

increase in the number of PWDs willing and able to fly on small carriers.

We note that, while we have examined the effects of the rule on small foreign as well as small U.S. carriers, the Regulatory Flexibility Act does not apply to foreign entities. On the basis of this examination, the Department certifies that this rule will not have a significant economic impact on a significant number of small entities.

The Regulatory Flexibility Act (5 U.S.C. 601 et seq.) requires an agency to review regulations to assess their impact on small entities unless the agency determines that a rule is not expected to have a significant economic impact on a substantial number of small entities. A direct air carrier or a foreign carrier is a small business if it provides air transportation only with small aircraft (i.e., aircraft with up to 60 seats/18,000 pound payload capacity). See 14 CFR 399.73. Our analyses identified 338 small businesses potentially affected by the requirements of the final rule.

We project that about 30 small foreign carriers would incur costs related to boarding equipment (small U.S. carriers already are subject to this requirement). These costs represent a total present value ranging from \$1.161 million to \$2.245 million, or from \$39,000 to \$75,000 per carrier, almost entirely in the first two years. Small carrier use the same airport, however, a sharing arrangement may be more efficient. The affected airlines are, it should be noted, the larger small carriers, those which use aircraft with more than 19 seats and which serve a greater number of airports.

Both small U.S. and small foreign carriers would incur costs related to training. We project that U.S. carriers would need to train their employees two hours each with respect to new requirements concerning oxygen and deaf and hard-of-hearing passengers. On this assumption, the a present value of training costs would be \$2.6 million or \$7,738 for each carrier involved.

Our analysis estimates that training costs for foreign carriers would amount to a present value of \$0.8 million to \$1.6 million over 20 years. Assuming the number of carriers affected to be 30, the cost for each would be \$27,000 to \$54,000 per carrier.

With small carriers handling 2.8 percent of the estimated medical oxygen reservations at a cost of \$25 each, we would project small carrier costs as being a total present value of \$5.4 million, or \$16,000 per carrier. This figure is probably overstated, because many small carriers are affiliated with larger airlines that process reservations for them.

Following the line of argument adopted throughout Department's overall regulatory evaluation, these costs should be offset by an expected increase in the number of PWDs willing and able to fly on small carriers.

We note that, while we have examined the effects of the rule on small foreign as well as small U.S. carriers, the Regulatory Flexibility Act does not apply to foreign entities. On the basis of this examination, the Department certifies that this rule will not have a significant economic impact on a significant number of small entities.

C. Executive Order 13132 (Federalism)

This final rule has been analyzed in accordance with the principles and criteria contained in Executive Order 13132 ("Federalism"). This final rule does not include any provision that: (1) Has substantial direct effects on the States, the relationship between the national government and the States, or the distribution of power and responsibilities among the various levels of government; (2) imposes substantial direct compliance costs on State and local governments; or (3) preempts state law. Therefore, the consultation and funding requirements of Executive Order 13132 do not apply.

D. Executive Order 13084

This final rule has been analyzed in accordance with the principles and criteria contained in Executive Order 13084 ("Consultation and Coordination with Indian Tribal Governments"). Because this final rule does not significantly or uniquely affect the communities of the Indian tribal governments and does not impose substantial direct compliance costs on them, the funding and consultation requirements of Executive Order 13084 do not apply.

E. Paperwork Reduction Act

The final rule does contain a new information collection requirement that requires approval by the Office of Management and Budget (OMB) under the Paperwork Reduction Act (44 U.S.C. 2507 et seq.). Specifically, section 382.145 includes record retention requirements for information concerning training. The Department will pursue OMB approval for this requirement during the year between the publication and effective dates of the rule.

Section 382.157 involves disability-related complaint reporting to the Department. This provision is identical to a provision of the existing Part 382, and it is subject to an existing Paperwork Reduction Act approval by

OMB. No further approvals are needed for this section at the present time.

F. Unfunded Mandates Reform Act

The Department has determined that the requirements of Title II of the Unfunded Mandates Reform Act of 1995 do not apply to this rulemaking.

Issued this 28th Day of April, 2008, at Washington, DC.

Mary E. Peters,
Secretary of Transportation.

List of Subjects in 14 CFR Part 382

Air carriers, Consumer protection, Individuals with disabilities, Reporting and recordkeeping requirements.

■ For the reasons set forth in the preamble, the Department revises 14 CFR part 382 to read as follows:

PART 382—NONDISCRIMINATION ON THE BASIS OF DISABILITY IN AIR TRAVEL

Sec.

Subpart A—General Provisions

382.1 What is the purpose of this Part?

382.3 What do the terms in this rule mean?

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

382.7 To whom do the provisions of this Part apply?

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

382.10 How does a carrier obtain a determination that it is providing an equivalent alternative to passengers with disabilities?

Subpart B—Nondiscrimination and Access to Services and Information

382.11 What is the general nondiscrimination requirement of this Part?

382.13 Do carriers have to modify policies, practices, and facilities to ensure nondiscrimination?

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

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

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

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

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

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

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

- 382.29 May a carrier require a passenger with a disability to travel with a safety assistant?
- 382.31 May carriers impose special charges on passengers with a disability for providing services and accommodations required by this rule?
- 382.33 May carriers impose other restrictions on passengers with a disability that they do not impose on other passengers?
- 382.35 May carriers require passengers with a disability to sign waivers or releases?

Subpart C—Information for Passengers

- 382.41 What flight-related information must carriers provide to qualified individuals with a disability?
- 382.43 Must information and reservation services of carriers be accessible to individuals with hearing and vision impairments?
- 382.45 Must carriers make copies of this Part available to passengers?

Subpart D—Accessibility of Airport Facilities

- 382.51 What requirements must carriers meet concerning the accessibility of airport facilities?
- 382.53 What accommodations are required in airports for individuals with a vision impairment and individuals who are deaf or hard-of-hearing?
- 382.55 May carriers impose security screening procedures with passengers with disabilities that go beyond TSA requirements or those of foreign governments?
- 382.57 What services must carriers provide if their automated kiosks are inaccessible?

Subpart E—Accessibility of Aircraft

- 382.61 What are the requirements for movable aisle armrests?
- 382.63 What are the requirements for accessible lavatories?
- 382.65 What are the requirements concerning on-board wheelchairs?
- 382.67 What is the requirement for priority space in the cabin to store passenger wheelchairs?
- 382.69 What requirements must carriers meet concerning the accessibility of videos, DVDs, and other audio-visual presentations shown on aircraft to individuals who are deaf or hard-of-hearing?
- 382.71 What other aircraft accessibility requirements apply to carriers?

Subpart F—Seating Accommodations

- 382.81 For which passengers must carriers make seating accommodations?
- 382.83 Through what mechanisms do carriers make seating accommodations?
- 382.85 What seating accommodations must carriers make to passengers in circumstances not covered by 382.81 (a)—(d)?
- 382.87 What other requirements pertain to seating for passengers with a disability?

Subpart G—Boarding, Deplaning, and Connecting Assistance

- 382.91 What assistance must carriers provide to passengers with a disability in moving within the terminal?
- 382.93 Must carriers offer preboarding to passengers with a disability?
- 382.95 What are carriers' general obligations with respect to boarding and deplaning assistance?
- 382.97 To which aircraft does the requirement to provide boarding and deplaning assistance through the use of lifts apply?
- 382.99 What agreements must carriers have with the airports they serve?
- 382.101 What other boarding and deplaning assistance must carriers provide?
- 382.103 May a carrier leave a passenger unattended in a wheelchair or other device?
- 382.105 What is the responsibility of carriers at foreign airports at which airport operators have responsibility for enplaning, deplaning, and connecting assistance?

Subpart H—Services on Aircraft

- 382.111 What services must carriers provide to passengers with a disability on board the aircraft?
- 382.113 What services are carriers not required to provide to passengers with a disability on board the aircraft?
- 382.115 What requirements apply to on-board safety briefings?
- 382.117 Must carriers permit passengers with a disability to travel with service animals?
- 382.119 What information must carriers give individuals with vision or hearing impairment on aircraft?

Subpart I—Stowage of Wheelchairs, Other Mobility Aids, and Other Assistive Devices

- 382.121 What mobility aids and other assistive devices may passengers with a disability bring into the aircraft cabin?
- 382.123 What are the requirements concerning priority cabin stowage space for wheelchairs and other assistive devices?
- 382.125 What procedures do carriers follow when wheelchairs, other mobility aids, and other assistive devices must be stowed in the cargo compartment?
- 382.127 What procedures apply to stowage of battery-powered mobility aids?
- 382.129 What other requirements apply when passengers' wheelchairs, other mobility aids, and other assistive devices must be disassembled for stowage?
- 382.131 Do baggage liability limits apply to mobility aids and other assistive devices?
- 382.133 What are the requirements concerning the evaluation and use of passenger-supplied electronic devices that assist passengers with respiration in the cabin during flight?

Subpart J—Training and Administrative Provisions

- 382.141 What training are carriers required to provide for their personnel?
- 382.143 When must carriers complete training for their personnel?

- 382.145 What records concerning training must carriers retain?

Subpart K—Complaints and Enforcement Procedures

- 382.151 What are the requirements for providing Complaints Resolution Officials?
- 382.153 What actions do CROs take on complaints?
- 382.155 How must carriers respond to written complaints?
- 382.157 What are carriers' obligations for recordkeeping and reporting on disability-related complaints?
- 382.159 How are complaints filed with DOT?
- Appendix A to Part 382 —Disability Complaint Reporting Form
- Appendix B to Part 382 —Cross-Reference Table
- Authority: 49 U.S.C. 41705.

Subpart A—General Provisions

§ 382.1 What is the purpose of this Part?

The purpose of this Part is to carry out the Air Carrier Access Act of 1986, as amended. This rule prohibits both U.S. and foreign carriers from discriminating against passengers on the basis of disability; requires carriers to make aircraft, other facilities, and services accessible; and requires carriers to take steps to accommodate passengers with a disability.

§ 382.3 What do the terms in this rule mean?

In this regulation, the terms listed in this section have the following meanings:

Air Carrier Access Act or ACAA means the Air Carrier Access Act of 1986, as amended, the statute that provides the principal authority for this Part.

Air transportation means interstate or foreign air transportation, or the transportation of mail by aircraft, as defined in 49 U.S.C. 40102.

Assistive device means 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.

Battery-powered mobility aid means 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.

Carrier means 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.

Commuter carrier means an air taxi operator as defined in 14 CFR part 298 that carries passengers on at least 5 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.

CPAP machine means a continuous positive airway pressure machine.

Department or DOT means the United States Department of Transportation.

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 by the provision of auxiliary aids or services.

Equivalent alternative means a policy, practice, or other accommodation that provides substantially equivalent accessibility to passengers with disabilities, compared to compliance with a provision of this Part.

Expected maximum flight duration means 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 (a) wind and other weather conditions forecast; (b) anticipated traffic delays; (c) one instrument approach and possible missed approach at destination; and (d) any other conditions that may delay arrival of the aircraft at the destination gate.

FAA means the Federal Aviation Administration, an operating administration of the Department of Transportation.

Facility means a carrier's aircraft and any portion of an airport that a carrier owns, leases, or controls (e.g., structures, roads, walks, parking lots, ticketing areas, baggage drop-off and retrieval sites, gates, other boarding locations, loading bridges) normally used by passengers or other members of the public.

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

Indirect carrier means 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.

Individual with a disability means 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 such an impairment, or is

regarded as having such an impairment. As used in this definition, the phrase:

(a) **Physical or mental impairment** means:

(1) Any physiological disorder or condition, cosmetic disfigurement, or anatomical loss affecting one or more of the following body systems: neurological, musculoskeletal, special sense organs, respiratory including speech organs, cardio-vascular, reproductive, digestive, genito-urinary, hemic and lymphatic, skin, and endocrine; or

(2) Any mental or psychological disorder, such as mental retardation, organic brain syndrome, emotional or mental illness, and specific learning disabilities.

