Crazy, demented, lunatic, psycho, or maniac.
Person using a wheelchair, wheelchair user	Confined to a wheelchair, wheelchair bound, or crippled.
Person with acquired immune deficiency syndrome (AIDS) or living with AIDS.	Afflicted with AIDS, victim of AIDS, or suffers from AIDS.
Congenital disability	Birth defect.
Person with cerebral palsy	Afflicted with cerebral palsy or suffers from cerebral palsy.
Person with Down syndrome	Mongol, mongoloid, or retarded.
Person with a head injury, brain damage, or traumatic brain injury	Brain damaged.
Person with a speech disorder or who is without speech	Mute or dumb.
Person with quadriplegia or who is paralyzed	Crippled.
Person of small or short stature	Midget.

B. Physical, Mental, and Psychological Impairments

It may not be apparent whether a person is an individual with a disability. You should provide an opportunity for an individual with a

disability to self-identify by asking if the individual needs assistance and, if so, how best you can assist with those needs. Be mindful that you cannot require an individual with a disability to accept special services, including preboarding. (§ 382.11(a)(2)). Below are

examples of physical, mental, and psychological impairments.

Examples of Physical Impairments

- Orthopedic impairment;
- Deafness (profound hearing loss);

- Hard of hearing (mild to profound hearing loss);
 - Vision impairment and blindness;
 - Speech disorder;
 - Cerebral palsy;
 - Epilepsy;
 - Muscular dystrophy;
 - Multiple sclerosis;
 - Cancer;
 - Heart disease;
 - Diabetes; and
 - Human Immunodeficiency Virus (HIV).
- (§ 382.3).

Examples of Mental or Psychological Impairments

- Mental retardation;
 - Organic brain syndrome;
 - Emotional or mental illness; and
 - Specific learning disabilities.
- (§ 382.3).

C. Tips for Interacting With Individuals With Disabilities

The first section below provides general tips for interacting with an individual with a disability. This section is followed by tips for interacting with individuals with one or more of a provided list of examples of disabilities.

This information will help you provide services, facilities, and other accommodations to passengers with disabilities in a respectful and helpful manner. Some of the tips relate to specific requirements under Part 382, but most suggest ways to interact with passengers with disabilities that would constitute good customer service and demonstrate an appropriate level of sensitivity. However, carriers should be aware that § 382.141(a)(3) requires carriers to train employees who deal with the traveling public to recognize requests for communication accommodations from individuals with vision or hearing impairments and to use the most common, readily available methods for communicating with these individuals such as writing notes and clearly enunciating. The tips below should be read and followed with the above qualification in mind.

General Tips for Interacting With Individuals With Disabilities

- *Always ask.* The most effective and simplest step for you to take when you are uncertain about a passenger's needs is to ask, "How may I best assist you?" or "Please let me know how I can assist you." A passenger with a disability has the most information about his or her abilities, level of familiarity with the airport and airline, and traveling needs.
- *Appreciate the passenger's perspective.* You should take into

consideration the extra time and energy that traveling may require for a person with a disability. For example, you should realize that a person with a disability may not have the flexibility and spontaneity to react to unexpected situations. Understand that making adjustments may take more time or may require additional attention or services for passengers with a disability.

- *Be yourself and be self-aware.*

When you are speaking with an individual with a disability it is important to relax, be yourself, and maintain the conversational style you would use for anyone else. Be aware of the possibility that your body language could convey discomfort or impatience; try to avoid this. Also, you should respect the privacy of individuals with disabilities. Asking about a person's disability can be perceived as intrusive and insensitive. It might be interpreted as placing the disability above the human being.

- *Do not make assumptions.* Do not assume that all individuals with a disability automatically need assistance. Keep in mind that if the setting is accessible, individuals with a disability would usually prefer to operate independently.

- *Emotions matter.* Acknowledge the emotions of the person in a stressful situation, for example, frustration or disappointment. When acknowledging the emotions of others, it may be more effective to use "you" rather than "I." For example, you should say, "You must be frustrated by having to wait for your checked wheelchair" rather than, "I completely understand how you feel, I had to wait forever at a supermarket check-out yesterday."

- *Focus on the person, not the disability.* The emphasis is on the individual first, not the disability.

- *Keep the passenger informed.* When providing an accommodation to a passenger with a disability, update the passenger about the progress or timing in connection with the accommodation.

- *Knowledge is useful.* Be aware of the services, information, and resources available to an individual with a disability who asks about a particular accommodation. If you do not know the answer to the question, treat the individual with respect and courtesy and say, "Let me find out for you." Do not guess about what accommodations or services to provide an individual with a disability. When explaining the requirements under Part 382, avoid giving legal advice or counseling the person in any way.

- *The passenger is the expert.* Offer assistance only if the passenger appears to need help. If the passenger asks for

help, ask how you can assist and listen to the passenger's response and instructions before you act. If you have any doubts as to how to assist a passenger with a disability, you should ask the passenger for guidance before acting. Avoid being overly enthusiastic about helping and always think before you speak and act when offering assistance.

- *Respect personal space.* Be sensitive about physical contact. Avoid patting an individual with a disability or touching the individual's wheelchair or cane. Individuals with disabilities consider their assistive devices to be part of their personal space.

- *Speak directly to the passenger.* Always make eye contact and speak directly to an individual with a disability, not the individual's companion, attendant, or interpreter.

- *Treat each passenger as an individual.* It is important to recognize that individuals with a disability may vary in their ability to perform certain tasks. Individuals with a disability are best able to assess and gauge what they can and cannot do in a particular situation.

It is always important to keep these tips in mind when assisting and communicating with passengers with disabilities. Although as a practical matter, you need to be aware of different considerations depending on the passenger's type of disability.

Five Examples of Types of Disabilities

Below are five basic types of disabilities with a list of considerations to keep in mind when you are communicating and accommodating passengers with each type of disability. Although these five types of disabilities are specifically discussed, you must consider each passenger with a disability as an individual with individual needs. It is important for you to communicate with each passenger about that particular passenger's needs under the circumstances and avoid making assumptions about the passenger's needs.

Five examples of types of disabilities addressed below are—

- Vision impairments;
- Hearing or severe hearing and vision impairments;
- Mobility disabilities;
- Difficulty speaking; and
- Disabilities that are not apparent (for example, a cognitive or emotional disability, diabetes, etc.).

Tips for Assisting Individuals With Vision Impairments

Communication

- Only offer assistance if it seems appropriate. Ask the person if you can be of assistance and, if so, how you can help.

- Identify yourself by name and job responsibility first.

- Always communicate using words rather than relying on gestures, facial expressions, or other nonverbal communication. For example, tell the passenger the gate number and the directions to the gate. If you are handing a boarding pass to a passenger with a vision impairment, explain that you have the person's boarding pass and that you would like to place it directly in the person's hand. Always communicate in words that describe what you are doing (for example, waiting to receive confirmation of a reservation), and identify any items you are giving to the passenger (for example, a credit card, ticket, or voucher).

- Make sure a passenger with a vision impairment is made aware of all relevant information as it becomes available to other passengers. (§ 382.53 and 382.119). For example, if a boarding time is changed and the new boarding time is posted visually at the gate, you must inform the person orally. You should advise the passenger when you are leaving the area and answer any questions the person has before you leave.

- If individual safety briefings are required, you must conduct them discreetly with respect for the privacy of an individual with a vision impairment. (§ 382.115(d)).

- If a person uses a term relating to vision impairments that you are not familiar with or that you do not understand, ask the individual what his or her needs are. If you need additional information, you should contact the Complaints Resolution Official (CRO) to discuss how best to proceed. Be aware that your carrier may provide additional training to educate you about the different types of disabilities to enhance your ability to accommodate passengers with disabilities.

- Keep in mind that the special service request (SSR) field of the passenger name record (PNR) may contain information concerning a passenger who is visually impaired.

Guiding an Individual

- Never take the arm of an individual with a vision impairment without asking first. In addition to the fact that the passenger might not need or want assistance, grabbing the passenger's arm

could cause the passenger to lose his or her balance. Also, if you do not ask whether the passenger needs assistance, the passenger could perceive your forcing assistance upon him or her as a lack of respect because you did not give that passenger the option of receiving or declining the assistance. Once you ask if you can offer your arm, let the person take it. You may direct the individual's arm to a railing or the back of a chair to assist with seating.

- Walk approximately a half step ahead of the person if you are serving as a guide through the terminal. Inform a person with a vision impairment about any approaching obstacles, such as escalators, moving walkways, or revolving doors, and alternative routing to avoid these obstacles if the person desires. For example, when approaching a moving walkway you might say, "We are approaching a moving walkway; it is approximately 50 feet in front of us. If you would like we can use the moving walkway or avoid the walkway. Which would you prefer?" Never assume that a person with a vision impairment cannot use these devices because of his or her disability. Instead, offer the individual the freedom and flexibility to choose which devices and facilities he or she would like to use. Describe the environment in detail as you proceed and ask the person if he or she would like you to point out airport amenities such as restaurants, shops, automated teller machines, restrooms, airline club lounges, displays, or other terminal facilities. Note any obstacles and their location in your path. If you need to provide a warning, be as specific as possible. Offer to orient the person to the gate or other terminal area in case he or she would like to walk around. For example, you could say, "All even numbered gates are on our right when walking from security and odd numbered gates are on the left."

- When you are done guiding the person to his or her destination, ask if any other assistance is needed. You should not inform other passengers or carrier personnel that an individual with a vision impairment needs additional assistance unless the individual has requested you to do so.

- Be aware that many people with vision impairments prefer to walk rather than use mobility devices, such as wheelchairs or electric carts. You may not require an individual with a vision impairment to use a wheelchair and, if requested, you must provide a walking guide for that individual.

Service Animals and Assistive Devices

- Never pet or distract a service animal accompanying an individual

with a vision impairment unless the individual specifically told you it is all right to do so.

- Do not separate passengers with vision impairments from their service animals unless the individual specifically told you it is acceptable to do so.

- Do not move a person's cane or assistive device if the person has placed it on the ground near a seat. If you ask and receive permission, you may help the passenger collect things if needed (for example, carry-on items or jackets.)

- Do not lean on a passenger's assistive device.

- Do not use a passenger's assistive device unless you have specific permission from the passenger.

- Do not disassemble a passenger's assistive device unless disassembly is necessary for stowage on the aircraft.

Tips for Assisting Individuals With Hearing or Hearing and Vision Impairments

Communication

- Remember that individuals with hearing impairments have various ways of communicating. Depending on the nature of their disability, these individuals may communicate using, for example, sign language, speech/lip reading, Text Telephones (TTY), a hearing aid, or an implant. A person's hearing impairment may go unnoticed unless the person self-identifies.

- When you speak, look directly at the person with a hearing impairment. The person may use speech/lip reading as a method of communicating. You should use normal lip movement and a normal tone of voice when speaking to the person. You should not shout because shouting distorts the sound, words, and lip movement. Sometimes you may need to rephrase your message because many words have the same lip movement, for example, the numbers 15 and 50. If you write a note, you should make the message short and simple. If the person with a hearing impairment uses an interpreter, you should look directly at the person with a hearing impairment and not the interpreter when speaking with the person with a hearing impairment.