The term **physical or mental impairment** includes, but is not limited to, such diseases and conditions as orthopedic, visual, speech, and hearing impairments; cerebral palsy, epilepsy, muscular dystrophy, multiple sclerosis, cancer, heart disease, diabetes, mental retardation, emotional illness, drug addiction, and alcoholism.

(b) **Major life activities** means functions such as caring for one's self, performing manual tasks, walking, seeing, hearing, speaking, breathing, learning, and working.

(c) Has a record of such impairment means has a history of, or has been classified, or misclassified, as having a mental or physical impairment that substantially limits one or more major life activities.

(d) Is regarded as having an impairment means:

(1) Has a physical or mental impairment that does not substantially limit major life activities but that is treated by an air carrier as constituting such a limitation;

(2) Has a physical or mental impairment that substantially limits a major life activity only as a result of the attitudes of others toward such an impairment; or

(3) Has none of the impairments set forth in this definition but is treated by an air carrier as having such an impairment.

On-demand air taxi means an air taxi operator that carries passengers or property and is not a commuter carrier as defined in this section.

PHMSA means the Pipeline and Hazardous Materials Safety Administration, an operating administration of the Department of Transportation.

POC means portable oxygen concentrator.

Qualified individual with a disability means an individual with a disability —

(a) Who, as a passenger (referred to as a "passenger with a disability"),

(1) With respect to obtaining a ticket for air transportation on a carrier, offers, or makes a good faith attempt to offer, to purchase or otherwise validly to obtain such a ticket;

(2) With respect to obtaining air transportation, or other services or accommodations required by this Part,

(i) Buys or otherwise validly obtains, or makes a good faith effort to obtain, a ticket for air transportation on a carrier and presents himself or herself at the airport for the purpose of traveling on the flight to which the ticket pertains; and

(ii) Meets reasonable, nondiscriminatory contract of carriage requirements applicable to all passengers; or

(b) Who, with respect to accompanying or meeting a traveler, using ground transportation, using terminal facilities, or obtaining information about schedules, fares, reservations, or policies, takes those actions necessary to use facilities or services offered by an air carrier to the general public, with reasonable accommodations, as needed, provided by the carrier.

Scheduled service means 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.

TSA means the Transportation Security Administration, an agency of the Department of Homeland Security.

United States or U.S. means the United States of America, including its territories and possessions.

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

As a U.S. or foreign carrier, you are required to comply with the requirements of this Part on May 13, 2009, except as otherwise provided in individual sections of this Part.

§ 382.7 To whom do the provisions of this Part apply?

(a) If you are a U.S. carrier, this Part applies to you with respect to all your operations and aircraft, regardless of where your operations take place, except as otherwise provided in this Part.

(b) If you are a foreign carrier, this Part applies to you only with respect to flights you operate that begin or end at a U.S. airport and to aircraft used for these flights. For purposes of this Part, a "flight" means a continuous journey in the same aircraft or with one flight number that begins or ends at a U.S.

airport. The following are some examples of the application of this term:

Example 1 to paragraph (b): 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" for purposes of this Part.

Example 2 to paragraph (b): A passenger books a journey on a foreign carrier from New York to Prague. The foreign carrier flies nonstop to Frankfurt. The passenger gets off the plane in Frankfurt and boards a connecting flight (with a different flight number), on the same foreign carrier or a different carrier, which goes to Prague. The New York-Frankfurt leg of the journey is a "flight" for purposes of this Part; the Frankfurt-Prague leg is not. On the reverse routing, the Prague-Frankfurt leg is not a covered flight for purposes of this Part, while the Frankfurt-New York leg is.

Example 3 to paragraph (b): A passenger books a journey on a foreign carrier from New York to Prague. The plane 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 this Part. 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 would also apply in the opposite direction (Prague to New York via Frankfurt).

Example 4 to paragraph (b): In Example 3, the foreign carrier is not subject to coverage under this Part with respect to a Frankfurt-originating passenger who boards the aircraft and goes to Prague, or a Prague-originating passenger who gets off the plane in Frankfurt and does not continue to New York.

(c) As a foreign carrier, you are not subject to the requirements of this Part with respect to operations between two foreign points, even with respect to flights involving code-sharing arrangements with U.S. carriers. As a U.S. carrier that participates in a code-sharing arrangement with a foreign carrier with respect to operations between two foreign points, you (as distinct from the foreign carrier) are responsible for ensuring compliance with the service provisions of subparts A through C, F through H, and K with respect to passengers traveling under your code on such a flight.

Example 1 to paragraph (c): A passenger buys a ticket from a U.S. carrier for a journey from New York to Prague. The ticket carries the U.S. carrier's code and flight number throughout the entire journey. There is a change of carrier and aircraft in Frankfurt, and a foreign carrier operates the Frankfurt-Prague segment. The foreign carrier is not subject to the provisions of Part 382 for the Frankfurt-Prague segment. However, the U.S. carrier must ensure compliance with the applicable provisions of Part 382 on the Frankfurt-Prague segment with respect to passengers flying under its code, and the

Department could take enforcement action against the U.S. carrier for acts or omissions by the foreign carrier.

(d) As a foreign carrier, if you operate a charter flight from a foreign airport to a U.S. airport, and return to a foreign airport, and you do not pick up any passengers in the U.S., the charter operation is not a flight subject to the requirements of this Part.

(e) Unless a provision of this Part specifies application to a U.S. carrier or a foreign carrier, the provision applies to both U.S. and foreign carriers.

(f) If you are an indirect carrier, §§ 382.17 through 382.157 of this Part do not apply, except insofar as § 382.11(b) applies to you.

(g) Notwithstanding any provisions of this Part, you must comply with all FAA safety regulations, TSA security regulations, and foreign safety and security regulations having legally mandatory effect that apply to you.

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

(a) If you are a foreign carrier, and you believe that an applicable provision of the law of a foreign nation precludes you from complying with a provision of this Part, you may request a waiver of the provision of this Part.

(b) You must send such a waiver request to the following address: Assistant General Counsel for Aviation Enforcement and Proceedings, C-70 U.S. Department of Transportation, 1200 New Jersey Avenue, SE., Room W96-322, Washington, DC 20590.

(c) Your waiver request must be in English and include the following elements:

(1) A copy, in the English language, of the foreign law involved;

(2) A description of how the foreign law applies and how it precludes compliance with a provision of this Part;

(3) A description of the alternative means the carrier will use, if the waiver is granted, to effectively achieve the objective of the provision of this Part subject to the waiver or, if applicable, a justification of why it would be impossible to achieve this objective in any way.

(d) The Department may grant the waiver request, or grant the waiver request subject to conditions, if it determines that the foreign law applies, that it does preclude compliance with a provision of this Part, and that the carrier has provided an effective alternative means of achieving the objective of the provisions of this Part subject to the waiver or have

demonstrated by clear and convincing evidence that it would be impossible to achieve this objective in any way.

(e) (1) If you submit a waiver request on or before September 10, 2008, the Department will, to the maximum extent feasible, respond to the request before May 13, 2009. If the Department does not respond to the waiver request by May 13, 2009, you may continue to implement the policy or practice that is the subject of your request until the Department does respond. The Department will not take enforcement action with respect to your implementation of the policy or practice during the time prior to the Department's response.

(2) If you submit a waiver request after September 10, 2008, the Department will, to the maximum extent feasible, respond to the request by May 13, 2009 or within 180 days of receiving it, whichever is later. If the Department does not respond to the waiver request by this date, you may continue to implement the policy or practice that is the subject of your request until the Department does respond. However, the Department may take enforcement action with respect to your implementation of the policy or practice during the time between May 13, 2009 and the date of the Department's response.

(3) If you submit a waiver request after September 10, 2008, and the request pertains to an applicable provision of the law of a foreign nation that 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 Department responds to the request. The Department will, to the maximum extent feasible, respond to such requests within 180 days of receiving them. The Department will not take enforcement action with respect to your implementation of the policy or practice during the time prior to the Department's response.

(f) Notwithstanding any other provision of this section, the Department may commence enforcement action at any time after May 13, 2009 with respect to the policy or practice that is the subject of the request if it finds the request to be frivolous or dilatory.

(g) If you have not submitted a request for a waiver under this section with respect to a provision of this Part, or such a request has been denied, you cannot raise the alleged existence of such a conflict as a defense to an enforcement action.

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

(a) As a U.S. or foreign carrier, you may apply to the Department for a determination that you are providing an equivalent alternative to passengers with disabilities.

(b) You must send your application for an equivalent alternative determination to the following address: Assistant General Counsel for Aviation Enforcement and Proceedings (C-70), U.S. Department of Transportation, 1200 New Jersey Avenue, SE., Room W96-322, Washington, DC 20590.

(c) Your application must be in English and include the following elements:

(1) A citation to the specific provision of this Part concerning 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 compliance with the provision of this Part that you cite, and an explanation of how it provides substantially equivalent accessibility to passengers with disabilities.

(d) The Department may grant the application, or grant the application subject to conditions, if it determines that the proposed facilitation does provide substantially equivalent accessibility to passengers with disabilities, compared to compliance with the provision of this Part in question.

(e) If your application is granted, you will be deemed to be in compliance with this Part through implementing the equivalent alternative. If your application is denied, you must implement this Part as written.

(f)(1) If you submit your application on or before September 10, 2008, the Department will respond to the request before May 13, 2009 to the maximum extent feasible. If the Department does not respond to the application by May 13, 2009, you may implement your policy or practice that is the subject of your application until the Department does respond.

(2) With respect to an application you make after September 10, 2008, you must comply with the provisions of this Part without change from May 13, 2009 until the Department responds to your application.

Subpart B—Nondiscrimination and Access to Services

§ 382.11 What is the general nondiscrimination requirement of this Part?

(a) As a carrier, you must not do any of the following things, either directly or

through a contractual, licensing, or other arrangement:

(1) You must not discriminate against any qualified individual with a disability, by reason of such disability, in the provision of air transportation;

(2) You must not require a qualified individual with a disability to accept special services (including, but not limited to, preboarding) that the individual does not request. However, you may require preboarding as a condition of receiving certain seating or in-cabin stowage accommodations, as specified in §§ 382.83(c), 382.85(b), and 382.123(a) of this Part.

(3) You must not exclude a qualified individual with a disability from or deny the person the benefit of any air transportation or related services that are available to other persons, except where specifically permitted by this Part. This is true even if there are separate or different services available for individuals with a disability, except when specifically permitted by another section of this Part; and

(4) You must not take any adverse action against an individual (e.g. refusing to provide transportation) because the individual asserts, on his or her own behalf or through or on behalf of others, rights protected by this Part or the Air Carrier Access Act.

(b) If, as an indirect carrier, you provide facilities or services for other carriers that are covered by sections 382.17 through 382.157, you must do so in a manner consistent with those sections.

§ 382.13 Do carriers have to modify policies, practices, and facilities to ensure nondiscrimination?

(a) As a carrier, you must modify your 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.

(b) This requirement is part of your general nondiscrimination obligation, and is in addition to your duty to make the specific accommodations required by this Part.

(c) However, you are not required to make modifications that would constitute an undue burden or would fundamentally alter your program.

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

(a) As a carrier, you must make sure that your contractors that provide services to the public (including airports where applicable) meet the requirements of this Part that would

apply to you if you provided the services yourself.

(b) As a carrier, you must include an assurance of compliance with this Part in your contracts with any contractors that provide services to the public that are subject to the requirements of this Part. Noncompliance with this assurance is a material breach of the contract on the contractor's part.

(1) This assurance must commit the contractor to compliance with all applicable provisions of this Part in activities performed on behalf of the carrier.