- Identify yourself by name and job responsibility first.

- If individual safety briefings are required, conduct them discreetly with respect for the privacy of the person with the hearing or vision and hearing impairment. (§ 382.115(d)).

- Make sure a passenger with a vision or hearing impairment receives all relevant information as it becomes available to all passengers. For example,

if a boarding time is changed and the new boarding time is announced, you must inform the person through an accessible method of communicating. (§ 382.53 and 382.119).

- If a person uses a term relating to hearing or hearing and vision impairments that you are not familiar with or that you do not understand, ask the person to tell you what his or her needs are. If you need additional information, you should contact the CRO to discuss how best to proceed.

- An individual with both hearing and vision impairments may communicate through “finger spelling”, which is an alternative to sign language. This method involves “writing” with your fingertip on the palm of the person’s hand. You should use the fleshy part of your fingertip, not your nail. Always use all upper case letters and use the same reference point for each letter. You should hold the person’s hand the same way each time, so the top and bottom letter falls in the same place. Make sure the words you print are “right side up” for the person receiving the message. You should write as large as possible and start in the upper left for a “W” and finish in the upper right. Use the entire palm area for each letter. Use one stroke for both the letter “I” and the number “1”. It will be obvious which you intend from the context of what you are spelling. When you finish a word, “wipe it off” using the palm of your hand. This action indicates that you have finished one word and you are beginning a new word.

- Keep in mind that the SSR field of the PNR may contain information concerning a passenger with a hearing or hearing and vision impairment.

Guiding an Individual With Both Visual and Hearing Impairments

- Touch the person gently and offer your arm. Let the person take the back of your elbow near your body so that he or she can feel the change in gait as you approach different barriers and prepare for them. Do not take or grab the arm of a person with both hearing and vision impairments (particularly the arm with which the person is holding a cane or guide dog harness) and do not push him or her along.

- If the person has a guide dog, go to the side opposite the service animal and offer your arm (usually the person’s right side). Remember that a person with both hearing and vision impairments cannot hear you. Therefore, you must convey information regarding obstacles, such as stairs, tactually.

- Individuals with both hearing and vision impairments often have poor balance so it is helpful to offer a steady hand to aid in orientation. You must never leave an individual with both hearing and vision impairments in an open space. You should place his or her hand on a wall, post, railing, or whatever sturdy, stationary object that is available.

Service Animals

- Never pet or distract a service animal accompanying a person who has a disability unless the person specifically tells you it is all right to do so.

- Do not separate passengers with hearing or hearing and vision impairments from their service animals unless the passenger specifically tells you it is all right to do so.

Tips for Assisting Individuals With Mobility Disabilities

Communication

- If a person uses a term to describe a mobility disability that you are not familiar with or that you don’t understand, ask the person to tell you what he or she needs. If you need additional information, you should contact the CRO to discuss how best to proceed.

- If individual safety briefings are required, conduct them discreetly with respect for the privacy of the person with a mobility disability. (§ 382.115(d)).

- When having a long conversation with a person who is using a wheelchair, you should sit nearby so that you are closer to eye level.

Wheelchairs, Mobility Aids, and Other Assistive Devices

- Be aware of the types of wheelchairs and assistive devices used by people with mobility disabilities when traveling. You must be able to provide information to people about the different types of wheelchairs, services, and other equipment provided or accommodated by your carrier on the particular flight.

- Understand the proper function and storage of the different types of wheelchairs, mobility aids, and assistive devices. Ask the person with the mobility disability the best way to handle the device.

- Consider keeping information handy about businesses providing wheelchair repair in the area in case a person with a mobility disability needs the information.

Assisting With Transfers and Movement Through Terminal

- If you must transfer a person with a mobility disability from an aisle chair to a seat on the aircraft, or perform any other kind of transfer, explain the transfer procedures and listen to any instructions or preferences from the person before undertaking the transfer.

- You must never physically hand-carry a person with a mobility disability from the tarmac to the aircraft door (even if both of you are willing) except in an emergency evacuation situation. (§ 382.101). Note, however, that hand-carrying a passenger and lifting a passenger from his or her wheelchair onto a boarding chair and from a boarding chair onto his or her aircraft seat are not synonymous. Carriers are required to transfer passengers into and out of aircraft seats for boarding, deplaning, and in-flight use of the lavatory.

- When providing transportation between gates, ask the person with the mobility disability if he or she would prefer you to push the wheelchair. If the answer is “yes,” you should use elevators and avoid escalators and moving walkways. When maneuvering through the terminal, say, “Excuse us” rather than “Excuse me.”

- Be aware that carriers are not permitted to charge passengers with disabilities for services or equipment required by Part 382. (§ 382.31). However, if a passenger with a disability voluntarily offers to tip you for providing a service, you should consult your carrier’s policy to determine whether you can accept the tip. Soliciting tips is prohibited.

Service Animals

- Never pet or distract a service animal accompanying a person who has a mobility disability unless the person specifically tells you it is all right to do so.

- Do not separate passengers with a mobility disability from their service animals unless the passenger specifically tells you it is all right to do so.

Tips for Assisting Individuals With Difficulty Speaking

Communication

- Ask the person how he or she prefers to communicate.

- A pencil and paper may be okay for short conversations.

- If you do not understand something that is said, tell the person that you do not understand and ask the person to repeat the statement.

- Be patient. An individual with a speaking impairment may need extra time to communicate.
- Allow the individual to speak without attempting to finish his or her sentence.
- To obtain information quickly, you should ask short questions that require brief “yes” or “no” answers.
- Do not shout.
- You should remember that difficulty speaking does not indicate a lack of intelligence.

Tips for Assisting People With Disabilities That Are Not Apparent Communication

- Do not make assumptions about the needs of people if their behavior appears to be unusual to you. Cognitive disabilities may cause people to reason, draw conclusions, or respond more slowly. Individuals with cognitive disabilities may appear easily distracted. Depending upon the disability, the person may understand materials in written form or through a verbal explanation. They may also find the background noise of a busy airport terminal extremely distracting.
- Disregard any speech impairments or physical tics by being patient and aware of your own body language and facial expressions that could convey your own discomfort.
- If individual safety briefings are required, conduct them discreetly with respect for the privacy of the person with a disability that is not apparent. (§ 382.115(d)). Similarly, if you are concerned that an individual is not medically stable enough for air travel, conduct the inquiry in a discreet manner and involve the CRO, if necessary.
- If a person with a disability that is not apparent uses a term to describe the disability that you are not familiar with or that you do not understand, ask the person to tell you what he or she needs. If you need additional information, you should contact the CRO to discuss how best to proceed.

Emotional Support, Psychiatric Service, or Other Service Animals

- Be aware that people who have disabilities that are not apparent may travel with emotional support, psychiatric service, or other service animals.
- Never pet or distract a service animal accompanying a person with a disability that is not apparent unless the person specifically tells you it is all right to do so.
- Do not separate passengers from their service, emotional support, or

psychiatric service animals unless the passenger specifically tells you it is all right to do so.

Chapter 8: Personnel Training

- A. U.S. and Foreign Carriers That Operate Aircraft With 19 or More Passenger Seats
- B. U.S. and Foreign Carriers That Operate Aircraft With Fewer Than 19 Passenger Seats
- C. Training Records

A. U.S. and Foreign Carriers That Operate Aircraft With 19 or More Passenger Seats

Thorough training of carrier personnel who interact with passengers with disabilities is vital to ensure good service to those passengers and required to comply with the Air Carrier Access Act (ACAA). (§ 382.141). As a U.S. or foreign carrier that operates aircraft with 19 or more passenger seats, you must provide the training for all personnel who deal with the traveling public, as appropriate to the duties of each employee. (§ 382.141(a)). Foreign carriers must provide such training only in connection with flights that begin or end at a U.S. airport, as appropriate to the duties of each employee. (§ 382.143(b)).

You also must ensure training to proficiency²³ on the following:

- Part 382 requirements and other applicable Federal regulations affecting the provision of air travel to passengers with a disability;
- Your procedures, consistent with Part 382, concerning the provision of air travel to passengers with a disability, including the proper and safe operation of any equipment used to accommodate passengers with a disability; and
- For those personnel involved in providing boarding and deplaning assistance, the use of the boarding and deplaning assistance equipment used by the carrier and appropriate boarding and deplaning assistance procedures that safeguard the safety and dignity of passengers. (§ 382.141(a)(1)(i) through (a)(1)(iii)).

You also must train employees with respect to awareness and appropriate responses to passengers with a disability, including persons with

²³ Proficient is defined as being well-advanced, adept, or skilled in a trade or profession. An employee who is trained to proficiency is one who provides services or accommodations to passengers in the right way, the first time. For more information see *Answers to Frequently Asked Questions (FAQs) Concerning Air Travel of People with Disabilities Under the Amended Air Carrier Access Act Regulation (FAQs no. 60)* issued by the DOT Office of Assistant General Counsel for Aviation Enforcement and Proceedings and its Aviation Consumer Protection Division (May 13, 2009) at http://airconsumer.ost.dot.gov/SA_Disability.htm.

physical, sensory, mental, and emotional disabilities, such as how to distinguish among the differing abilities of individuals with a disability. (§ 382.141(a)(2)).

Individuals With Vision or Hearing Impairments

You must train employees to recognize requests for communication accommodation from individuals with vision or hearing impairments and to use the most common methods for communicating with these individuals that are readily available, such as writing notes or taking care to enunciate clearly. However, training in sign language is not required. (§ 382.141(a)(3)).

Passengers Who Are Both Deaf and Blind

You must train employees to recognize requests for communication accommodation from passengers who are both deaf and blind and to use established means of communicating with these passengers when they are available, such as passing out Braille cards if you have them, reading an information sheet that a passenger provides, or communicating with a passenger through an interpreter. (§ 382.141(a)(3)).

Refresher Training

Refresher training is intended to assist employees in maintaining proficiency by reminding them of the ACAA requirements and carrier procedures for implementing these requirements.

Complaints Resolution Officials (CROs)

Employees performing the CRO function must receive annual refresher training concerning Part 382 and their duties. (§ 382.143(a)(1) for U.S. carriers and § 382.143(b)(1) for foreign carriers).

Other Personnel Who Deal With the Traveling Public

You must ensure that all personnel who are required by Part 382 to receive training receive refresher training on the matters covered by § 382.141(a), as appropriate to the duties of each employee, as needed to maintain proficiency. You must develop a program that will result in each such employee receiving refresher training at least once every 3 years. The program must describe how employee proficiency will be maintained. (§ 382.141(a)(5)).

Contractors

You must provide, or ensure that your contractors provide, training to your contractors' employees concerning

travel by passengers with a disability. This training is required only for those contractor employees that you employ directly and whom deal directly with the traveling public or their assistive devices, and it must be tailored to the employees' functions. (§ 382.141(a)(6)). In other words, you would not be responsible for ensuring the training of an airport employee or contractor who is not employed directly by your carrier.