(2) The assurance must also commit the contractor to implementing directives issued by your CROs under §§ 382.151 through 382.153.

(c) As a U.S. carrier, you must also include such an assurance of compliance in your contracts or agreements of appointment with U.S. travel agents. You are not required to include such an assurance in contracts with foreign travel agents.

(d) You remain responsible for your contractors' compliance with this Part and for enforcing the assurances in your contracts with them.

(e) It is not a defense against an enforcement action by the Department under this Part that your noncompliance resulted from action or inaction by a contractor.

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

As a carrier, you must not limit the number of passengers with a disability who travel on a flight. (See also § 382.27(b)(6) of this Part.)

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

(a) As a carrier, you must not refuse to provide transportation to a passenger with a disability on the basis of his or her disability, except as specifically permitted by this Part.

(b) You must not refuse to provide transportation to a passenger with a disability because the person's disability results in appearance or involuntary behavior that may offend, annoy, or inconvenience crewmembers or other passengers.

(c) You may refuse to provide transportation to any passenger on the basis of safety, as provided in 49 U.S.C. 44902 or 14 CFR 121.533, or to any passenger whose carriage would violate FAA or TSA requirements or applicable requirements of a foreign government.

(1) You can determine that there is a disability-related safety basis for refusing to provide transportation to a passenger with a disability if you are able to demonstrate that the passenger

poses a direct threat (see definition in § 382.3). In determining whether an individual poses a direct threat, you must make an individualized assessment, based on reasonable judgment that relies on current medical knowledge or on the best available objective evidence, to ascertain:

- (i) The nature, duration, and severity of the risk;
 - (ii) The probability that the potential harm to the health and safety of others will actually occur; and
 - (iii) Whether reasonable modifications of policies, practices, or procedures will mitigate the risk.
- (2) If you determine that the passenger does pose a direct threat, you must select the least restrictive response from the point of view of the passenger, consistent with protecting the health and safety of others. For example, you must not refuse transportation to the passenger if you can protect the health and safety of others by means short of a refusal.

(3) In exercising this authority, you must not act inconsistently with the provisions of this Part.

(4) If your actions are inconsistent with any of the provisions of this Part, you are subject to enforcement action under Subpart K of this Part.

(d) If you refuse to provide transportation to a passenger on his or her originally-scheduled flight on a basis relating to the individual's disability, you must provide to the person a written statement of the reason for the refusal. This statement must include the specific basis for the carrier's opinion that the refusal meets the standards of paragraph (c) of this section or is otherwise specifically permitted by this Part. You must provide this written statement to the person within 10 calendar days of the refusal of transportation.

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

(a) You must not do any of the following things on the basis that a passenger has a communicable disease or infection, unless you determine that the passenger's condition poses a direct threat:

- (1) Refuse to provide transportation to the passenger;
- (2) Delay the passenger's transportation (e.g., require the passenger to take a later flight);
- (3) Impose on the passenger any condition, restriction, or requirement not imposed on other passengers; or
- (4) Require the passenger to provide a medical certificate.

(b) In assessing whether the passenger's condition poses a direct threat, you must apply the provisions of § 382.19(c)(1) –(2) of this subpart.

(1) In making this assessment, you may rely on directives issued by public health authorities (e.g., the U.S. Centers for Disease Control or Public Health Service; comparable agencies in other countries; the World Health Organization).

(2) In making this assessment, 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 environment.

Example 1 to Paragraph (b)(2): The common cold is readily transmissible in an aircraft cabin environment but does not have severe health consequences. Someone with a cold would not pose a direct threat.

Example 2 to Paragraph (b)(2): AIDS has very severe health consequences but is not readily transmissible in an aircraft cabin environment. Someone would not pose a direct threat because he or she is HIV-positive or has AIDS.

Example 3 to Paragraph (b)(2): SARS may be readily transmissible in an aircraft cabin environment and has severe health consequences. Someone with SARS probably poses a direct threat.

(c) If a passenger with a communicable disease meeting the direct threat criteria of this section gives you a medical certificate of the kind outlined in § 382.23(c)(2) describing measures for preventing transmission of the disease during the normal course of the flight, you must provide transportation to the passenger, unless you are unable to carry out the measures.

(d) If your action under this section results in the postponement of a passenger's travel, you must permit the passenger to travel at a later time (up to 90 days from the date of the postponed travel) at the fare that would have applied to the passenger's originally scheduled trip without penalty or, at the passenger's discretion, provide a refund for any unused flights, including return flights.

(e) If you take any action under this section that restricts a passenger's travel, you must, on the passenger's request, provide a written explanation within 10 days of the request.

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

(a) Except as provided in this section, you must not require a passenger with a disability to have a medical certificate as a condition for being provided transportation.

(b)(1) You may require a medical certificate for a passenger with a disability —

- (i) Who is traveling in a stretcher or incubator;
- (ii) Who needs medical oxygen during a flight; or
- (iii) Whose 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.

(2) For purposes of this paragraph, 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.

(3) To be valid, a medical certificate under this paragraph must be dated within 10 days of the scheduled date of the passenger's initial departing flight.

Example to paragraph (b)(3): A passenger who schedules a flight from New York to London on January 15 with a return on April 15 would have to show a medical certificate dated January 5 or later. The passenger would not have to show a second medical certificate dated April 5 or later.

(c)(1) You may also require a medical certificate for a passenger if he or she has a communicable disease or condition that could pose a direct threat to the health or safety of others on the flight.

(2) For purposes of this paragraph, a medical certificate is a written statement from the passenger's physician saying that the disease or infection would not, under the present conditions in the particular passenger's case, be communicable to other persons during the normal course of a flight. The medical certificate must state any conditions or precautions that would have to be observed to prevent the transmission of the disease or infection to other persons in the normal course of a flight. A medical certificate under this paragraph must be dated within 10 days of the date of the flight for which it is presented.

(d) As a carrier, you may require that a passenger with a medical certificate undergo additional medical review by you if there is a legitimate medical reason for believing that there has been a significant adverse change in the passenger's condition since the issuance of the medical certificate or that the certificate significantly understates the passenger's risk to the health of other persons on the flight. If the results of this medical review demonstrate that the passenger, notwithstanding the medical certificate, is likely to be unable to complete the flight without requiring extraordinary medical assistance (e.g.,

the passenger has apparent significant difficulty in breathing, appears to be in substantial pain, etc.) or would pose a direct threat to the health or safety of other persons on the flight, you may take an action otherwise prohibited under § 382.23(a) of this Part.

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

As a carrier, you must not require a passenger with a disability to provide advance notice of the fact that he or she is traveling on a flight.

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

(a) Except as provided in paragraph (b) of this section and §§ 382.133(c)(3) and 382.133(d)(3), as a carrier you must not require a passenger with a disability to provide advance notice in order to obtain services or accommodations required by this Part.

(b) You may require a passenger with a disability to provide up to 72 hours advance notice and check in one hour before the check-in time for the general public to receive carrier-supplied in-flight medical oxygen on international flights, 48 hours' advance notice and check-in one hour before the check-in time for the general public to receive carrier-supplied in-flight medical oxygen on domestic flights, and 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.

(c) You may require a passenger with a disability to provide up to 48 hours advance notice and check in one hour before the check-in time for the general public to receive the following services and accommodations. The services listed in paragraphs (c)(1) through (c)(3) of this section are optional; you are not required to provide them, but you may choose to do so.

(1) Carriage of an incubator;
(2) Hook-up for a respirator, ventilator, CPAP machine or POC to the aircraft electrical power supply;

(3) Accommodation for a passenger who must travel in a stretcher;

(4) Transportation for an electric wheelchair on an aircraft with fewer than 60 seats;

(5) Provision of hazardous materials packaging for batteries or other assistive devices that are required to have such packaging;

(6) Accommodation for a group of ten or more qualified individuals with a disability, who make reservations and travel as a group; and

(7) Provision of an on-board wheelchair on an aircraft with more than 60 seats that does not have an accessible lavatory.

(8) Transportation of an emotional support or psychiatric service animal in the cabin;

(9) Transportation of a service animal on a flight segment scheduled to take 8 hours or more;

(10) Accommodation of a passenger who has both severe vision and hearing impairments (see § 382.29(b)(4)).

(d) If the passenger with a disability provides the advance notice you require, consistent with this section, for a service that you must provide (see paragraphs (c)(4) through (c)(10) of this section) or choose to provide (see paragraphs (c)(1) through (c)(3) of this section), you must provide the requested service or accommodation.

(e) Your reservation and other administrative systems must ensure that when passengers provide the advance notice that you require, consistent with this section, for services and accommodations, the notice is communicated, clearly and on time, to the people responsible for providing the requested service or accommodation.

(f) If a passenger with a disability provides the advance notice you require, consistent with this section, and the passenger is forced to change to another flight (e.g., because of a flight cancellation), you must, to the maximum extent feasible, provide the accommodation on the new flight. If the new flight is another carrier's flight, you must provide the maximum feasible assistance to the other carrier in providing the accommodation the passenger requested from you.

(g) If a passenger does not meet advance notice or check-in requirements you establish consistent with this section, you must still provide the service or accommodation if you can do so by making reasonable efforts, without delaying the flight.

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

(a) Except as provided in paragraph (b) of this section, you must not require that a passenger with a disability travel with another person as a condition of being provided air transportation.

(b) You may require a passenger with a disability in one of the following categories to travel with a safety assistant as a condition of being provided air transportation, if you determine that a safety assistant is essential for safety:

(1) A passenger traveling in a stretcher or incubator. The safety assistant for

such a person must be capable of attending to the passenger's in-flight medical needs;

(2) A passenger who, because of a mental disability, is unable to comprehend or respond appropriately to safety instructions from carrier personnel, including the safety briefing required by 14 CFR 121.571(a)(3) and (a)(4) or 14 CFR 135.117(b) or the safety regulations of a foreign carrier's government, as applicable;

(3) A passenger with a mobility impairment so severe that the person is unable to physically assist in his or her own evacuation of the aircraft;

(4) A passenger who has both severe hearing and severe vision impairments, if the passenger cannot establish some means of communication with carrier personnel that is adequate both to permit transmission of the safety briefing required by 14 CFR 121.57(a)(3) and (a)(4), 14 CFR 135.117(b) or the safety regulations of a foreign carrier's government, as applicable, and to enable the passenger to assist in his or her own evacuation of the aircraft in the event of an emergency. You may require a passenger with severe hearing and vision impairment who wishes to travel without a safety assistant to notify you at least 48 hours in advance to provide this explanation. If the passenger fails to meet this notice requirement, however, you must still accommodate him or her to the extent practicable.

(c)(1) If you determine that a person meeting the criteria of paragraph (b)(2), (b)(3) or (b)(4) of this section must travel with a safety assistant, contrary to the individual's self-assessment that he or she is capable of traveling independently, you must not charge for the transportation of the safety assistant. You are not required to find or provide the safety assistant, however.

(2) For purposes of paragraph (b)(4) of this section, you may require, contrary to the individual's self-assessment, that an individual with both severe hearing and vision impairments must travel with a safety assistant if you determine that—

(i) The means of communication that the individual has explained to you does not adequately satisfy the objectives identified in paragraph (b)(4) of this section; or

(ii) The individual proposes to establish communication by means of finger spelling and you cannot, within the time following the individual's notification, arrange for a flight crew member who can communicate using this method to serve the passenger's flight.

(3) If a passenger voluntarily chooses to travel with a personal care attendant

or safety assistant that you do not require, you may charge for the transportation of that person.

(d) If, because there is not a seat available on a flight for a safety assistant whom the carrier has determined to be necessary, a passenger with a disability holding a confirmed reservation is unable to travel on the flight, you must compensate the passenger with a disability in an amount to be calculated as provided for instances of involuntary denied boarding under 14 CFR part 250, where part 250 applies.