CROs

You must train CROs on the requirements of Part 382 and the duties of CROs. (§ 382.141(a)(7)). CROs must be trained to be experts on all aspects of Part 382. See Chapter 6: Assisting Air Travelers with Disabilities with their Complaints for information on CROs and their duties under Part 382. As previously noted, you must provide annual refresher training to employees performing the CRO function. (§ 382.143(a)(1) for U.S. carriers and § 382.143(b)(1) for foreign carriers).

Consulting With Disability Organizations

When developing your training programs you must consult with organizations representing persons with disabilities in your home country. If such organizations are not available in your home country, you may consult with individuals with disabilities and/or international organizations representing individuals with disabilities. (§ 382.141(a)(4)).

Personnel Employed on May 13, 2009

You must have trained personnel employed on May 13, 2009, one time in the changes resulting from the amendment of Part 382, which was issued on that date. (§ 382.141(a)(8)).

Training Schedule Summary

Crewmembers

You must provide training to your crewmembers that meets the requirements of § 382.141(a) before they assume their duties. (§ 382.143(a)(3) and (b)(3)). For U.S. carriers this requirement applies to crewmembers subject to the training requirements of 14 CFR parts 121 or 135. You also must provide refresher training appropriate to the crewmember's duties every 3 years. (§ 382.141(a)(5)).

CROs

You must provide training to your CROs concerning the requirements of Part 382 and the duties of a CRO before they assume their duties. You also must provide annual refresher training to your CROs. (§ 382.143(a)(1) and (b)(1)).

Personnel Other Than Crewmembers or CROs

You must provide training for other personnel, including contractors, that meets the requirements of § 382.141(a) within 60 days after the date they assume their duties. (§ 382.143(a)(4) and (b)(4)) You also must provide refresher training to such personnel appropriate to their duties every 3 years. (§ 382.141(a)(5)).

Note: The Department of Transportation (DOT) has developed a Model Training Program on the ACAA and Part 382. You can view the training program module at <http://airconsumer.dot.gov/>.

B. U.S. and Foreign Carriers That Operate Aircraft With Fewer Than 19 Passenger Seats

Both U.S. and foreign carriers that operate aircraft with fewer than 19 passenger seats must provide training for flight crewmembers and appropriate personnel to ensure they comply with Part 382 and are familiar with the following:

- Part 382 requirements and other applicable Federal regulations affecting the provision of air travel to passengers with a disability;
- Your procedures, consistent with Part 382, concerning the provision of air travel to passengers with a disability, including the proper and safe operation of any equipment used to accommodate passengers with a disability; and
- For those personnel involved in providing boarding and deplaning assistance, the use of the boarding and deplaning assistance equipment used by the carrier and appropriate boarding and deplaning assistance procedures that safeguard the safety and dignity of passengers. (§ 382.141(b)).

You also must train employees with respect to awareness and appropriate responses to passengers with a disability, including persons with physical, sensory, mental, and emotional disabilities, such as how to distinguish among the differing abilities of individuals with a disability. (§ 382.141(b)). Although carriers operating only aircraft with fewer than 19 passenger seats are not specifically required to designate or train a CRO, it would be a good idea to train one or more in-house experts on all of the requirements of Part 382, so that other employees within your carrier have a person to contact to discuss difficult or complex disability-related questions or situations.

C. Training Records

As a U.S. or foreign carrier that operates aircraft with 19 or more

passenger seats, you must maintain records of the procedures you use to comply with Part 382, including those portions of manuals and other instructional materials concerning Part 382 compliance, and individual employee training records.

Specifically, as such a carrier, you must include procedures for implementing Part 382 requirements in the manuals, guidance, or instructional materials you provide to your personnel and contractors who provide service to passengers, including pilots, flight attendants, reservation and ticket counter personnel, gate agents, ramp and baggage handling personnel, and passenger service office personnel.

Note: You do not need to submit these manuals, guidance, or instructional materials or a certification of compliance to DOT for review. However, you must retain these materials for DOT review if DOT requests to review them. (§ 382.145(a)).

As a U.S. or foreign carrier, you also must retain individual employee training records for 3 years demonstrating that all persons required to receive initial and refresher training have done so. (§ 382.145(b)).

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Appendix A—Disability Complaint Reporting Form

Appendix B—Cross Reference Table

Appendix I Table of Effective Dates

Section	Subject	Applicable to . . .	Compliance date
382.43	Information and reservation services	Foreign carriers	May 13, 2010.
382.51	Accessibility of airport facilities	Foreign carriers	May 13, 2010.
382.51(b)	Accessibility of airport facilities at a foreign airport.	U.S. carriers	May 13, 2010.
382.61(a) through (d).	Movable aisle armrests	Foreign carriers	May 13, 2009 (for new aircraft initially ordered after this date). May 13, 2010 (for new aircraft delivered after this date).
382.61(e)			May 13, 2009 (for seats ordered after this date).
382.61 (a), (b), (d) and (e).		U.S. carriers	May 13, 2009 (for new aircraft initially ordered after April 5, 1990, or delivered after April 5, 1992).
382.61(c)			May 13, 2009 (for new aircraft initially ordered after this date). May 13, 2010 (for new aircraft delivered after this date).
382.63(a)	Accessible lavatories	Foreign carriers	May 13, 2009 (for new aircraft initially ordered after this date). May 13, 2010 (for new aircraft delivered after this date).
		U.S. carriers	May 13, 2009 (for new aircraft initially ordered after April 5, 1990, or delivered after April 5, 1992).
382.63(c)	Accessible lavatories retrofit	Foreign carriers	May 13, 2009.
		U.S. carriers	May 13, 2009 (for new aircraft initially ordered after April 5, 1990, or delivered after April 5, 1992).
382.65(d)	On-board wheelchairs	Foreign carriers	May 13, 2010.
		U.S. carriers	May 13, 2009.
382.67(a)	Priority space to store passengers' wheelchairs in the cabin.	Foreign carriers	May 13, 2009 (for new aircraft initially ordered after this date). May 13, 2010 (for new aircraft delivered after this date).
		U.S. carriers	May 13, 2009 (for new aircraft initially ordered after April 5, 1990, or delivered after April 5, 1992).
382.69(a)	Informational displays	Foreign carriers	January 8, 2010.
		U.S. carriers	
	Audio-visual displays used for safety purposes.	Foreign carriers	November 10, 2009.
		U.S. carriers	
382.69(c)	Videos, DVDs, and other audio visual displays used for safety purposes with open captioning or inset for sign language interpreter.	U.S. carriers	Between May 13, 2009, and November 9, 2009.
382.99	Airport agreements	Foreign carriers	May 13, 2011.
382.143(a)	CRO Training and Changes to Part 382.	U.S. carriers—CROs	May 13, 2009 (one time training for CROs about Part 382 changes).
	Changes to Part 382	U.S. carriers—Existing employees	No later than the next scheduled recurrent training after May 13, 2009, or within 1 year after May 13, 2009, whichever comes first.
		U.S. carriers—Part 121 or Part 135 crewmembers whose employment as a crewmember begins after May 13, 2009.	Before they assume their duties.
		U.S. carriers—Other personnel whose employment begins after May 13, 2009.	Within 60 days after the date on which they assume their duties.
382.143(b)(1)	Training for personnel dealing with the traveling public.	Foreign carriers that operate aircraft with 19 or more passenger seats on flights that begin or end at a U.S. airport.	
		CROs	May 13, 2009.
		Crewmember and other personnel who are employed on May 13, 2009.	Within 1 year of May 13, 2009.

Section	Subject	Applicable to . . .	Compliance date
		Crewmember and other personnel whose employment begins after May 13, 2009. Other personnel whose employment begins after May 13, 2010. Crewmembers and other personnel whose employment begins after May 13, 2009, but before May 13, 2010.	Before they assume their duties. Within 60 days after the date on which they assume their duties. By May 13, 2010 or a date 60 days after the date of their employment whichever is later.

Appendix II Tips for Air Travelers with Disabilities

Tips for Air Travelers With Disabilities

There are some commonly used accommodations, facilities, and services that carriers are required to make available to passengers with disabilities. This Appendix provides a list of tips and general guidelines for air travelers with disabilities regarding these commonly used accommodations, facilities, and services. Therefore, the “you” referred to in this appendix is an air traveler with a disability.

Ask Questions and Provide Instructions

Aircraft Accessibility

Know what to ask carrier personnel. Be clear and specific. You can ask for, and carrier personnel must be able to provide, the following information on the accessibility of the specific aircraft the carrier expects to use for your flight:

- The specific location of seats, if any, with movable armrests (by row and seat number);
- The specific location of seats the carrier does not make available to passengers with a disability (for example, exit row seats);
- Any aircraft-related, service-related or other limitations on the carrier’s ability to accommodate passengers with a disability including limitations on the availability of level-entry boarding at any airport involved with the flight. Carriers must provide this information to any passenger who states that he or she uses a wheelchair for boarding even if the passenger does not explicitly request the information;
- Any limitations on the availability of storage facilities in the cabin or cargo compartment for mobility aids or other assistive devices, including the storage of a passenger’s manual folding wheelchair in the cabin as provided for in §§ 382.67 and 382.123;
- Whether the aircraft has an accessible lavatory; and
- The types of services to passengers with a disability that are not available on the flight. (§ 382.41).

Passengers with a disability should be aware that circumstances could affect the accuracy of information provided at the time they make a reservation. For example, a carrier may use a different aircraft for a flight because of mechanical problems.

Advance Notice

Generally, passengers with a disability are not required to provide advance notice that they will be traveling on a flight. However, it is best to provide detailed information

about the accommodations you need in advance of travel to assist carrier personnel in providing accommodations in a correct and timely manner.

In addition, there are some accommodations that passengers with a disability may need or want that carriers may reasonably require time to arrange. For certain accommodations or services, carriers may legally require advance notice and passengers with a disability to check in before the general public. Carriers may require that a passenger with a disability provide 48 hours’ advance notice and check-in 1 hour before the check-in time for the general public to receive the following services and accommodations, some of which are required and some of which are optional: Required Services

- Transportation of an electric wheelchair on an aircraft with fewer than 60 passenger seats;
- Accommodation of 10 or more passengers with a disability who make reservations and travel as a group;
- Use of passenger-supplied ventilator, respirator, continuous positive airway pressure (CPAP) machine, or Federal Aviation Administration (FAA)-approved portable oxygen concentrator (POC);
- Transportation of an emotional support or psychiatric service animal in the cabin;
- Transportation of any service animal on a flight segment scheduled to take 8 or more hours;
- Provision of hazardous materials packaging for batteries or other assistive devices that are required to have such packaging;
- Provision of an on-board wheelchair on an aircraft with more than 60 passenger seats that does not have an accessible lavatory; and
- Accommodation of a passenger with both severe vision and hearing impairments.

Optional Services

- Carriage of an incubator;
- Hook-up for a respirator, ventilator, CPAP machine or POC to the aircraft’s electrical supply;
- Accommodation for a passenger traveling in a stretcher; and
- Carrier-supplied supplemental oxygen (for international flights, carriers may require 72 hours’ advance notice and check in 1 hour before the check-in time for the general public).

(§ 382.27).

Trips Involving Multiple Carriers

If you are making a connection, you may want to investigate whether your trip involves more than one carrier. If so, contact

each carrier to determine whether it is able to accommodate your needs fully. Keep in mind that carriers may provide optional accommodations on mainline flights²⁴ only and not on the flights operated by their smaller codeshare²⁵ affiliates. For example, some carriers do not provide medical oxygen on board the aircraft. Do not assume that by communicating with the carrier for the first flight segment of your trip, other carriers handling the rest of your trip are fully briefed and able to accommodate your requests. Similarly, when booking reservations online, be aware that many carriers have their policies posted on their Web sites. You may also want to consider contacting each carrier by telephone to verify the carrier’s individual policies and to provide and receive specific information to ensure your needs are met for each flight segment of your trip.

Provide Information

Although you are generally not required to (1) self-identify as a passenger with a disability or (2) accept services offered by carrier personnel that are not needed to accommodate your disability, most carriers assume that assistance is not needed unless requested. Therefore, it is incumbent upon you to notify carrier personnel of your desire for assistance. In addition, self-identifying as needing assistance and providing specific guidance to carrier personnel as to the assistance requested allows carrier personnel to assist you better. For example, if you need assistance with transportation from the ticket counter (check-in) to the gate area (boarding), it would be best to notify the carrier of such request before arriving at the airport and to self-identify as requiring such assistance to carrier personnel once you have arrived at the airport. In addition, clear instructions to carrier personnel, such as your need for assistance from the ticket counter to the gate but your ability to walk the short distance from the gate to your aircraft seat, will help the carrier ensure that you obtain the assistance you need. Finally, if you use a personal wheelchair, you may want to ask carrier personnel to remove footrests (if possible) and other removable parts and to stow them in the cabin to reduce the potential for damage to the wheelchair while it is stowed in the cabin or in the cargo compartment.

²⁴ A mainline flight is a flight operated by an airline’s main operating unit, rather than by regional alliances, regional codeshares, or regional subsidiaries.

²⁵ Code-sharing is a marketing arrangement in which an air carrier places its designator code on a flight operated by another air carrier and sells tickets for that flight.

Boarding Assistance

When communicating to carrier personnel about your need for boarding assistance, be as specific as possible about the type or level of boarding assistance you require. For example, if you are completely immobile, ask carrier personnel to provide a wheelchair to transport you to and from the gate, a lift (if necessary), and assistance transferring from an aisle chair to a seat. If you are able to walk short distances, but cannot walk up and down stairs, ask carrier personnel to provide a wheelchair for longer distances to and from the aircraft and a lift (if necessary). If you can walk up and down stairs and can walk shorter distances but have difficulty walking longer distances, ask carrier personnel to provide a wheelchair or electric cart for longer distances to and from the aircraft.

Carrier personnel are not permitted to physically hand-carry a passenger with a disability on or off an aircraft, except in the case of an emergency evacuation. (§ 382.101). (Note the regulations do not prohibit carrier personnel from transferring a passenger from an aisle chair into his or her aircraft seat.) Keep in mind that if none of the options for boarding a particular flight is acceptable to you, you may have to wait for another flight or alter your travel plans.

Carrying Assistive Devices On Board the Aircraft

Carriers recommend that you carry on board the aircraft medicine or other assistive devices, such as syringes, that you may need in the case of a flight cancellation or a missed flight. At times, passengers can be separated unexpectedly from checked baggage. If you decide to carry medication or other assistive devices with you on board, the carrier must not count these items toward your carry-on baggage limit. (§ 382.121(b)). While not specifically required, it is recommended that a carrier permit you to keep your assistive device near you on board when it does not interfere with carry-on baggage safety requirements.

Carry Information and Useful Documentation

Bring photocopies of instructions about the assembly and disassembly of wheelchairs and other assistive devices when you travel. You can provide this information to carrier personnel who stow or check your wheelchair or assistive device. It may also be a good idea to attach a laminated set of brief instructions to your wheelchair or assistive device in the event that it is disassembled or reassembled in a secure area to which you do not have access.

Traveling with photocopies of receipts, warranties, or other product information concerning a wheelchair or assistive device may be useful if the item is lost or damaged in transit. This information might help with locating a repair option or processing a claim for liability against the carrier responsible for the loss or damage.

Individual Safety Briefings

You may require an individual safety briefing if your disability prevents you from understanding the safety briefing or if otherwise required by applicable safety rules. Carriers should provide the safety briefing in

a manner accessible to you and as inconspicuously and discreetly as possible. (§ 382.115). Keep in mind that you may need to provide information to carrier personnel to ensure that the individual safety briefing is accessible to you.

Required Services on the Aircraft

Carriers must provide the following services within the aircraft cabin as requested by or on behalf of a passenger with a disability, or when offered by carrier personnel and accepted by a passenger with a disability:

- Assistance moving to and from seats, as part of boarding and deplaning;
- Assistance in preparation for eating, such as opening packages and identifying food;
- 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 (this requires airline in-flight personnel to transfer passengers, on request, from an aircraft seat into an aisle wheelchair in most instances);
- Assistance to a semi-ambulatory person in moving to and from the lavatory, without lifting or carrying the person;
- Assistance in stowing and retrieving carry-on items, including mobility aids and other assistive devices stowed in the cabin (see also (§ 382.91(d))). To receive such assistance, a passenger must self-identify as being an individual with a disability needing the assistance; and
- 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 (for example, information about weather, on-board services, flight delays, and connecting gates at the next airport). (§ 382.111).

Limitations on Services On Board the Aircraft

Carrier personnel are prohibited from physically hand-carrying you on or off an aircraft except in an emergency evacuation. (§ 382.101). Additionally, carrier personnel are not required to provide extensive special assistance to you. For example, carrier personnel are not required to—

- Provide you with medical services,
- Assist you in actual eating,
- Assist you within the restroom, or
- Assist you with elimination functions at your seat. (§ 382.113).

Preboarding as an Option

Carriers 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. (§ 382.93). Although you are not required to preboard, taking advantage of this opportunity may assist you in securing a suitable seating accommodation when a carrier does not provide advance seat assignments. In this situation, you may pre-board before all other passengers and select a seat that best meets your needs.²⁶

²⁶ Southwest Airlines has been granted an equivalent alternative determination permitting it to preboard passengers requiring boarding assistance,

Preboarding may also allow you to secure priority storage space for your wheelchair or assistive device or allow easier access to overhead compartments if you are stowing your assistive device or parts of your wheelchair onboard the aircraft.

Safety Always Considered

You should keep in mind that carriers are obligated to take the safety of *all* passengers into consideration when making decisions about accommodations for passengers with disabilities. At times, safety requires placing certain limitations on accommodations. For example, a service animal cannot block the aisle or an exit.

Seating Assignments

When requesting a particular seat assignment, you should be as specific as possible about the type of seat that will meet your needs as a passenger with a disability. This information will help carrier personnel provide you with the most appropriate seating accommodations. For example, instead of asking for an “accessible” seat, it is more helpful to provide some details about your specific needs, such as a bulkhead seat or an aisle seat with a movable armrest. In addition, carriers may request enough information about the nature of your disability to determine if you are entitled to a particular seating accommodation if you have not initially self-identified as having a condition qualifying you for a disability-related seating accommodation. For example, a carrier may ask if you require an aisle chair to board if you have requested a seat in a row with a movable armrest.

You should be aware that some carriers have begun charging an extra fee for occupying certain seats. Such fees are generally not prohibited, if the carrier fully complies with the Part 382 seating requirements at no added cost to a qualified individual with a disability. For more information on this topic, see Chapter 5, Section B, Seating Assignments and Accommodations.

Service Animals

Generally, advance notice is not required from passengers with a disability traveling with a service animal on flights of less than 8 hours, other than an emotional support or psychiatric service animal. However, to guarantee your seat assignment, depending on whether the carrier provides advance seat assignments and the type of seating method it uses, the carrier may have a policy requiring passengers with a service animal to:

- Request a particular seat assignment no later than 24 hours in advance of the scheduled departure of the flight, and
- Check in at least 1 hour before the standard check-in time for the flight.

Carriers are obligated to make a good faith effort to accommodate you and your service animal regardless of whether you comply with the carrier’s advance seat assignment

seating accommodations, or stowage space for an assistive device before all other passengers, and allowing it to board passengers who simply need extra time to walk to their seats to board after its first boarding group but before all other passengers. (§ 382.10).

policy and/or advance check-in requirement. If you are traveling with a service animal, you may request, and the carrier must provide, a bulkhead seat or a seat other than a bulkhead seat that accommodates your needs if the seating accommodation exists on the aircraft. (§ 382.81(c)).

In addition, if you are traveling with an emotional support or psychiatric service animal in the aircraft cabin or with any type of service animal on a flight segment scheduled to take 8 hours or more, the carrier may require you to provide 48 hours' advance notice and to check in 1 hour before the check in time for the other passengers. (§ 382.27(c)(8)(9)). You should be aware that foreign carriers are not required to carry service animals other than dogs (except as noted in § 382.7(c) for codeshare flights with a U.S. carrier.).

Keep in mind that requesting your seat assignment well in advance of the flight may permit you to secure the specific seat assignment you would like with the least amount of waiting, inconvenience, or stress to you.

Documentation for Emotional Support or Psychiatric Service Animals

Carriers also may require that passengers traveling with emotional support or psychiatric service animals present current documentation (that is, no older than 1 year from the date of the passenger's scheduled initial flight)²⁷ on the letterhead of a licensed mental-health professional, including a medical doctor, specifically treating the passenger's mental or emotional disability stating—

- The passenger has a recognized mental or emotional disability;²⁸
- The passenger needs the service animal as an accommodation for air travel and/or activity at the passenger's destination;
- The provider of the letter is a licensed mental-health professional and the passenger is under the individual's professional care; and
- The date and type of mental health professional's license and the state or other jurisdiction in which the license was issued. (§ 382.117(e)(1) through (e)(4)).

For more information on traveling with service animals see Chapter 3: Assisting Air Travelers With Disabilities Planning a Trip, Section D, Service Animals and Appendix III Guidance Concerning Service Animals.

Familiarize Yourself With the Law

Knowledge of the Air Carrier Access Act (ACAA) and its implementing regulations (14 CFR part 382) is important so that you understand your rights and responsibilities,

²⁷ Your carrier may, at its discretion, accept from the passenger with a disability documentation from his or her licensed mental health professional that is more than 1 year old. The DOT encourages carriers to consider accepting "outdated" documentation in situations where such passenger provides a letter or notice of cancellation or other written communication indicating the termination of health insurance coverage, and his/her inability to afford treatment for his or her mental or emotional disability.

²⁸ Referenced in the Diagnostic and Statistical Manual of Mental Disorders—Fourth Edition (DSM IV).

are able to ask the right questions, and share the most useful information with carriers. Some passengers with disabilities bring a copy of the regulations with them when they travel to have the primary resource readily available. Carriers must maintain a copy of Part 382 at each airport they serve and make the copy available for review upon request. (§ 382.45).

Passenger Complaints

Be aware that if you have a disability-related complaint or concern and carrier personnel do not immediately resolve the issue or provide the accommodation, the carrier must make a Complaints Resolution Official (CRO) available to you. This requirement applies to carriers providing scheduled service or nonscheduled service using aircraft with 19 or more passenger seats. A U.S. carrier must make a CRO available at each airport it serves during all times it is operating at that airport. Foreign carriers must make a CRO available at each airport serving flights that begin or end at a U.S. airport. (§ 382.151(b)). The CRO can be made available in person or by telephone, and must be provided at no cost to the passenger.