(e) For purposes of determining whether a seat is available for a safety assistant, you must deem the safety assistant to have checked in at the same time as the passenger with a disability.

(f) Concern that a passenger with a disability may need personal care services (e.g., assistance in using lavatory facilities or with eating) is not a basis for requiring the passenger to travel with a safety assistant. You must explain this clearly in training or information you provide to your employees. You may advise passengers that your personnel are not required to provide such services.

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

(a) Except as otherwise provided in this Part you must not, as a carrier, impose charges for providing facilities, equipment, or services that this rule requires to be provided to passengers with a disability. You may charge for services that this Part does not require.

(b) You may charge a passenger for the use of more than one seat if the passenger's size or condition (e.g., use of a stretcher) causes him or her to occupy the space of more than one seat. This is not considered a special charge under this section.

(c) If your web site that passengers use to make reservations or purchase tickets is not accessible to a passenger with a disability, you must not charge a fee to the passenger who is consequently unable to make a reservation or purchase a ticket on that site for using another booking method (e.g., making a reservation by phone). If a discount is made available to a passenger who books a flight using an inaccessible web site, you must make that discount available to a passenger with a disability who cannot use the web site and who purchases a ticket from you using another method.

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

(a) As a carrier, you must not subject passengers with a disability to restrictions that do not apply to other passengers, except as otherwise permitted in this Part (e.g., advance notice requirements for certain services permitted by § 382.27).

(b) Restrictions you must not impose on passengers with a disability include, but are not limited to, the following:

(1) Restricting passengers' movement within the terminal;

(2) Requiring passengers to remain in a holding area or other location in order to receive transportation, services, or accommodations;

(3) Making passengers sit on blankets on the aircraft;

(4) Making passengers wear badges or other special identification (e.g., similar to badges worn by unaccompanied minors); or

(5) Otherwise mandating separate treatment for passengers with a disability, unless permitted or required by this Part or other applicable Federal requirements.

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

(a) As a carrier, you must not require passengers with a disability to sign a release or waiver of liability in order to receive transportation or to receive services or accommodations for a disability.

(b) You must not require passengers with a disability to sign waivers of liability for damage to or loss of wheelchairs or other assistive devices, or for the loss of, death of, or injury to service animals. Carriers may note pre-existing damage to an assistive device to the same extent that carriers do this with respect to other checked baggage.

Subpart C—Information for Passengers

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

As a carrier, you must provide the following information, on request, to qualified individuals with a disability or persons making inquiries on their behalf concerning the accessibility of the aircraft expected to make a particular flight. The information you provide must be specific to the aircraft you expect to use for the flight unless it is unfeasible for you to do so (e.g., because unpredictable circumstances such as weather or a mechanical problem require substitution of another aircraft

that could affect the location or availability of an accommodation). The required information is:

(a) The specific location of seats, if any, with movable armrests (i.e., by row and seat number);

(b) The specific location of seats (i.e., by row and seat number) that the carrier, consistent with this Part, does not make available to passengers with a disability (e.g., exit row seats);

(c) Any aircraft-related, service-related or other limitations on the ability to accommodate passengers with a disability, including limitations on the availability of level-entry boarding to the aircraft at any airport involved with the flight. You 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.

(d) Any limitations on the availability of storage facilities, in the cabin or in the cargo bay, for mobility aids or other assistive devices commonly used by passengers with a disability, including storage in the cabin of a passenger's wheelchair as provided in §§ 382.67 and 382.123 of this Part;

(e) Whether the aircraft has an accessible lavatory; and

(f) The types of services to passengers with a disability that are or are not available on the flight.

§ 382.43 Must information and reservation services of carriers be accessible to individuals who are deaf, hard of hearing, or deaf-blind?

(a) If, as a carrier, you provide telephone reservation and information service to the public, you must make this service available to individuals who use a text telephone (TTY), whether via your own TTY, voice relay, or other available technology, as follows:

(1) You must provide access to TTY users during the same hours as the telephone service is available to the general public.

(2) 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 the general public (i.e., non-TTY users).

(3) You must not subject TTY users to charges exceeding those that apply to non-TTY users of telephone information and reservation service.

(4) In any medium in which you list the telephone number of your information and reservation service for the general public, you must also 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 (e.g., via a voice relay service).

(5) If you are a foreign carrier, you must meet this requirement by May 13, 2010.

(b) The requirements of paragraph (a) do not apply to you in any country in which the telecommunications infrastructure does not readily permit compliance.

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

(a) As a carrier, you must keep a current copy of this Part at each airport you serve. As a foreign carrier, you must keep a copy of this Part at each airport serving a flight you operate that begins or ends at a U.S. airport. You must make this copy available for review by any member of the public on request.

(b) If you have a Web site, it must provide notice to consumers that they can obtain a copy of this Part in an accessible format from the Department of Transportation by any of the following means:

(1) For calls made from within the United States, by telephone via the Toll-Free Hotline for Air Travelers with Disabilities at 1-800-778-4838 (voice) or 1-800-455-9880 (TTY),

(2) By telephone to the Aviation Consumer Protection Division at 202-366-2220 (voice) or 202-366-0511 (TTY),

(3) By mail to the Air Consumer Protection Division, C-75, U.S. Department of Transportation, 1200 New Jersey Ave., SE., West Building, Room W96-432, Washington, DC 20590, and

(4) On the Aviation Consumer Protection Division's Web site (<http://airconsumer.ost.dot.gov>).

Subpart D—Accessibility of Airport Facilities

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

(a) As a carrier, you must comply with the following requirements with respect to all terminal facilities you own, lease, or control at a U.S. airport:

(1) You must ensure that terminal facilities providing access to air transportation are 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 requirements applying to places of public accommodation under Department of Justice (DOJ) regulations implementing Title III of the Americans with Disabilities Act (ADA).

(2) With respect to any situation in which boarding and deplaning by level-entry loading bridges or accessible passenger lounges to and from an

aircraft is not available, you must ensure that there is an accessible route between the gate and the area from which aircraft are boarded (e.g., the tarmac in a situation in which level-entry boarding is not available). An accessible route is one meeting the requirements of the Americans with Disabilities Act Accessibility Guidelines (ADAAG), sections 4.3.3 through 4.3.10.

(3) You must ensure that systems of intra- and inter-terminal transportation, including, but not limited to, moving sidewalks, shuttle vehicles and people movers, comply with applicable requirements of the Department of Transportation's ADA rules (49 CFR parts 37 and 38).

(4) Your contracts or leases with airport operators concerning the use of airport facilities must set forth your airport accessibility responsibility under this Part and that of the airport operator under applicable section 504 and ADA rules of the Department of Transportation and Department of Justice.

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

(6) 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 to which any passengers have access on May 13, 2009. The captioning must be high-contrast insofar as is feasible.

(7) 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 does have such capability whenever such equipment is replaced 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.

(8) If you newly acquire televisions and other audio-visual displays for passenger safety briefings, information, or entertainment on or after May 13, 2009, such equipment must have high-contrast captioning capability.

(b) As a carrier, you must ensure that passengers with a disability can readily use all terminal facilities you own, lease, or control at a foreign airport. In the case of foreign carriers, this requirement applies only to terminal facilities that serve flights covered by § 382.7 of this part.

(1) This means that passengers with a disability must be able to move readily through such terminal facilities to get to or from the gate and any other area from which passengers board the aircraft you use for such flights (e.g., the tarmac in the case of flights that do not use level-entry boarding). This obligation is in addition to your obligation to provide enplaning, deplaning, and connecting assistance to passengers.

(2) You may meet this obligation through any combination of facility accessibility, auxiliary aids, equipment, the assistance of personnel, or other appropriate means consistent with the safety and dignity of passengers with a disability.

(c) As a foreign carrier, you must meet the requirements of this section by May 13, 2010. As a U.S. carrier, you must meet the requirements of paragraph (b) of this section by May 13, 2010.

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

(a)(1) As a U.S. carrier, you must ensure that passengers with a disability who identify themselves as persons needing visual or hearing assistance have prompt access to the same information provided to other passengers 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 as set forth in FAA, TSA, and applicable foreign regulations.

(2) As a foreign carrier, you must make this information 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 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 U.S.

(3) As a U.S. or foreign carrier, at any U.S. airport covered by this paragraph where the airport has effective control over the covered gates, ticketing areas, and customer service desks, you and the airport are jointly responsible for compliance.

(b) The information you must provide under paragraph (a) of this section includes, but is not limited to, the following: Information concerning flight safety, ticketing, flight check-in, flight delays or cancellations, schedule changes, boarding information, connections, gate assignments, checking baggage, volunteer solicitation on oversold flights (e.g., offers of

compensation for surrendering a reservation), individuals being paged by airlines, aircraft changes that affect the travel of persons with disabilities, and emergencies (e.g., fire, bomb threat).

(c) With respect to information on claiming baggage, you must provide the information to passengers who identify themselves as persons needing visual or hearing assistance no later than you provide this information to other passengers.

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

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

(b) If, as a carrier, you impose security screening procedures for passengers with disabilities that go beyond those mandated by TSA (or, at a foreign airport, beyond the law of the country in which the airport is located), you must ensure that they meet the following requirements:

(1) You must use the same criteria for applying security screening procedures to passengers with disabilities as to other passengers.

(2) You must not subject a passenger with a disability to special screening procedures because the person is traveling with a mobility aid or other assistive device if the person using the aid or device clears the security system without activating it.

(i) However, your security personnel may examine a mobility aid or assistive device which, in their judgment, may conceal a weapon or other prohibited item.

(ii) You may conduct security searches of qualified individuals with a disability whose aids activate the security system in the same manner as for other passengers.

(3) You must not require private security screenings of passengers with a disability to a greater extent, or for any different reason, than for other passengers.

(c) Except as provided in paragraph (c) of this section, if a passenger with a disability requests a private screening in a timely manner, you must provide it in time for the passenger to board.

(d) If you use technology that can conduct an appropriate screening of a passenger with a disability without

necessitating a physical search of the person, you are not required to provide a private screening.

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

As a carrier, if your automated kiosks in airport terminals cannot readily be used by a passenger with a disability for such functions as ticketing and obtaining boarding passes that the kiosks make available to other passengers, you must provide equivalent service to the passenger (e.g., by assistance from your personnel in using the kiosk or allowing the passenger to come to the front of the line at the check-in counter).

Subpart E—Accessibility of Aircraft

§ 382.61 What are the requirements for movable aisle armrests?

(a) As a carrier, you must ensure that aircraft with 30 or more passenger seats on which passenger aisle seats have armrests are 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 FAA or applicable foreign government safety rules.

(b) You are not required to provide movable armrests on aisle seats of rows which a passenger with a mobility impairment is precluded from using by an FAA safety rule.

(c) You must ensure that these movable aisle armrests are provided proportionately in all classes of service in the cabin. For example, if 80 percent of the aisle seats in which passengers with mobility impairments may sit are in coach, and 20 percent are in first class, then 80 percent of the movable aisle armrests must be in coach, with 20 percent in first class.

(d) For aircraft equipped with movable aisle armrests, you must configure cabins, or establish administrative systems, to ensure that passengers with mobility impairments or other passengers with a disability can readily identify and obtain seating in rows with movable aisle armrests. You must provide this information by specific seat and row number.

(e) You are not required to retrofit cabin interiors of existing aircraft to comply with the requirements of this section. However, if you replace any of an aircraft 's aisle seats with newly manufactured seats, the new seats must include movable aisle armrests as required by this section. However, an aircraft is never required to have movable aisle armrests on more than one half of the aisle seats.