If you have a hearing impairment, the carrier must permit you to communicate with a CRO using a Text Telephone (TTY) or a similarly effective technology. Furthermore, the carrier must make the CRO service available to you in the languages it makes services available to the general public. (§ 382.151(b)).

If you make a written complaint, it is helpful to (1) State whether a CRO was contacted when the matter arose, (2) provide the name of the CRO and the date of the contact, if available, and (3) enclose any written response received from the CRO. (§ 382.155(b)).

Resources for Air Travelers With Disabilities

Department of Transportation (DOT) Web Site

DOT posts useful information for all consumers, including air travelers with disabilities, on its Web site at <http://airconsumer.dot.gov/pubs.htm>.

Other Useful Web Links

The following Web links also are available to air travelers with disabilities:

- A list of frequently asked questions and answers (http://airconsumer.dot.gov/SA_Disability.htm)
- The full text of Part 382 (http://airconsumer.dot.gov/SA_Disability.htm)
- A list of recent DOT enforcement orders related to the ACAA (http://airconsumer.dot.gov/SA_Disability.htm)
- A listing of conflict of law waiver determinations (http://www.regulations.gov_under Docket Number DOT-OST-2008-0272)
- A listing of equivalent alternative determinations (http://www.regulations.gov_under Docket Number DOT-OST-2008-0273)

DOT Disability Hotline

The DOT toll-free telephone hotline system is used to provide general information to consumers about the rights of air travelers

with disabilities, respond to requests for consumer information, and assist air travelers with time-sensitive, disability-related issues. The hours for the hotline are 9 a.m. to 5 p.m. eastern time, Monday through Friday except federal holidays. Air travelers with a disability-related service concern or issue may call the hotline at 1-800-778-4838 (voice) or 1-800-455-9880 (TTY) to receive assistance. Air travelers who would like the DOT to investigate a complaint about a disability issue must submit their complaint in writing or the web. (<http://airconsumer.dot.gov/hotline.htm>).

Carriers' Resources

Always check carrier resources such as Web sites and contact the carrier's reservation personnel when seeking information about services and equipment when accessing air transportation.

Transportation Security Administration (TSA)

Consumers with disabilities who have concerns about the airport screening process or other aviation security issues may call the TSA toll-free at 1-855-787-2227 or email that agency at TSA-ContactCenter@dhs.gov. For additional information, go to http://www.tsa.gov/travelers/airtravel/disabilityandmedicalneeds/tsa_cares.shtm.

Appendix III Airline Management-Related Issues

Airline Management-Related Issues

Appendix III highlights provisions of the Air Carrier Access Act (ACAA) and the implementing regulations in Part 382 that are the specific responsibility of carrier management as opposed to personnel who deal with the traveling public. Cross references to chapters of and other appendixes to this manual are provided for more detailed explanations of these requirements. In this appendix, the word "you" refers to carrier management and "your carrier" refers to the carrier you manage.

Discrimination Is Prohibited

You must ensure that your carrier (either directly or indirectly through its contractual, licensing, or other arrangements) does not discriminate against qualified individuals with a disability by reason of such disability in the provision of air transportation. (§ 382.11(a)(1)). In addition, you are responsible for ensuring that not only your own employees comply with the ACAA and Part 382, but also employees of any company or entity performing functions on behalf of your carrier. (§ 382.15).

Specifically, you must ensure that your carrier does not:

- Require a passenger with a disability to accept special services, such as pre-boarding not requested by the passenger. (§ 382.11(a)(2)).
- Exclude a qualified individual with a disability from or deny that individual the benefit of air transportation or related services that are available to other individuals, even if there are separate or different services available for passengers with a disability, except as provided by Part 382. (§ 382.11(a)(3)).

- Take actions adverse to passengers with a disability if they or someone on their behalf assert their rights under the ACAA or Part 382. (§ 382.11(a)(4)).

- Limit the number of passengers with a disability who travel on a flight.²⁹ (§ 382.17).

You should be aware that your carrier must modify policies, practices, and facilities when needed to provide nondiscriminatory service to a particular individual with a disability, consistent with the standards of Section 504 of the Rehabilitation Act, as amended. This requirement is in addition to your carrier's general nondiscrimination obligation, and is in addition to its duty to make specific accommodations under Part 382. Your carrier is not required to make modifications that would constitute an undue burden or would fundamentally alter its program. (§ 382.13(c)).

Refusal of Transportation

You must ensure that your carrier does not refuse to provide transportation to a passenger with a disability based on his or her disability unless specifically permitted by Part 382. (§ 382.19(a)). Your carrier must not refuse transportation to a passenger with a disability because the person's disability results in appearance or involuntary behavior that may offend, annoy, or inconvenience others. (§ 382.19(b)).

Safety Considerations

Neither the ACAA nor Part 382 requires you to disregard applicable Federal Aviation Administration (FAA) or other government safety regulations. (§ 382.7(g)).

Your carrier may refuse to provide transportation to any passenger on the basis of safety and if carriage would violate FAA, Transportation Security Administration (TSA) or applicable foreign government requirements. (§ 382.19(c)) Your carrier may refuse transportation to a passenger with a disability on the basis of safety if your carrier is able to demonstrate that the passenger poses a direct threat. (§ 382.19(c)(1)). Direct threat means a significant risk to the health or safety of others that cannot be eliminated by a modification of policies, practices or procedures or providing auxiliary aids or services. (§ 382.3). You should be aware that in exercising this authority your carrier may not act inconsistently with Part 382 or it may be subject to enforcement action. (§ 382.19(c)(3) and (c)(4)).

Your carrier may deny boarding to a passenger who wishes to use a passenger-supplied electronic respiratory assistive devices onboard the aircraft, if the passenger does not comply with the conditions for acceptance of such devices as required in Part 382. (§ 382.133(f)(3)). The specific requirements concerning the evaluation and use of passenger-supplied electronic respiratory assistive devices onboard the aircraft and the carriers who must comply with these requirements are discussed in

Chapter 3, Section B, Information about the Aircraft; Chapter 5, Section D, Stowing and Treatment of Assistive Devices, and below in this appendix under the topic Services and Equipment: Passenger-supplied Electronic Respiratory Assistive Devices.

Written Explanation for Refusal of Transportation

When your carrier refuses to provide transportation to a passenger on his or her originally-scheduled flight on a basis relating to the individual's disability, your carrier must provide the passenger with a written statement of the reason within 10 calendar days of the refusal of transportation. The statement must include the specific basis for your carrier's refusal to transport the passenger. (§ 382.19(d)).

No Charge for Accommodating Passengers With a Disability

Unless otherwise specified under Part 382, your carrier cannot impose charges for providing facilities, equipment, or services that it is required to provide under Part 382 to passengers with a disability. (§ 382.31).

Indirect Air Carriers

If you are an indirect air carrier that provides facilities or services for other carriers that are covered by §§ 382.17 through .157, you must do so in a manner consistent with those regulations. (§ 382.11(b)).

Contractors and Travel Agents

You should be aware that your carrier must ensure that your contractors comply with Part 382 when providing services to the public (including airports where applicable) on behalf of your carrier just as if your carrier was performing the function itself. In addition, your carrier must include an assurance of compliance with Part 382 in its contracts with those contractors. This assurance must commit the contractor to comply with all applicable provisions of Part 382 that are performed on your carrier's behalf and require the contractor to implement directives issued by your Complaints Resolution Officials (CRO). Noncompliance with this assurance is a material breach of the contract on the contractor's behalf. (§ 382.15(a) and (b)).

If you are a U.S. carrier, you must also include an assurance of compliance in your carrier's contracts or agreements of appointment with U.S. travel agents. Your carrier is not required to include such an assurance in contracts with foreign travel agents. (§ 382.15(c)).

You must monitor a contractor's performance to ensure the contractor complies with Part 382 and you must enforce the assurances in your carrier's contracts with those contractors. It is not a defense against a Department of Transportation (DOT) enforcement action that your carrier's noncompliance with Part 382 resulted from a contractor's action or nonaction. (§ 382.15(d) and (e)).

Accessibility of Airport Facilities

Airports Located in the United States

You should be aware that all terminal facilities and services owned, leased, or controlled by your carrier at a U.S. airport,

including parking and ground transportation, must be readily accessible to and usable by individuals with disabilities including individuals who use wheelchairs. You are deemed to comply with this obligation if the facilities meet certain requirements applying to places of public accommodation. (§ 382.51(a)(1)). The requirements are those of the Americans with Disabilities Act (ADA) Accessibility Guidelines (ADAAG) as incorporated in Department of Justice (DOJ) ADA regulations implementing Title III of that law.

In addition, your carrier must ensure that intra- and inter-terminal transportation systems, such as moving sidewalks, shuttle vehicles, and people movers, that are owned, leased, or controlled by your carrier, comply with the applicable DOT ADA rules (49 CFR parts 37 and 38). (§ 382.51(a)(3)).

Your carrier must ensure that there is an accessible route (one meeting the requirements of the ADAAG) between the gate and boarding area when an accessible passenger lounge or level-entry boarding and deplaning is not available to and from an aircraft. For example, there must be an accessible path on the tarmac between the gate and the aircraft when level-entry boarding is not available. (§ 382.51(a)(2)).

Contracts and leases between your carrier and airport operators concerning the use of airport facilities must describe your airport accessibility responsibility under Part 382 and that of the airport operator under applicable section 504 and ADA rules of the DOT and DOJ. (§ 382.51(a)(4)).

Airports Located in a Foreign Country

Your carrier must ensure that passengers with a disability can readily use all terminal facilities your carrier owns, leases, or controls at a foreign airport. (§ 382.51(b)). This requirement applies to foreign carriers only at terminal facilities that serve flights covered by § 382.7.

Be aware that your carrier must ensure that a passenger with a disability is able to move readily through the terminal facilities to get to or from the gate and any other area from which passengers board aircraft your carrier uses for such flights. This includes the tarmac between the gate and the aircraft when an accessible passenger lounge to and from an aircraft or level-entry boarding to and deplaning from an aircraft is not available. (§ 382.51(b)(1)). Your carrier may meet this obligation through any combination of facility accessibility, auxiliary aids, equipment, the assistance of personnel, or other means consistent with ensuring the safety and dignity of the passenger. (§ 382.51(b)(2)).

Restrictions

You must ensure that your carrier does not subject passengers with disabilities to restrictions that do not apply to other passengers except as otherwise permitted by Part 382. Restrictions your carrier may not impose on passengers with disabilities include the following—

- (1) Restricting the movements of individuals with disabilities within terminals;

- (2) Requiring passengers with disabilities to remain in a holding area or other location

²⁹The DOT has received Conflict of Laws waiver requests from some foreign carriers asserting that § 382.17 conflicts with the European Aviation Safety Agency's Joint Aviation Regulation—OPS 1.260. Visit <http://www.regulations.gov/>, select "Agency Documents," and enter "DOT—OST—2008—0272" to view Conflict of Laws waiver requests.

to receive transportation, services, or accommodations;

(3) Mandating separate treatment for individuals with disabilities except as required or permitted under Part 382 or other applicable Federal requirements;

(4) Making passengers sit on blankets on the aircraft; or

(5) Making passengers with disabilities wear badges or other special identification. (§ 382.33).

See Chapter 4, Section A, Accessibility of Terminal Facilities and Services, for more information on this topic.

Telephone Reservation and Information Services

U.S. Carriers

You should be aware that if your carrier provides a telephone reservation and information service to the public, you must make that service available to individuals who use a text telephone (TTY) (by your own TTY, voice relay (chat screen), or other available technology) to permit individuals with hearing impairments to obtain this information. (§ 382.43(a)).

Foreign Carriers

A foreign carrier must have met the TTY requirements that apply to U.S. carriers by May 13, 2010. (§ 382.43(a)(5)). However, these requirements apply only with respect to information and reservation services for flights covered by § 382.7. TTY services apply only with respect to flights for which reservation telephone calls from the United States are accepted.

Exception

The TTY requirements do not apply to carriers in any country in which the telecommunications infrastructure does not readily permit compliance. (§ 382.43(b)).

See also Chapter 3, Section E, Accommodations for Air Travelers with Hearing Impairments, and Chapter 4, Section D, Accommodations for Air Travelers with Vision or Hearing Impairments.

Advance Notice and Reservation System

Your carrier's reservation and other administrative systems must ensure that when a passenger provides the required advance notice for services and accommodations, the notice is communicated, clearly and on time, to the personnel responsible for providing the requested service or accommodation. (§ 382.27(e)). See Chapter 3, Section A, Advance Notice.

Passenger-Supplied Electronic Respiratory Assistive Devices

You should be aware that U.S. and foreign carriers (except on-demand air taxi operators) are required to permit passengers with a disability to use a passenger-supplied electronic respiratory assistive device onboard aircraft under specified conditions. (§ 382.133). Chapter 3, Section A, Advance Notice, and Section B, Information about the Aircraft, discuss advance notice requirements and the information your carrier must provide during the reservation process to a passenger with a disability who wishes to use such devices during a flight.

Service Animals

You should be aware that regardless of your carrier's policies with respect to pets, your carrier must permit a service animal used by a passenger with a disability to accompany the passenger on his or her flight. (§ 382.117(a)). A foreign carrier is only required to carry dogs as service animals (§ 382.117(f)) except on codesharing flights with U.S. carriers.

At a U.S. airport facility that you own, lease, or control and in cooperation with the airport operator and in consultation with local service animal training organizations, your carrier must provide animal relief areas for service animals that accompany passengers departing, connecting, or arriving at such airports on your flights. (§ 382.51(a)(5)).

See Chapter 3, Section D, Service Animals and Appendix III, Guidance Concerning Service Animals. See also, Chapter 5, Section B, Seating Assignments and Accommodations.

Aircraft Accessibility

When ordering, purchasing, or leasing aircraft, you should consider that Part 382 requires the following features on an aircraft:

- Movable or removable aisle armrests (aircraft with 30 or more passenger seats) (§ 382.61);
- Priority space in the passenger cabin for a passenger's manual, folding wheelchair (aircraft with 100 or more passenger seats) (§ 382.67);
- Accessible lavatories (aircraft with more than one aisle in which lavatories are provided) (§ 382.63);
- On-board wheelchairs (aircraft with more than 60 passenger seats and an accessible lavatory) (§ 382.65); and
- In-flight audio-visual services (§ 382.69).

Your carrier must maintain aircraft accessibility features in proper working order. (§ 382.71(a)). In addition, any replacement or refurbishing of the aircraft cabin must not reduce existing accessibility to a level below that required under Part 382 for new aircraft. (§ 382.71(b)).

These aircraft accessibility requirements and the compliance deadlines for both U.S. and foreign carriers are discussed in detail in Chapter 5, Section A, Aircraft Accessibility.

Seating Accommodations

You should be aware that, under certain circumstances, your carrier must provide certain seating accommodations if a passenger self-identifies as a passenger with a disability and the type of seating accommodation exists on the aircraft. (§§ 382.81 and 382.85). If your carrier provides advance seat assignments, it may employ either the block seating method or the priority seating method. Each method requires some advance notice on the part of the passenger with a disability to guarantee the seating accommodation. (§§ 382.83 and 382.85).

You should select an adequate reservation system to meet your carrier's needs, ensure proper administration of the reservation system, and provide employee training with respect to the reservation system and the requirements under Part 382 for providing

seating accommodations for passengers with disabilities. If your carrier wishes to use a method of providing seat assignments to passengers with disabilities other than the methods provided for in Subpart E of Part 382, it must receive written approval from DOT. (§ 382.83(d)).

If your carrier does not provide advance seat assignments, passengers who identify themselves as passengers with a disability in need of a seating accommodation must be allowed to pre-board before all other passengers, including other passengers entitled to pre-board, and select the seat assignment that best meets their needs. (§§ 382.83(c) and 382.85(b)). You should note that your carrier must offer preboarding to passengers with a disability who self-identify at the gate as needing additional time or assistance. (§ 382.93(c)).

Your carrier is not required to provide more than one seat per ticket or a seat in a class of service other than the one the passenger has purchased to accommodate a passenger with a disability in need of a seat assignment to accommodate his or her disability. (§ 382.87(f)).

Your carrier must comply with all FAA and applicable foreign government safety requirements, including exit-seating requirements, when responding to requests from passengers with a disability for seating accommodations. (§ 382.87(b)).

See Chapter 5, Section B, Seating Assignments and Accommodations, for more information on this topic.

Security Screenings

You should be aware that all passengers including those with disabilities are subject to TSA security screening requirements at U.S. airports. Passengers at foreign airports, including those with disabilities, may be subject to security screening measures required by the law of the country where the airport is located. (§ 382.55(a)).

If your carrier wants to go beyond mandated security screening procedures, it must conduct the security screening of a passenger with a disability in the same manner as any other passenger. (§ 382.55(b)).

See Chapter 4, Section B, Security Screening for Air Travelers with a Disability.

Services and Equipment

Boarding Assistance in General

If a passenger with a disability requests assistance getting on or off an airplane, or your carrier or the airport operator offers such assistance, and the passenger consents to the type of boarding or deplaning assistance offered, assistance must be promptly provided. The type of assistance offered must include the services of personnel and the use of wheelchairs, accessible motorized carts, ramps, or mechanical lifts as required under Part 382. (§ 382.95(a)).

You should be aware that a carrier operating aircraft with 19 or more passenger seats at U.S. commercial service airports with 10,000 or more annual enplanements must provide boarding and deplaning assistance to passengers with a disability using lifts or ramps if level-entry loading bridges or accessible passenger boarding lounges are not

available. (§ 382.95(b)). However, boarding assistance using a lift or other means of level-entry boarding is not required on:

- Aircraft with fewer than 19 passenger seats;
- Float planes;
- The following 19-seat capacity aircraft models that are unsuitable for boarding assistance using a lift: the Fairchild Metro, the Jetstream 31 and 32, the Beech 1900 (C and D Models), and the Embraer EMB-120; or
- Any other aircraft model the DOT determines to be unsuitable for boarding and deplaning assistance by lift; ramp, or other suitable device. (§ 382.97).

You should be aware that, although U.S. and foreign carriers must provide or ensure the provision of boarding and deplaning assistance at foreign airports on covered flights, level-entry boarding is not required. However, whenever level-entry boarding and deplaning assistance is not required, your carrier must still assist passengers with a disability in boarding and deplaning the aircraft if any such means is available. (§ 382.101).

Your carrier must train employees in the use of the boarding assistance equipment and procedures regarding the safety and dignity of passengers receiving boarding assistance. (§ 382.141(a)(1)(iii) and (b)).

See Chapter 5, Section C, Boarding and Deplaning Assistance, for more information on this topic. See also Chapter 8: Personnel Training, for additional information on employee/contractor training requirements. Boarding and Deplaning Assistance Agreements With U.S. Airport Operators

U.S. and foreign carriers. Your carrier must negotiate in good faith with the operator of any U.S. commercial airport with 10,000 or more annual enplanements to ensure the provision of lifts for boarding and deplaning where level-entry loading bridges are not available. (§ 382.99(a)).

U.S. carriers. Your carrier must have a written, signed agreement with the airport operator allocating responsibility for meeting the boarding and deplaning assistance requirements of Part 382, subpart G. (§ 382.99(b)).

Foreign carriers. Your carrier must have a written, signed agreement with the airport operator allocating responsibility for meeting the boarding and deplaning assistance requirements of Part 382, Subpart G with respect to all covered aircraft by May 13, 2010. (§ 382.99(b)). Foreign carriers serving a particular airport may be able to join existing agreements among the airport and U.S. carriers serving it, rather than establishing a new agreement.

The written agreement with a U.S. airport must specify that accessible boarding and deplaning for passengers with a disability will actually be provided before May 13, 2011. (§ 382.99(c)).

U.S. and foreign carriers. The written agreement may require passengers who want boarding and deplaning assistance requiring use of a lift to check in 1 hour before the standard check-in time for the flight. (§ 382.99(d)). You should be aware the agreement must ensure all lifts and other

accessibility equipment are maintained in working order. (§ 382.99(e)).

Note: All carriers and airport operators are jointly and severally (individually) responsible to implement the agreements completely and in a timely manner. You must make the agreements available to DOT upon request. (§ 382.99(f) and (g)).

Boarding, Deplaning, and Connecting Assistance at Foreign Airports

You should be aware that at foreign airports where the airport operator has the responsibility for boarding, deplaning, or connecting assistance, U.S. and foreign carriers can rely on the airport operator's services to meet Subpart G of Part 382. (§ 382.105). However, if the services provided by the airport operator are not sufficient to meet these requirements, your carrier must supplement the airport operator's services. If your carrier believes it is legally prohibited from supplementing the airport operator's services, it may apply for a conflict of law waiver under § 382.9.

Storing Wheelchairs and Other Assistive Devices in the Cabin

Your carrier must allow passengers with a disability to stow the following mobility aids and assistive devices inside the aircraft cabin provided they can be stowed consistent with FAA, PHMSA, TSA or applicable foreign government requirements concerning safety, security, and hazardous materials:

- Manual wheelchairs, including folding or collapsible wheelchairs;
- Other mobility aids, such as canes, crutches and walkers; and
- Other assistive devices for stowage or use in the cabin, such as prescription medications and the devices needed to administer them; vision-enhancing devices; and portable oxygen concentrators (POC), ventilators, and respirators that use nonspillable batteries if they comply with applicable safety, security and hazardous materials rules. (§ 382.121(a)).

Note: The requirements concerning the in-flight use of passenger-supplied electronic devices that assist with respiration are discussed later in this appendix. (§ 382.133).

Your carrier is not required to permit passengers to bring electric wheelchairs into the aircraft cabin.

You should be aware that certain aircraft must have priority space in the cabin to stow at least one typical adult-sized folding, collapsible, or break-down manual wheelchair. (§ 382.67(a)). See Chapter 5, Section A, Aircraft Accessibility, for more information about this requirement, including the aircraft to which it applies.