(f) As a foreign carrier, you must comply with the requirements of paragraphs (a) through (d) of this section with respect to new aircraft you operate that were initially ordered after May 13, 2009 or which are delivered after May 13, 2010. As a U.S. carrier, the requirements of paragraphs (a), (b), (d), and (e) of this section applies to you with respect to new aircraft you operate that were initially ordered after April 5, 1990, or which are delivered after April 5, 1992. As a U.S. carrier, paragraph (c) of this section applies to you with respect to new aircraft you operate that were initially ordered after May 13, 2009 or which were delivered after May 13, 2010.

(g) As a foreign carrier, you must comply with the requirements of paragraph (e) of this section with respect to seats ordered after May 13, 2009.

§ 382.63 What are the requirements for accessible lavatories?

(a) As a carrier, you must ensure that aircraft with more than one aisle in which lavatories are provided shall include at least one accessible lavatory.

(1) The accessible lavatory must permit a qualified individual with a disability to enter, maneuver within as necessary to use all lavatory facilities, and leave, by means of the aircraft 's on-board wheelchair.

(2) The accessible lavatory must afford privacy to persons using the on-board wheelchair equivalent to that afforded ambulatory users.

(3) The lavatory shall provide door locks, accessible call buttons, grab bars, faucets and other controls, and dispensers usable by qualified individuals with a disability, including wheelchair users and persons with manual impairments.

(b) With respect to aircraft with only one aisle in which lavatories are provided, you may, but are not required to, provide an accessible lavatory.

(c) You are not required to retrofit cabin interiors of existing aircraft to comply with the requirements of this section. However, if you replace a lavatory on an aircraft with more than one aisle, you must replace it with an accessible lavatory.

(d) As a foreign carrier, you must comply with the requirements of paragraph (a) of this section with respect to new aircraft you operate that were initially ordered after May 13, 2009 or which are delivered after May 13, 2010. As a U.S. carrier, this requirement applies to you with respect to new aircraft you operate that were initially ordered after April 5, 1990, or

which were delivered after April 5, 1992.

(e) As a foreign carrier, you must comply with the requirements of paragraph (c) of this section beginning May 13, 2009. As a U.S. carrier, these requirements apply to you with respect to new aircraft you operate that were initially ordered after April 5, 1990, or which were delivered after April 5, 1992.

§ 382.65 What are the requirements concerning on-board wheelchairs?

(a) As a carrier, you must equip aircraft that have more than 60 passenger seats, and that have an accessible lavatory (whether or not having such a lavatory is required by § 382.63 of this Part) with an on-board wheelchair. The Aerospatiale/Aeritalia ATR -72 and the British Aerospace Advanced Turboprop (ATP), in configurations having between 60 and 70 passenger seats, are exempt from this requirement.

(b) If a passenger asks you to provide an on-board wheelchair on a particular flight, you must provide it if the aircraft being used for the flight has more than 60 passenger seats, even if the aircraft does not have an accessible lavatory.

(1) The basis of the passenger's request must be that he or she can use an inaccessible lavatory but cannot reach it from a seat without using an on-board wheelchair.

(2) You may require the passenger to provide the advance notice specified in § 382.27 to receive this service.

(c) You must ensure that on-board wheelchairs meet the following standards:

(1) On-board wheelchairs must include 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.

(2) The chair 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 be easily pushed, pulled, and turned in the cabin environment by carrier personnel.

(d) As a foreign carrier, you must meet this requirement as of May 13, 2010. As a U.S. carrier, you must meet this requirement by May 13, 2009.

§ 382.67 What is the requirement for priority space in the cabin to store passengers' wheelchairs?

(a) As a carrier, you must ensure that there is a priority space in the cabin of

sufficient size to stow at least one typical adult-sized folding, collapsible, or break-down manual passenger wheelchair, the dimensions of which are within a space of 13 inches by 36 inches by 42 inches without having to remove the wheels or otherwise disassemble it. This requirement applies to any aircraft with 100 or more passenger seats; and

(b) This space must be other than the overhead compartments and under-seat spaces routinely used for passengers' carry-on items.

(c) As a foreign carrier, you must meet the requirement of paragraph (a) of this section for new aircraft ordered after May 13, 2009 or delivered after May 13, 2010. As a U.S. carrier, this requirement applies to you with respect to new aircraft you operate that were ordered after April 5, 1990, or which were delivered after April 5, 1992.

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

(a) As a carrier, you must ensure that all new videos, DVDs, and other audio-visual displays played on aircraft for safety purposes, and all such new audio-visual displays played on aircraft for informational purposes that were created under your control, are high-contrast captioned. The captioning must be in the predominant language or languages in which you communicate with passengers on the flight.

(b) The requirements of paragraph (a) of this section go into effect with respect to audio-visual displays used for safety purposes on November 10, 2009.

(c) Between May 13, 2009 and November 9, 2009, U.S. carriers must ensure that all videos, DVDs, and other audio-visual displays played on aircraft for safety purposes have open captioning or an inset for a sign language interpreter, unless such captioning or inset either would interfere with the video presentation so as to render it ineffective or would not be large enough to be readable, in which case these carriers must use an equivalent non-video alternative for transmitting the briefing to passengers with hearing impairments.

(d) The requirements of paragraph (a) of this section go into effect with respect to informational displays on January 8, 2010.

§ 382.71 What other aircraft accessibility requirements apply to carriers?

(a) As a carrier, you must maintain all aircraft accessibility features in proper working order.

(b) You must ensure that any replacement or refurbishing of the aircraft cabin or its elements does not reduce the accessibility of that element to a level below that specified in this Part.

Subpart F—Seating Accommodations

§ 382.81 For which passengers must carriers make seating accommodations?

As a carrier, you must provide the following seating accommodations to the following passengers on request, if the passenger self-identifies to you as having a disability specified in this section and the type of seating accommodation in question exists on the particular aircraft. Once the passenger self-identifies to you, you must ensure that the information is recorded and properly transmitted to personnel responsible for providing the accommodation.

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

(b) You must provide an adjoining seat for a person assisting a passenger with a disability in the following circumstances:

(1) When a passenger with a disability is traveling with a personal care attendant who will be performing a function for the individual during the flight that airline personnel are not required to perform (e.g., assistance with eating);

(2) When a passenger with a vision impairment is traveling with a reader/assistant who will be performing functions for the individual during the flight;

(3) When a passenger with a hearing impairment is traveling with an interpreter who will be performing functions for the individual during the flight; or

(4) When you require a passenger to travel with a safety assistant (see § 382.29).

(c) 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.

(d) For a passenger with a fused or immobilized leg, you must provide a bulkhead seat or other seat that provides greater legroom than other seats, on the

side of an aisle that better accommodates the individual's disability.

§ 382.83 Through what mechanisms do carriers make seating accommodations?

(a) If you are a carrier that provides advance seat assignments to passengers (i.e., offer seat assignments to passengers before the day of the flight), you must comply with the requirements of § 382.81 of this Part by any of the following methods:

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

(i) You must not assign these seats to passengers who do not meet the criteria of § 382.81 until 24 hours before the scheduled departure of the flight.

(ii) At any time up until 24 hours before the scheduled departure of the flight, you must assign a seat meeting the requirements of this section to a passenger with a disability meeting one or more of the requirements of § 382.81 who requests it, at the time the passenger initially makes the request.

(iii) If a passenger with a disability specified in § 382.81 does not make a request at least 24 hours before the scheduled departure of the flight, you must meet the passenger's request to the extent practicable, but you are not required to reassign a seat assigned to another passenger in order to do so.

(2) You may designate an adequate number of the seats used to provide seating accommodations required by § 382.81 as "priority seats" for passengers with a disability.

(i) You must provide notice that all passengers assigned these seats (other than passengers with a disability listed in § 382.81 of this Part) are subject to being reassigned to another seat if necessary to provide a seating accommodation required by this section.

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

(iii) You must assign a seat meeting the requirements of this section to a passenger with a disability listed in § 382.81 of this Part who requests the accommodation at the time the passenger makes the request. You may require such a passenger to check in and request the seating accommodation at least one hour before the standard check-in time for the flight. If all designated priority seats that would accommodate the passenger have been

assigned to other passengers, you must reassign the seats of the other passengers as needed to provide the requested accommodation.

(iv) If a passenger with a disability listed in § 382.81 does not check in at least an hour before the standard check-in time for the general public, you must meet the individual's request to the extent practicable, but you are not required to reassign a seat assigned to another passenger in order to do so.

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

(c) If you do not provide advance seat assignments to passengers, you must allow passengers specified in § 382.81 to board the aircraft before other passengers, including other "preboarded" passengers, so that the passengers needing seating accommodations can select seats that best meet their needs.

(d) As a carrier, if you wish to use a different method of providing seating assignment accommodations to passengers with disabilities from those specified in this subpart, you must obtain the written concurrence of the Department of Transportation. Contact the Department at the address cited in § 382.159 of this Part.

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

As a carrier, you must provide the following seating accommodations to a passenger who self-identifies as having a disability other than one in the four categories listed in § 382.81 (a) through (d) of this Part and as needing a seat assignment accommodation in order to readily access and use the carrier's air transportation services:

(a) As a carrier that assigns seats in advance, you must provide accommodations in the following ways:

(1) If you use the "seat-blocking" mechanism of § 382.83(a)(1) of this Part, you must implement the requirements of this section as follows:

(i) When a passenger with a disability not described in § 382.81(a) through (d) of this Part makes a reservation more than 24 hours before the scheduled departure time of the flight, you are not required to offer the passenger one of the seats blocked for the use of passengers with a disability listed under § 382.81.

(ii) However, you must assign to the passenger 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.

(2) If you use the "designated priority seats" mechanism of § 382.83(a)(2) of this Part, you must implement the requirements of this section as follows:

(i) When a passenger with a disability not described in § 382.81 makes a reservation, you must assign to the passenger 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. You may require a passenger making such a request to check in one hour before the standard check-in time for the flight.

(ii) If such a passenger is assigned to a designated priority seat, he or she is subject to being reassigned to another seat as provided in § 382.83(a)(2)(i) of this subpart.

(b) On flights where advance seat assignments are not offered, you must provide seating accommodations under this section by allowing passengers to board the aircraft before other passengers, including other "preboarded" passengers, so that the individuals needing seating accommodations can select seats that best meet their needs.

(c) If you assign seats to passengers, but not until the date of the flight, you must use the "priority seating" approach of section 382.83(a)(2).

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

(a) As a carrier, you must not exclude any passenger with a disability from any seat or require that a passenger with a disability sit in any particular seat, on the basis of disability, except to comply with FAA or applicable foreign government safety requirements.

(b) In responding to requests from individuals for accommodations under this subpart, you must comply with FAA and applicable foreign government safety requirements, including those pertaining to exit seating (see 14 CFR 121.585 and 135.129).

(c) If a passenger's disability results in involuntary active behavior that would result in the person properly being refused transportation under § 382.19, and the passenger could be transported safely if seated in another location, you must offer to let the passenger sit in that location as an alternative to being refused transportation.

(d) If you have already provided a seat to a passenger with a disability to furnish an accommodation required by this subpart, you must not (except in the

circumstance described in § 382.85(a)(2)(iii) reassign that passenger to another seat in response to a subsequent request from another passenger with a disability, without the first passenger's consent.

(e) You must never deny transportation to any passenger in order to provide accommodations required by this subpart.

(f) You are not required to furnish more than one seat per ticket or to provide a seat in a class of service other than the one the passenger has purchased in order to provide an accommodation required by this Part.

Subpart G—Boarding, Deplaning, and Connecting Assistance

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

(a) As a carrier, you must provide or ensure the provision of assistance requested by or on behalf of a passenger with a disability, or offered by carrier or airport operator personnel and accepted by a passenger with a disability, in transportation between gates to make a connection to another flight. If the arriving flight and the departing connecting flight are operated by different carriers, the carrier that operated the arriving flight (i.e., the one that operates the first of the two flights that are connecting) is responsible for providing or ensuring the provision of this assistance, even if the passenger holds a separate ticket for the departing flight. It is permissible for the two carriers to mutually agree that the carrier operating the departing connecting flight (i.e., the second flight of the two) will provide this assistance, but the carrier operating the arriving flight remains responsible under this section for ensuring that the assistance is provided.