Note: Your carrier must not count mobility aids and other assistive devices brought on board the aircraft by a passenger with a disability toward the limit for passenger carry-on baggage. (§ 382.121(b)).

On-Board Wheelchairs

When required, on-board wheelchairs must be equipped with specific features and be designed to be compatible with the maneuvering space, aisle width, and seat height of the aircraft on which they are to be used, and to easily be pushed, pulled, and

turned in the cabin environment by carrier personnel. (§ 382.65(c)). See Chapter 5, Section A, Aircraft Accessibility, for more information about this requirement, including the aircraft to which it applies.

Wheelchairs Unable To Be Stowed in the Cabin as Carry-On

Know that your carrier must stow mobility aids, including wheelchairs, and other assistive devices in the baggage compartment with priority over other cargo and baggage if an approved stowage area is not available in the cabin or the items cannot be transported in the cabin consistent with FAA, PHMSA, TSA, or applicable foreign government requirements. (§ 382.125(a) and (b)). Except as otherwise provided in Part 382, your carrier may not charge for facilities, equipment, or services required under Part 382 to be provided to passengers with a disability. Therefore, your carrier cannot charge for a wheelchair or other mobility or assistive device that exceeds the weight limit on checked baggage. (§ 382.31(a) and 382.121(b)).

However, DOT recognizes there may be some circumstances in which it is not practical to stow an electric wheelchair or some other assistive device in the baggage compartment, and you are not required to do so if it would constitute an undue burden. (§ 382.13(c)). Only devices that fit and meet all applicable hazardous materials and other safety regulations need be carried.

When a passenger's wheelchair, other mobility aids, or other assistive devices cannot be stowed in the cabin as carry-on baggage, a carrier must ensure these items are timely checked and returned as close as possible to the door of the aircraft (unless the passenger requests the items be returned at the baggage claim area) so that the passenger with a disability can use his or her own equipment, where possible, consistent with Federal regulations concerning transportation security and the transportation of hazardous materials. (§ 382.125(c)(1) and (c)(2)).

To ensure the timely return of a passenger's wheelchair, other mobility aids or other assistive devices, they must be among the first items retrieved from the baggage compartment. (§ 382.125(d)).

Battery-Powered Devices

A carrier must accept a passenger's battery-powered wheelchair or other similar mobility device, including the battery, as checked baggage unless baggage compartment size and aircraft airworthiness considerations prohibit it. (§ 382.127(a)).

Check-in and advance notice requirements (for passengers with battery-powered mobility devices)

Aircraft with 60 or more passenger seats. Your carrier may require that a passenger who wants you to transport his or her battery-powered wheelchair or similar mobility device check in for the flight 1 hour before the check-in time for the general public. However, even if the passenger does not check in within this time, your carrier must make a reasonable effort to accommodate the passenger and transport the battery-powered wheelchair or other similar mobility aid provided it would not delay the flight. (§ 382.127(b)).

Aircraft with fewer than 60 passenger seats. Your carrier may require that a passenger with a disability provide up to 48 hours' advance notice and check in 1 hour before the check-in time for the general public if the passenger wants your carrier to transport his or her electric (battery-powered) wheelchair. (§ 382.27(c)(4)).

Battery Handling (for Wheelchairs, Scooters, and Other Mobility Devices Using Traditional Spillable or Nonspillable Battery Technology)

Your carrier must not require that the battery be removed and separately packaged if the—

- Manufacturer has labeled the battery on a wheelchair or other similar mobility device as nonspillable, or
- For a spillable battery, the battery-powered wheelchair can be loaded, stored, secured, and unloaded in an upright position.

However, your carrier must remove and package separately any battery that (1) is inadequately secured to a wheelchair or (2) if the battery is spillable and it is contained in a wheelchair that cannot be loaded, stowed, secured and unloaded in an upright position consistent with DOT hazardous materials regulations. A damaged or leaking battery should not be transported. (§ 382.127(c)).

Finally, your carrier must not disconnect the battery on a wheelchair or other mobility device if the battery is nonspillable and it is completely enclosed within a case or compartment integral to the design of the device unless required to do so under FAA, PHMSA, or applicable foreign government safety regulations. (§ 382.127(e)).

When it is necessary to detach a battery from a wheelchair or other mobility device, a carrier must provide packaging for the battery, if requested, and package the battery consistent with appropriate hazardous materials regulations. However, your carrier is not required to use packaging materials or devices you do not normally use for this purpose. (§ 382.127(d)). Your carrier must not charge for such packaging. (§ 382.31(a)). Your carrier also must not drain batteries. (§ 382.127(f)).

Passenger-Supplied Electronic Respiratory Assistive Devices

U.S. Carriers Conducting Passenger Service (Except for On-Demand Air Taxi Operators)

You should be aware that, subject to the conditions below, your carrier must permit a passenger with a disability to use the following passenger-supplied electronic respiratory assistive devices in the passenger cabin during *all phases of flight* on all aircraft designed with more than 19 passenger seats:

- FAA-approved POC,
- Continuous positive airway pressure (CPAP) machines;
- Respirators; and
- Ventilators.

Your carrier must allow such devices to be used in the cabin during air transportation if they—

- Meet applicable FAA requirements for medical portable electronic devices,

- Display a manufacturer's label indicating such compliance, and
- Can be stowed and used in the cabin consistent with applicable TSA, FAA, and PHMSA regulations. (§ 382.133(a)(1) and (a)(2)).

Foreign Carriers Conducting Passenger Service (Except Operations Equivalent to a U.S. Carrier On-Demand Air Taxi Operation)

A foreign carrier must permit passengers with a disability to use the electronic respiratory assistive devices listed above (a POC of a kind equivalent to an FAA-approved POC for U.S. carrier, CPAP machine, respirator, or ventilator,) in the passenger cabin of aircraft originally designed with a maximum passenger seating capacity of more than 19 seats during operations to, from or within the United States. (§ 382.133(b)).

Your carrier must permit onboard use of such devices if they—

- Meet requirements for medical portable electronic devices established by your foreign government (or if no such requirements exist you may apply applicable FAA requirements for U.S. carriers),
- Have a manufacturer's label indicating such compliance, and
- The device can be stowed and used in the cabin consistent with TSA, FAA and PHMSA regulations and the safety and security regulations of your foreign government. (§ 382.133(b)(1) through (b)(3)).

For more information on this topic see Chapter 5, Section E, Services and Information Provided in the Cabin. For a discussion about the specific information your carrier must provide during the reservation process to a passenger with a disability who wishes to use a passenger-supplied electronic respiratory assistive device during a flight see Chapter 3, Section B, Information about the Aircraft.

Baggage Liability Limits

On domestic U.S. flights the baggage liability limits (14 CFR part 254, Domestic Baggage Liability Limits) do not apply to loss, damage, or delay concerning wheelchairs, other mobility aids, or other assistive devices. Rather, the basis for calculating the compensation for lost, damaged, or delayed mobility aids, including wheelchairs, or other assistive devices must be the original price of the device. (§ 382.131).

Note: Baggage liability limits for international travel, including flights of U.S. carriers, are governed by the Montreal Convention and other international agreements instead of 14 CFR part 254.

Your carrier also must not require a passenger with a disability to sign a waiver of liability for damage to or loss of a wheelchair or other assistive device, although your personnel may make notes about preexisting damage or conditions of these items to the same extent you do this for other checked baggage. (§ 382.35(b)).

Timely and Complete Access to Information at the Airport

U.S. Carriers

Your carrier must ensure that passengers who identify themselves as persons needing

visual or hearing assistance receive *prompt* access to the same information that you provide to other passengers at each gate, ticketing area, and customer service desk that you own, lease, or control at any U.S. or foreign airport. However, your carrier is not required to provide information if it would interfere with employee safety and security duties under applicable FAA and foreign regulations. (§ 382.53(a)(1)). This requirement applies to information on a wide variety of subjects such as flight safety, ticketing, schedule changes and gate assignments. (§ 382.53(b)).

Foreign Carriers

Foreign carriers must make the same information available to passengers who identify themselves as needing visual or hearing assistance at each gate, ticketing area, and customer service desk that you own, lease, or control at any U.S. airport. At foreign airports, a foreign carrier must make this information available only at gates, ticketing areas, or customer service desks that you own, lease, or control and only for flights that begin or end in the United States. (§ 382.53(a)(2)).

See Chapter 4, Section D, Accommodations for Air Travelers with Vision or Hearing Impairments.

Timely and Complete Access to Information on the Aircraft

General Information

You should be aware that your carrier must ensure that passengers with a disability who identify themselves as needing visual or hearing assistance have *prompt* access to the same information provided to other passengers on the aircraft. However, your carrier is not required to provide information if it would interfere with crewmember safety duties under applicable FAA and foreign regulations. (§ 382.119(a)). This requirement includes information on a wide variety of subjects such as flight safety, procedures for takeoff and landing, and flight delays. (§ 382.119(b)).

In addition, if your carrier uses *new* audio-visual displays to convey this information to passengers with hearing impairments it must provide high-contrast captioning. (§ 382.69).

Safety Briefings for Passengers With Hearing Impairments

If your carrier presents safety briefings to passengers using audio-visual displays, the presentation must be accessible to passengers with hearing impairments. (§ 382.115(e)).

See Chapter 5, Section E, Services and Information Provided in the Cabin and Section F, Safety Briefings.

Complaint Procedures

Complaints Resolution Officials (CROs)

Carriers providing service using aircraft with 19 or more passenger seats must designate one or more CROs to handle disability-related complaints. (§ 382.151(a)). A U.S. carrier must make a CRO available at each airport it serves during all times it operates at that airport. A foreign carrier must make a CRO available at each airport serving flights it operates that begin or end at a U.S. airport. 382.151(b).

Responding to Complaints

You should be aware that your carrier must respond to both oral and written complaints from passengers with a disability.

Complaints made directly to your CRO. If a complaint is made directly to your CRO before a potential violation has occurred your CRO must take prompt action to ensure compliance with Part 382. If the alleged violation has already occurred and your CRO agrees that Part 382 was violated, your CRO must respond in writing with a summary of the facts and what steps, if any, your carrier proposes to take in response to the violation. If your CRO does not find that Part 382 was violated, your CRO must provide a written statement summarizing the facts and the reasons for the determination. In either case, the response must inform the passenger of his or her right to pursue DOT enforcement action. If possible, your CRO should provide the response to the passenger at the airport. If this is not possible, the response must be forwarded to the passenger within 30 days. (§ 382.153).

Written complaints made after a trip. Your carrier must provide a written response to the complaining passenger within 30 days of receiving their written complaint. The response must describe how your carrier resolved the complaint and must specifically admit or deny that a violation of Part 382 occurred. (§ 382.155(d)). Depending on your carrier's determination, the response to a written complaint must include the following:

- If your carrier agrees that a violation has occurred, it must provide a written statement to the complainant summarizing the facts and stating what steps, if any, your carrier proposes to take in response to the violation. (§ 382.155(d)(1)).
- If your carrier denies that a violation occurred, the written response must include a summary of the facts and your carrier's reasons under Part 382 for making its determination. (§ 382.155(d)(2)).
- Information about the complainant's right to pursue DOT enforcement action under Part 382. (§ 382.155(d)(3)).