(b) You must also provide or ensure the provision of assistance requested by or on behalf of a passenger with a disability, or offered by carrier or airport operator personnel and accepted by a passenger with a disability, in moving from the terminal entrance (or a vehicle drop-off point adjacent to the entrance) through the airport to the gate for a departing flight, or from the gate to the terminal entrance (or a vehicle pick-up point adjacent to the entrance after an arriving flight).

(1) This requirement includes assistance in accessing key functional areas of the terminal, such as ticket counters and baggage claim.

(2) This requirement also includes a brief stop upon the passenger's request at the entrance to a rest room (including

an accessible rest room when requested). As a carrier, you are required to make such a stop only if the rest room is available on the route to the destination of the enplaning, deplaning, or connecting assistance and you can make the stop without unreasonable delay. To receive such assistance, the passenger must self-identify as being an individual with a disability needing the assistance.

(c) As a carrier at a U.S. airport, you must, on request, in cooperation with the airport operator, provide for escorting a passenger with a service animal to an animal relief area provided under § 382.51(a)(5) of this Part.

(d) As part of your obligation to provide or ensure the provision of assistance to passengers with disabilities in moving through the terminal (e.g., between the terminal entrance and the gate, between gate and aircraft, from gate to a baggage claim area), you must assist passengers who are unable to carry their luggage because of a disability with transporting their gate-checked or carry-on luggage. You may request the credible verbal assurance that a passenger cannot carry the luggage in question. If a passenger is unable to provide credible assurance, you may require the passenger to provide documentation as a condition of providing this service.

§ 382.93 Must carriers offer preboarding to 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.

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

(a) As a carrier, you must promptly provide or ensure the provision of assistance requested by or on behalf of passengers with a disability, or offered by carrier or airport operator personnel and accepted by passengers with a disability, in enplaning and deplaning. This assistance must include, as needed, the services of personnel and the use of ground wheelchairs, accessible motorized carts, boarding wheelchairs, and/or on-board wheelchairs where provided in accordance with this Part, and ramps or mechanical lifts.

(b) As a carrier, you must, except as otherwise provided in this subpart, provide boarding and deplaning assistance through the use of lifts or ramps at any U.S. commercial service airport with 10,000 or more annual enplanements where boarding and

deplaning by level-entry loading bridges or accessible passenger lounges is not available.

§ 382.97 To which aircraft does the requirement to provide boarding and deplaning assistance through the use of lifts apply?

The requirement of section 382.95(b) of this Part to provide boarding and deplaning assistance through the use of lifts applies with respect to all aircraft with a passenger capacity of 19 or more, with the following exceptions:

(a) Float planes;

(b) The following 19-seat capacity aircraft models: the Fairchild Metro, the Jetstream 31 and 32, the Beech 1900 (C and D models), and the Embraer EMB 120;

(c) Any other aircraft model determined by the Department of Transportation to be unsuitable for boarding and deplaning assistance by lift, ramp, or other suitable device.

The Department will make such a determination if it concludes that

(1) No existing boarding and deplaning assistance device on the market will accommodate the aircraft without a significant risk of serious damage to the aircraft or injury to passengers or employees, or

(2) Internal barriers are present in the aircraft that would preclude passengers who use a boarding or aisle chair from reaching a non-exit row seat.

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

(a) As a carrier, you must negotiate in good faith with the airport operator of each U.S. airport described in § 382.95(b) to ensure the provision of lifts for boarding and deplaning where level-entry loading bridges are not available.

(b) You must have a written, signed agreement with the airport operator allocating responsibility for meeting the boarding and deplaning assistance requirements of this subpart between or among the parties. For foreign carriers, with respect to all covered aircraft, this requirement becomes effective May 13, 2010.

(c) For foreign carriers, the agreement with a U.S. airport must provide that all actions necessary to ensure accessible boarding and deplaning for passengers with a disability are completed as soon as practicable, but no later than May 13, 2010.

(d) Under the agreement, you may, as a carrier, require that passengers wishing to receive boarding and deplaning assistance requiring the use of a lift for a flight check in for the flight one hour before the standard check-in

time for the flight. If the passenger checks in after this time, you must nonetheless provide the boarding and deplaning assistance by lift if you can do so by making a reasonable effort, without delaying the flight.

(e) The agreement must ensure that all lifts and other accessibility equipment are maintained in proper working condition.

(f) All carriers and airport operators involved are jointly and severally responsible for the timely and complete implementation of the agreement.

(g) You must make a copy of this agreement available, on request, to representatives of the Department of Transportation.

§ 382.101 What other boarding and deplaning assistance must carriers provide?

When level-entry boarding and deplaning assistance is not required to be provided under this subpart, you must, as a carrier, provide or ensure the provision of boarding and deplaning assistance by any available means to which the passenger consents. However, you must never use hand-carrying (i.e., directly picking up the passenger's body in the arms of one or more carrier personnel to effect a level change the passenger needs to enter or leave the aircraft), even if the passenger consents, unless this is the only way of evacuating the individual in the event of an emergency. The situations in which level-entry boarding is not required but in which you must provide this boarding and deplaning assistance include, but are not limited to, the following:

(a) The boarding or deplaning process occurs at a U.S. airport that is not a commercial service airport that has 10,000 or more enplanements per year;

(b) The boarding or deplaning process occurs at a foreign airport;

(c) You are using an aircraft subject to an exception from the lift boarding and deplaning assistance requirements under § 382.97 (a) – (c) of this subpart;

(d) The deadlines established in § 382.99(c) have not yet passed; and

(e) Circumstances beyond your control (e.g., unusually severe weather; unexpected mechanical problems) prevent the use of a lift.

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

As a carrier, you must not leave a passenger who has requested assistance required by this subpart unattended by the personnel responsible for enplaning, deplaning, or connecting assistance 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 (e.g., family member, personal care attendant) is accompanying the passenger, unless the passenger explicitly waives the obligation.

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

At a foreign airport at which enplaning, deplaning, or connecting assistance is provided by the airport operator, rather than by carriers, as a carrier you may rely on the services provided by the airport operator to meet the requirements of this subpart. If the services provided by the airport operator are not sufficient to meet the requirements of this subpart, you must supplement the airport operator's services to ensure that these requirements are met. If you believe you are precluded by law from supplementing the airport operator's services, you may apply for a conflict of laws waiver under § 382.9 of this Part.

Subpart H—Services on Aircraft

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

As a carrier, you must provide services within the aircraft cabin as requested by or on behalf of passengers with a disability, or when offered by carrier personnel and accepted by passengers with a disability, as follows:

(a) Assistance in moving to and from seats, as part of the enplaning and deplaning processes;

(b) Assistance in preparation for eating, such as opening packages and identifying food;

(c) If there is an on-board wheelchair on the aircraft, assistance with the use of the on-board wheelchair to enable the person to move to and from a lavatory;

(d) Assistance to a semi-ambulatory person in moving to and from the lavatory, not involving lifting or carrying the person; or

(e) Assistance in stowing and retrieving carry-on items, including mobility aids and other assistive devices stowed in the cabin (see also 382.91(c)). To receive such assistance, the passenger must self-identify as being an individual with a disability needing the assistance.

(f) Effective communication with passengers who have vision impairments and/or who are deaf or hard-of-hearing, so that these passengers have timely access to information the carrier provides to other passengers (e.g., weather, on-board services, flight

delays, connecting gates at the next airport).

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

As a carrier, you are not required to provide extensive special assistance to qualified individuals with a disability. For purposes of this section, extensive special assistance includes the following activities:

(a) Assistance in actual eating;

(b) Assistance within the restroom or assistance at the passenger's seat with elimination functions; and

(c) Provision of medical services.

§ 382.115 What requirements apply to on-board safety briefings?

As a carrier, you must comply with the following requirements with respect to on-board safety briefings:

(a) You must conduct an individual safety briefing for any passenger where required by 14 CFR 121.571(a)(3) and (a)(4), 14 CFR 135.117(b), or other FAA requirements.

(b) You may offer an individual briefing to any other passenger, but you may not require an individual to have such a briefing except as provided in paragraph (a) of this section.

(c) You must not require any passenger with a disability to demonstrate that he or she has listened to, read, or understood the information presented, except to the extent that carrier personnel impose such a requirement on all passengers with respect to the general safety briefing. You must not take any action adverse to a qualified individual with a disability on the basis that the person has not "accepted" the briefing.

(d) When you conduct an individual safety briefing for a passenger with a disability, you must do so as inconspicuously and discreetly as possible.

(e) The accessibility requirements for onboard video safety presentations that carriers must meet are outlined in section 382.69.

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

(a) As a carrier, you must permit a service animal to accompany a passenger with a disability.

(1) You must not deny transportation to a service animal on the basis that its carriage may offend or annoy carrier personnel or persons traveling on the aircraft.

(2) On a flight segment scheduled to take 8 hours or more, you may, as a condition of permitting a service animal to travel in the cabin, require the

passenger using the service animal to provide documentation that the animal will not need to relieve itself on the flight or that the animal can relieve itself in a way that does not create a health or sanitation issue on the flight.

(b) You must permit the service animal to accompany the passenger with a disability at any seat in which the passenger sits, unless the animal obstructs an aisle or other area that must remain unobstructed to facilitate an emergency evacuation.

(c) If a service animal cannot be accommodated at the seat location of the passenger with a disability who is using the animal, you must offer the passenger the opportunity to move with the animal to another seat location, if present on the aircraft, where the animal can be accommodated.

(d) As evidence that an animal is a service animal, you must accept identification cards, other written documentation, presence of harnesses, tags, or the credible verbal assurances of a qualified individual with a disability using the animal.

(e) If a passenger seeks to travel with an animal that is used as an emotional support or psychiatric service animal, you are not required to accept the animal for transportation in the cabin unless the passenger provides you current documentation (i.e., no older than one year from the date of the passenger's scheduled initial flight) on the letterhead of a licensed mental health professional (e.g., psychiatrist, psychologist, licensed clinical social worker) stating the following:

(1) The passenger has a mental or emotional disability recognized in the Diagnostic and Statistical Manual of Mental Disorders —Fourth Edition (DSM IV);

(2) The passenger needs the emotional support or psychiatric service animal as an accommodation for air travel and/or for activity at the passenger's destination;

(3) The individual providing the assessment is a licensed mental health professional, and the passenger is under his or her professional care; and

(4) The date and type of the mental health professional's license and the state or other jurisdiction in which it was issued.

(f) You are never required to accommodate certain unusual service animals (e.g., snakes, other reptiles, ferrets, rodents, and spiders) as service animals in the cabin. With respect to other unusual or exotic animals that are presented as service animals (e.g., miniature horses, pigs, monkeys), as a U.S. carrier you must determine whether any factors preclude their

traveling in the cabin as service animals (e.g., whether the animal is too large or heavy to be accommodated in the cabin, whether the animal would pose a direct threat to the health or safety of others, whether it would cause a significant disruption of cabin service, whether it would be prohibited from entering a foreign country that is the flight's destination). If no such factors preclude the animal from traveling in the cabin, you must permit it to do so. As a foreign carrier, you are not required to carry service animals other than dogs.

(g) Whenever you decide not 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 either at the airport, or within 10 calendar days of the incident.

(h) You must promptly take all steps necessary to comply with foreign regulations (e.g., animal health regulations) needed to permit the legal transportation of a passenger's service animal from the U.S. into a foreign airport.