Recording, Categorizing, and Reporting Disability-Related Complaints

A carrier covered by Part 382 that conducts passenger operations with at least one aircraft having a designated seating capacity of more than 60 passengers on flights to, from, or in the United States must categorize, record, and report annually to DOT the written disability-related complaints received by your carrier. (§ 382.157). This requirement applies to foreign carriers only with respect to disability-related complaints associated with any flight segment beginning or ending in the United States. (§ 382.157(b)).

Your carrier must have a system for categorizing and recording disability-related complaints by the passenger's type of disability and the nature of the passenger's complaint. (§ 382.157(c)). In addition, your carrier must submit an annual report on the last Monday in January of every year summarizing the disability-related complaints received during the previous year. This annual report must be submitted online using the form specified at the Web

site address <http://382reporting.ost.dot.gov> unless your carrier demonstrates undue hardship if not permitted to submit the information via paper copies, disks or email. (§ 382.157(d)). If DOT approves your carrier's request not to submit the annual report through the Web site address above, it must use the form in appendix A to Part 382. (§ 382.157(h)).

The recording and reporting responsibilities discussed above also apply to carriers in a codeshare relationship. (§ 382.157(f)).

See Chapter 6: Assisting Air Travelers with Disabilities with Their Complaints.

Employee Training

You should be aware that proper training of carrier personnel is critical to compliance with the ACAA and Part 382. The training requirements in Part 382 vary with aircraft size. A carrier operating aircraft with 19 or more passenger seats must train all personnel who deal with the traveling public, as appropriate to the duties of each employee, to proficiency in certain specific areas such as applicable regulations and carrier procedures on providing air travel for passengers with disabilities, and provide training in other areas such as appropriate communications as outlined in Part 382. (§ 382.141(a)). Your carrier must provide, or ensure that your contractor's provide, training to contract employees who deal directly with the traveling public that is tailored to the employees' functions. (§ 382.141(a)(6)). Your carrier must consult with organizations representing persons with disabilities in your home country when developing your training programs and your policies and procedures. (§ 382.141(a)(4)).

A carrier operating aircraft with fewer than 19 passenger seats must provide training for its flight crewmembers and appropriate personnel to ensure that those personnel are familiar with applicable regulations, carrier procedures, and appropriate communication in providing air travel to passengers with a disability and that they comply with Part 382. (§ 382.141(b)).

Chapter 8: Personnel Training, contains a detailed discussion of carrier personnel and contractor training program requirements, including refresher training, as well as the recordkeeping requirements and schedule associated with this training.

Appendix IV FSAT 04–01A Location and Placement of Service Animals on Aircraft Engaged in Public Air Transportation

ORDER: 8400.10

APPENDIX: 4

BULLETIN TYPE: Flight Standards Information Bulletin for Air Transportation (FSAT)

BULLETIN NUMBER: FSAT 04–01A

BULLETIN TITLE: Location and Placement of Service Animals on Aircraft Engaged in Public Air Transportation.

EFFECTIVE DATE: 6/24/04

AMENDED DATE: 7/23/04

TRACKING: N/A

APPLICABILITY: This bulletin applies to operations under part 121 and 135.

NOTE: This amended bulletin adds further guidance about "unusual service animals" in paragraphs 4 D and E.

1. **PURPOSE.** This bulletin clarifies the Federal Aviation Administration (FAA) Flight Standards Service's safety and enforcement policy regarding the location and placement of service animals, as defined by the Department of Transportation (DOT) in Title 14 of the Code of Federal Regulations (14 CFR) part 382, Nondiscrimination on the Basis of Disability in Air Travel, for all aircraft operated under 14 CFR parts 121 and 135. This bulletin supplements information contained in Federal Aviation Administration (FAA) Advisory Circular (AC) 120–32, Air Transportation of Handicapped Persons.

2. BACKGROUND.

A. As early as 1977, the FAA recognized the need for guidance regarding the placement and location of service animals on aircraft. AC 120–32 discusses the placement of "guide dogs" and states that "They should be seated in the first row seat of a section next to the bulkhead where there is more room for the dog". This guidance was issued well before DOT Part 382 was published in 1990. Collaboration among the FAA, the DOT and members of the disabled community during the development of DOT Part 382 ensured that its requirements would be consistent with the AC previously published by the FAA.

B. Flight Standards has recently received questions from air carriers, aviation safety inspectors, airline industry representatives and people with service animals regarding compliance with DOT Part 382 Nondiscrimination on the Basis of Disability in Air Travel as it pertains to the location and placement of service animals on aircraft engaged in public air transportation.

C. On May 9, 2003, DOT issued revised guidance regarding the carriage of service animals affecting all transportation modes, including aviation. If the FAA believes that additional FAA rulemaking or guidance is necessary, the FAA will undertake them, as appropriate. One example of this type of activity is the issuance of this FSAT, which contains Flight Standards' safety and enforcement policy regarding the placement and location of service animals accompanying persons with disabilities on aircraft.

3. SAFETY REVIEW.

A. A review of all available reports regarding commercial aircraft accidents with at least one fatality, in operations under part 121, that occurred between 1/1/1990 and 1/1/2004, contained in the National Transportation Safety Board (NTSB) reporting system, found no references to either a service animal's presence on the aircraft or its placement or location on the aircraft, to have negatively impacted an aircraft evacuation or a particular individual's emergency egress from an aircraft.

B. A review of NTSB Safety Report "Survivability of Accidents Involving Part 121 U.S. Air Carrier Operations, 1983 Through 2000(NTSB/SR–01/01), also found no references to either a service animal's presence on the aircraft or its placement or

location on the aircraft, to have negatively impacted an aircraft evacuation or a particular individual's emergency egress from an aircraft.

C. Similarly, a review of the NTSB Safety Study, "Emergency Evacuation of Commercial Airplanes (NTSB/SS-00/01)," found no references to either a service animal's presence on the aircraft or their placement or location on the aircraft, to have negatively impacted an aircraft evacuation or a particular individual's emergency egress from an aircraft.

4. GUIDANCE. The variety of service animals, as well as the services these animals perform, has certainly become larger in scope since the FAA's policy was first published in 1977. However, after a comprehensive review of available NTSB data, the FAA sees no safety issue that compels the FAA to change its long standing safety and enforcement policy regarding placement and location of service animals on aircraft. Therefore, consistent with DOT part 382 requirements:

A. Placement. A service animal may be placed at the feet of a person with a disability at any bulkhead seat or in any other seat as long as when the animal is seated/placed/curled up on the floor, no part of the animal extends into the main aisle(s) of the aircraft, the service animal is not at an emergency exit seat and the service animal does not extend into the foot space of another passenger seated nearby who does not wish to share foot space with the service animal.

B. Placement of lap held service animals. Lap held service animals (such as a monkey used by a person with mobility impairments) are discussed in the preamble to DOT Part 382 Nondiscrimination on the Basis of Disability in Air Travel, issued in 1990 (FR Vol. 55, No. 44 361990, pg. 8042). They are service animals that need to be in a person's lap to perform a service for that person. This service animal may sit in that person's lap for all phases of flight including ground movement, take off and landing provided that the service animal is no larger than a lap-held child (a child who has not reached his or her second birthday).

C. Documentation. One type of service animal is an animal used for emotional support. The presence of such an animal is found to be medically necessary for the passenger traveling with the animal. Under

DOT rules, and outlined clearly in DOT Guidance Concerning Service Animals, published on May 9, 2003, an air carrier may require documentation regarding the medical need for the presence of an emotional support animal as a condition of permitting the animal to accompany the passenger in the cabin as a service animal.

D. Unusual Service Animals. On May 9, 2003, the Department of Transportation issued Guidance Concerning Service Animals in Air Transportation. Unusual service animals pose unavoidable safety and/or public health concerns and airlines are not required to transport them. Snakes, other reptiles, ferrets, rodents, and spiders certainly fall within this category of animals. The release of such an animal in the aircraft cabin could result in a direct threat to the health or safety of passengers and crewmembers. For these reasons, airlines are not required to transport these types of service animals in the cabin, and carriage in the cargo hold will be in accordance with company policies on the carriage of animals generally.

E. Other unusual animals such as miniature horses, pigs and monkeys should be evaluated on a case-by-case basis. Factors to consider are the animal's size, weight, state and foreign country restrictions, and whether or not the animal would pose a direct threat to the health or safety of others, or cause a fundamental alteration (significant disruption) in the cabin service. If none of these factors apply, the animal may accompany the passenger in the cabin. In most other situations, the animal should be carried in the cargo hold in accordance with company policy.

F. This safety and enforcement policy has been coordinated with AGC-220, Operations and Air Traffic Law Branch.

5. REFERENCES.

A. 14 CFR Part 382, Nondiscrimination on the Basis of Disability in Air Travel, as amended <http://airconsumer.ost.dot.gov/rules/rules.htm>

B. DOT Guidance Concerning Service Animals, May 9, 2003 <http://airconsumer.ost.dot.gov/rules/20030509.pdf>

C. Advisory Circular 120-32, Air Transportation of Handicapped Persons <http://www.faa.gov/avr/afs/cabinsafety/acidx.cfm>

D. DOT Part 382 Nondiscrimination on the Basis of Disability in Air Travel, including preamble, issued 1990, (FR Vol 55, No. 44 361990, pg. 8042) <http://www.faa.gov/avr/afs/cabinsafety/disabilities.cfm>

E. NTSB Accident Database & Synopses <http://www.ntsb.gov/ntsb/query.asp>

F. NTSB Safety Report (NTSB/SR-01/01) "Survivability of Accidents Involving Part 121 U.S. Air Carrier Operations, 1983 Through 2000" <http://www.ntsb.gov/publictn/2001/SR0101.pdf>

G. NTSB Safety Study (NTSB/SS-00/01), "Emergency Evacuation of Commercial Airplanes" <http://www.ntsb.gov/publictn/2000/SS0001.pdf>

6. ACTION.

A. Each Principal Operations Inspector (POI) and Aviation Safety Inspector—Cabin Safety should make the information contained in this FSAT known to the director of safety or the director of operations, respectively, of each assigned operator under part 121 or part 135.

B. This information may be conveyed by hard copy of this FSAT or by referring the director of safety or the director of operations, as applicable, to the following FAA public web site: <http://www.faa.gov/avr/afs/fsat/fsatl.htm>

7. PROGRAM TRACKING AND REPORTING SUBSYSTEM (PTRS). Document the conveyance of the information contained in this FSAT for each air carrier affected:

A. Use PTRS code 1385.

B. Enter "FST0401A" in the National Use Field (without the quotes).

C. Once the POI has accomplished the ACTION in paragraph 6, close out the PTRS.

8. INQUIRIES. This bulletin was developed by AFS-200. Any questions concerning this bulletin should be directed to Nancy Claussen, Flight Standards Service, at (602) 379-4864, ext. 268.

9. EXPIRATION. This bulletin will remain in effect until further notice.

/s/Thomas K. Toula, for
Matthew Schack,
Manager, Air Transportation Division.

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