(i) Guidance concerning the carriage of service animals generally is found in the preamble of this rule. Guidance on the steps necessary to legally transport service animals on flights from the U.S. into the United Kingdom is found in 72 FR 8268 –8277, (February 26, 2007).

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

(a) As a carrier, 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 as described in paragraph (b) of this section, to the extent that it does not interfere with crewmembers' safety duties as set forth in FAA and applicable foreign regulations.

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

Subpart I—Stowage of Wheelchairs, Other Mobility Aids, and Other Assistive Devices

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

(a) As a carrier, you must permit passengers with a disability to bring the following kinds of items into the aircraft cabin, provided that they can be stowed in designated priority storage areas or in overhead compartments or under seats, consistent with FAA, PHMSA, TSA, or applicable foreign government requirements concerning security, safety, and hazardous materials with respect to the stowage of carry-on items.

(1) Manual wheelchairs, including folding or collapsible wheelchairs;

(2) Other mobility aids, such as canes (including those used by persons with impaired vision), crutches, and walkers; and

(3) Other assistive devices for stowage or use within the cabin (e.g., prescription medications and any medical devices needed to administer them such as syringes or auto-injectors, vision-enhancing devices, and POCs, ventilators and respirators that use non-spillable batteries, as long as they comply with applicable safety, security and hazardous materials rules).

(b) In implementing your carry-on baggage policies, you must not count assistive devices (including the kinds of items listed in paragraph (a) of this section) toward a limit on carry-on baggage.

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

(a) The following rules apply to the stowage of passengers' wheelchairs or other assistive devices in the priority stowage area provided for in § 382.67 of this Part:

(1) You must ensure that a passenger with a disability who uses a wheelchair and takes advantage of the opportunity to preboard the aircraft can stow his or her wheelchair in this area, with priority over other items brought onto the aircraft by other passengers or crew enplaning at the same airport, consistent with FAA, PHMSA, TSA, or applicable foreign government requirements concerning security, safety, and hazardous materials with respect to the stowage of carry-on items. You must move items that you or your personnel have placed in the priority stowage area (e.g., crew luggage, an on-board wheelchair) to make room for the passenger's wheelchair, even if these items were stowed in the priority stowage area before the passenger

seeking to stow a wheelchair boarded the aircraft (e.g., the items were placed there on a previous leg of the flight).

(2) You must also ensure that a passenger with a disability who takes advantage of the opportunity to preboard the aircraft can stow other assistive devices in this area, with priority over other items (except wheelchairs) brought onto the aircraft by other passengers enplaning at the same airport consistent with FAA, PHMSA, TSA, or applicable foreign government requirements concerning security, safety, and hazardous materials with respect to the stowage of carry-on items.

(3) You must ensure that a passenger with a disability who does not take advantage of the opportunity to preboard is able to use the area to stow his or her wheelchair or other assistive device on a first-come, first-served basis along with all other passengers seeking to stow carry-on items in the area.

(b) If a wheelchair exceeds the space provided for in § 382.67 of this Part while fully assembled but will fit if wheels or other components can be removed without the use of tools, you must remove the applicable components and stow the wheelchair in the designated space. In this case, you must stow the removed components in areas provided for stowage of carry-on luggage.

(c) You must not use the seat-strapping method of carrying a wheelchair in any aircraft you order after May 13, 2009 or which are delivered after May 13, 2011. Any such aircraft must have the designated priority stowage space required by section 382.67, and you must permit passengers to use the space as provided in this section 382.123.

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

(a) As a carrier, you must stow wheelchairs, other mobility aids, or other assistive devices in the baggage compartment 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 concerning security, safety, and hazardous materials with respect to the stowage of carry-on items.

(b) You must give wheelchairs, other mobility aids, and other assistive devices priority for stowage in the baggage compartment over other cargo and baggage. Only items that fit into the baggage compartment and can be transported consistent with FAA,

PHMSA, TSA, or applicable foreign government requirements concerning security, safety, and hazardous materials with respect to the stowage of items in the baggage compartment need be transported. Where this priority results in other passengers' baggage being unable to be carried on the flight, you must make your best efforts to ensure that the other baggage reaches the passengers' destination on the carrier's next flight to the destination.

(c) You must provide for the checking and timely return of passengers' wheelchairs, other mobility aids, and other assistive devices as close as possible to the door of the aircraft, so that passengers may use their own equipment to the extent possible, except

(1) Where this practice would be inconsistent with Federal regulations governing transportation security or the transportation of hazardous materials; or

(2) When the passenger requests the return of the items at the baggage claim area instead of at the door of the aircraft.

(d) In order to achieve the timely return of wheelchairs, you must ensure that passengers' wheelchairs, other mobility aids, and other assistive devices are among the first items retrieved from the baggage compartment.

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

(a) Whenever baggage compartment size and aircraft airworthiness considerations do not prohibit doing so, you must, as a carrier, accept a passenger's battery-powered wheelchair or other similar mobility device, including the battery, as checked baggage, consistent with the requirements of 49 CFR 175.10(a)(15) and (16) and the provisions of paragraphs (b) through (f) of this section.

(b) You may require that passengers with a disability wishing to have battery-powered wheelchairs or other similar mobility devices transported on a flight check in one hour before the check-in time for the general public. If the passenger checks in after this time, you must nonetheless carry the wheelchair or other similar mobility device if you can do so by making a reasonable effort, without delaying the flight.

(c) If the battery on the passenger's wheelchair or other similar mobility device has been labeled by the manufacturer as non-spillable as provided in 49 CFR 173.159(d)(2), or if a battery-powered wheelchair with a spillable battery can be loaded, stored, secured and unloaded in an upright position, you must not require the

battery to be removed and separately packaged. Notwithstanding this requirement, you must remove and package separately any battery that is inadequately secured to a wheelchair or, for a spillable battery, is contained in a wheelchair that cannot be loaded, stowed, secured and unloaded in an upright position, in accordance with 49 CFR 175.10(a)(15) and (16). A damaged or leaking battery should not be transported.

(d) When it is necessary to detach the battery from the wheelchair, you must, upon request, provide packaging for the battery meeting the requirements of 49 CFR 175.10(a)(15) and (16) and package the battery. You may refuse to use packaging materials or devices other than those you normally use for this purpose.

(e) You must not disconnect the battery on wheelchairs or other mobility devices equipped with a non-spillable battery completely enclosed within a case or compartment integral to the design of the device unless an FAA or PHMSA safety regulation, or an applicable foreign safety regulation having mandatory legal effect, requires you to do so.

(f) You must not drain batteries.

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

(a) As a carrier, you must permit passengers with a disability to provide written directions concerning the disassembly and reassembly of their wheelchairs, other mobility aids, and other assistive devices. You must carry out these instructions to the greatest extent feasible, consistent with FAA, PHMSA, TSA, or applicable foreign government requirements concerning security, safety, and hazardous materials with respect to the stowage of carry-on items.

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

§ 382.131 Do baggage liability limits apply to mobility aids and other assistive devices?

With respect to transportation to which 14 CFR Part 254 applies, the limits to liability for loss, damage, or delay concerning wheelchairs or other assistive devices provided in Part 254 do not apply. The basis for calculating the compensation for a lost, damaged, or

destroyed wheelchair or other assistive device shall be the original purchase price of the device.

§ 382.133 What are the requirements concerning the evaluation and use of passenger-supplied electronic devices that assist passengers with respiration in the cabin during flight?

(a) Except for on-demand air taxi operators, as a U.S. carrier conducting passenger service you must permit any individual with a disability to use in the passenger cabin during air transportation, a ventilator, respirator, continuous positive airway pressure machine, or an FAA-approved portable oxygen concentrator (POC) on all flights operated on aircraft originally designed to have a maximum passenger capacity of more than 19 seats, unless:

(1) the device does not meet applicable FAA requirements for medical portable electronic devices and does not display a manufacturer's label that indicates the device meets those FAA requirements, or

(2) the device cannot be stowed and used in the passenger cabin consistent with applicable TSA, FAA, and PHMSA regulations.

(b) Except for foreign carriers conducting operations of a nature equivalent to on-demand air taxi operations by a U.S. carrier, as a foreign carrier conducting passenger service you must permit any individual with a disability to use a ventilator, respirator, continuous positive airway pressure machine, or portable oxygen concentrator (POC) of a kind equivalent to an FAA-approved POC for U.S. carriers in the passenger cabin during air transportation to, from or within the United States, on all aircraft originally designed to have a maximum passenger capacity of more than 19 seats unless:

(1) The device does not meet requirements for medical portable electronic devices set by the foreign carrier's government if such requirements exist and/or it does not display a manufacturer's label that indicates the device meets those requirements, or

(2) The device does not meet requirements for medical portable electronic devices set by the FAA for U.S. carriers and does not display a manufacturer's label that indicates the device meets those FAA requirements in circumstances where requirements for medical portable electronic devices have not been set by the foreign carrier's government and the foreign carrier elects to apply FAA requirements for medical portable electronic devices, or

(3) The device cannot be stowed and used in the passenger cabin consistent

with applicable TSA, FAA and PHMSA regulations, and the safety or security regulations of the foreign carrier's government.

(c) As a U.S. carrier, you must provide information during the reservation process as indicated in paragraphs (c)(1) through (c)(6) of this section upon inquiry from an individual concerning the use in the cabin during air transportation of a ventilator, respirator, continuous positive airway machine, or an FAA-approved POC. The following information must be provided:

(1) The device must be labeled by the manufacturer to reflect that it has been tested to meet applicable FAA requirements for medical portable electronic devices;

(2) The maximum weight and dimensions (length, width, height) of the device to be used by an individual that can be accommodated in the aircraft cabin consistent with FAA safety requirements;

(3) The requirement to bring an adequate number of batteries as outlined in paragraph (f)(2) of this section and to ensure that extra batteries carried onboard to power the device are packaged and protected from short circuit and physical damage in accordance with SFAR 106, Section 3 (b)(6);

(4) Any requirement, if applicable, that an individual contact the carrier operating the flight 48 hours before scheduled departure to learn the expected maximum duration of his/her flight in order to determine the required number of batteries for his/her particular ventilator, respirator, continuous positive airway pressure machine, or POC;

(5) Any requirement, if applicable, of the carrier operating the flight for an individual planning to use such a device to check-in up to one hour before that carrier's general check-in deadline; and

(6) For POCs, the requirement of paragraph 382.23(b)(1)(ii) of this Part to present to the operating carrier at the airport a physician's statement (medical certificate) prepared in accordance with applicable federal aviation regulations.

(d) As a foreign carrier operating flights to, from or within the United States, you must provide the information during the reservation process as indicated in paragraphs (d)(1) through (d)(7) of this section upon inquiry from an individual concerning the use in the cabin during air transportation on such a flight of a ventilator, respirator, continuous positive airway machine, or POC of a kind equivalent to an FAA-approved POC for U.S. carriers:

(1) The device must be labeled by the manufacturer to reflect that it has been tested to meet requirements for medical portable electronic devices set by the foreign carrier's government if such requirements exist;

(2) The device must be labeled by the manufacturer to reflect that it has been tested to meet requirements for medical portable electronic devices set by the FAA for U.S. carriers if requirements for medical portable electronic devices have not been set by the foreign carrier's government and the foreign carrier elects to apply FAA requirements for medical portable electronic devices;

(3) The maximum weight and dimensions (length, width, height) of the device to be used by an individual that can be accommodated in the aircraft cabin consistent with the safety regulations of the foreign carrier's government;

(4) The requirement to bring an adequate number of batteries as outlined in paragraph (f)(2) of this section and to ensure that extra batteries carried onboard to power the device are packaged in accordance with applicable government safety regulations;

(5) Any requirement, if applicable, that an individual contact the carrier operating the flight 48 hours before scheduled departure to learn the expected maximum duration of his/her flight in order to determine the required number of batteries for his/her particular ventilator, respirator, continuous positive airway pressure machine, or POC;

(6) Any requirement, if applicable, of the carrier operating the flight for an individual planning to use such a device to check-in up to one hour before that carrier's general check-in deadline; and

(7) Any requirement, if applicable, that an individual who wishes to use a POC onboard an aircraft present to the operating carrier at the airport a physician's statement (medical certificate).

(e) In the case of a codeshare itinerary, the carrier whose code is used on the flight must either inform the individual inquiring about using a ventilator, respirator, CPAP machine or POC onboard an aircraft to contact the carrier operating the flight for information about its requirements for use of such devices in the cabin, or provide such information on behalf of the codeshare carrier operating the flight.

(f)(1) As a U.S. or foreign carrier subject to paragraph (a) or (b) of this section, you must inform any individual who has advised you that he or she plans to operate his/her device in the aircraft cabin, within 48 hours of his/her

making a reservation or 24 hours before the scheduled departure date of his/her flight, whichever date is earlier, of the expected maximum flight duration of each segment of his/her flight itinerary.

(2) You may require an individual to bring an adequate number of fully charged batteries onboard, based on the battery manufacturer's estimate of the hours of battery life while the device is in use and the information provided in the physician's statement, to power the device for not less than 150% of the expected maximum flight duration.

(3) If an individual does not comply with the conditions for acceptance of a medical portable electronic device as outlined in this section, you may deny boarding to the individual in accordance with 14 CFR 382.19(c) and in that event you must provide a written explanation to the individual in accordance with 14 CFR 382.19(d).

Subpart J—Training and Administrative Provisions

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

(a) As a carrier that operates aircraft with 19 or more passenger seats, you must provide training, meeting the requirements of this paragraph, for all personnel who deal with the traveling public, as appropriate to the duties of each employee.

(1) You must ensure training to proficiency concerning:

(i) The requirements of this Part and other applicable Federal regulations affecting the provision of air travel to passengers with a disability;

(ii) Your procedures, consistent with this Part, 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

(iii) 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.

(2) You must also train such employees with respect to awareness and appropriate responses to passengers with a disability, including persons with physical, sensory, mental, and emotional disabilities, including how to distinguish among the differing abilities of individuals with a disability.

(3) You must also train these employees to recognize requests for communication accommodation from individuals whose hearing or vision is impaired 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, for example. Training in sign language is not required. You must also train these employees to recognize requests for communication accommodation from deaf-blind passengers 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, for example.

(4) You must consult with organizations representing persons with disabilities in your home country when developing your training program and your policies and procedures. If such organizations are not available in your home country, you must consult with individuals with disabilities and/or international organizations representing individuals with disabilities.

(5) You must ensure that all personnel who are required to receive training receive refresher training on the matters covered by this section, 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 three years. The program must describe how employee proficiency will be maintained.

(6) You must provide, or ensure that your contractors provide, training to the contractors' employees concerning travel by passengers with a disability. This training is required only for those contractor employees who deal directly with the traveling public, and it must be tailored to the employees' functions. Training for contractor employees must meet the requirements of paragraphs (a)(1) through (a)(5) of this section.

(7) The employees you designate as CROs, for purposes of § 382.151 of this Part, must receive training concerning the requirements of this Part and the duties of a CRO.

(8) Personnel subject to training required under this Part, who are already employed on May 13, 2009, must be trained one time in the changes resulting from the reissuance of this Part.

(b) If you are a carrier that operates only aircraft with fewer than 19 passenger seats, you must provide training for flight crewmembers and appropriate personnel to ensure that they are familiar with the matters listed in paragraphs (a)(1) and (a)(2) of this section and that they comply with the requirements of this Part.

§ 382.143 When must carriers complete training for their personnel?

(a) As a U.S. carrier, you must meet the training requirements of § 382.141 by the following times.

(1) Employees designated as CROs shall receive training concerning the requirements of this Part and the duties of a CRO before assuming their duties under § 382.151 (see § 382.141(a)(7)). You must ensure that all employees performing the CRO function receive annual refresher training concerning their duties and the provisions of this regulation. The one-time training for CROs about the changes to Part 382 must take place by May 13, 2009. For employees who have already received CRO training, this training may be limited to changes from the previous version of Part 382.

(2) The one-time training for existing employees about changes to Part 382 (see § 382.141(a)(8)) must take place as part of the next scheduled recurrent training after May 13, 2009 for each such employee or within one year after May 13, 2009, whichever comes first.

(3) For crewmembers subject to training requirements under 14 CFR Part 121 or 135 whose employment in any given position commences after May 13, 2009, before they assume their duties; and

(4) For other personnel whose employment in any given position commences after May 13, 2009, within 60 days after the date on which they assume their duties.

(b) As a foreign carrier that operates aircraft with 19 or more passenger seats, you must provide training meeting the requirements of paragraph (a) of this section for all personnel who deal with the traveling public in connection with flights that begin or end at a U.S. airport, as appropriate to the duties of each employee. You must ensure that personnel required to receive training complete the training by the following times:

(1) Employees designated as CROs shall receive training in accordance with paragraph (a)(1) of this section, by May 13, 2009.

(2) For crewmembers and other personnel who are employed on May 13, 2009, within one year after that date;

(3) For crewmembers whose employment commences after May 13, 2010, before they assume their duties;

(4) For other personnel whose employment in any given position commences after May 13, 2010, or a date within 60 days after the date on which they assume their duties; and

(5) For crewmembers and other personnel whose employment in any given position commences after May 13,

2009, but before May 13, 2010, by May 13, 2010 or a date 60 days after the date of their employment, whichever is later.

§ 382.145 What records concerning training must carriers retain?

(a) As a carrier that operates aircraft with 19 or more passenger seats, you must incorporate procedures implementing the requirements of this Part in the manuals or other guidance or instructional materials provided for the carrier and contract personnel who provide services to passengers, including, but not limited to, pilots, flight attendants, reservation and ticket counter personnel, gate agents, ramp and baggage handling personnel, and passenger service office personnel. You must retain these records for review by the Department on the Department's request. If, upon such review, the Department determines that any portion of these materials must be changed in order to comply with this Part, DOT will direct you to make appropriate changes. You must incorporate and implement these changes.

(b) You must retain for three years individual employee training records demonstrating that all persons required to receive initial and refresher training have done so.

Subpart K—Complaints and Enforcement Procedures

§ 382.151 What are the requirements for providing Complaints Resolution Officials?

(a) As a carrier providing scheduled service, or a carrier providing nonscheduled service using aircraft with 19 or more passenger seats, you must designate one or more CROs.

(b) 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 at each airport serving flights you operate that begin or end at a U.S. airport. You may make the CRO available in person at the airport or via telephone, at no cost to the passenger. If a telephone link to the CRO is used, TTY service or a similarly effective technology must be available so that persons with hearing impairments may readily communicate with the CRO. You must make CRO service available in the language(s) in which you make your services available to the general public.

(c) You must make passengers with a disability aware of the availability of a CRO and how to contact the CRO in the following circumstances:

(1) In any situation in which any person complains or raises a concern with your personnel about

discrimination, accommodations, or services with respect to passengers with a disability, and your personnel do not immediately resolve the issue to the customer's satisfaction or provide a requested accommodation, your personnel must immediately inform the passenger of the right to contact a CRO and then contact a CRO on the passenger's behalf or provide the passenger a means (e.g., a phone, a phone card plus the location and/or phone number of the CRO available at the airport). Your personnel must provide this information to the passenger in a format he or she can use.

(2) Your reservation agents, contractors, and Web sites must provide information equivalent to that required by paragraph (c)(1) of this section to passengers with a disability using those services who complain or raise a concern about a disability-related issue.

(d) Each CRO must be thoroughly familiar with the requirements of this Part and the carrier's procedures with respect to passengers with a disability. The CRO is intended to be the carrier's "expert" in compliance with the requirements of this Part.

(e) You must ensure that each of your CROs has the authority to make dispositive resolution of complaints on behalf of the carrier. This means that the CRO must have the power to overrule the decision of any other personnel, except that the CRO is not required to be given authority to countermand a decision of the pilot-in-command of an aircraft based on safety.

§ 382.153 What actions do CROs take on complaints?

When a complaint is made directly to a CRO for a carrier providing scheduled service, or a carrier providing nonscheduled service using aircraft with 19 or more passenger seats (e.g., orally, by phone, TTY), the CRO must promptly take dispositive action as follows:

(a) If the complaint is made to a CRO before the action or proposed action of carrier personnel has resulted in a violation of a provision of this Part, the CRO must take, or direct other carrier personnel to take, whatever action is necessary to ensure compliance with this Part.

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

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

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

§ 382.155 How must carriers respond to written complaints?

(a) As a carrier providing scheduled service, or a carrier providing nonscheduled service using aircraft with 19 or more passenger seats, you must respond to written complaints received by any means (e.g., letter, fax, e-mail, electronic instant message) concerning matters covered by this Part.

(b) As a passenger making a written complaint, you must state whether you had contacted a CRO in the matter, provide the name of the CRO and the date of the contact, if available, and enclose any written response you received from the CRO.

(c) As a carrier, you are not required to respond to a complaint postmarked or transmitted more than 45 days after the date of the incident, except for complaints referred to you by the Department of Transportation.

(d) As a carrier, you must make a dispositive written response to a written disability complaint within 30 days of its receipt. The response must specifically admit or deny that a violation of this Part has occurred.

(1) If you admit that a violation has occurred, you must provide to the complainant a written statement setting forth a summary of the facts and the steps, if any, you will take in response to the violation.

(2) If you deny that a violation has occurred, your response must include a summary of the facts and your reasons, under this Part, for the determination.

(3) Your response must also inform the complainant of his or her right to pursue DOT enforcement action under this Part.

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

(a) For the purposes of this section, a disability-related complaint means a specific written expression of dissatisfaction received from, or

submitted on behalf, of an individual with a disability concerning a difficulty associated with the person's disability, which the person experienced when using or attempting to use an air carrier's or foreign carrier's services.

(b) If you are a carrier covered by this Part, conducting passenger operations with at least one aircraft having a designed seating capacity of more than 60 passengers, this section applies to you. As a foreign carrier, you are covered by this section only with respect to disability-related complaints associated with any flight segment originating or terminating in the United States.

(c) You must categorize disability-related complaints that you receive according to the type of disability and nature of complaint. Data concerning a passenger's disability must be recorded separately in the following areas: vision impaired, hearing impaired, vision and hearing impaired, mentally impaired, communicable disease, allergies (e.g., food allergies, chemical sensitivity), paraplegic, quadriplegic, other wheelchair, oxygen, stretcher, other assistive device (cane, respirator, etc.), and other disability. Data concerning the alleged discrimination or service problem related to the disability must be separately recorded in the following areas: refusal to board, refusal to board without an attendant, security issues concerning disability, aircraft not accessible, airport not accessible, advance notice dispute, seating accommodation, failure to provide adequate or timely assistance, damage to assistive device, storage and delay of assistive device, service animal problem, unsatisfactory information, and other.

(d) You must submit an annual report summarizing the disability-related complaints that you received during the prior calendar year using the form specified at the following internet address: <http://382reporting.ost.dot.gov>. You must submit this report by the last Monday in January of each year for complaints received during the prior calendar year. You must make submissions through the World Wide

Web except for situations where you can demonstrate that you would suffer undue hardship if not permitted to submit the data via paper copies, disks, or e-mail, and DOT has approved an exception. All fields in the form must be completed; carriers are to enter "0" where there were no complaints in a given category. Each annual report must contain the following certification signed by your authorized representative: "I, the undersigned, do certify that this report has been prepared under my direction in accordance with the regulations in 14 CFR Part 382. I affirm that, to the best of my knowledge and belief, this is a true, correct, and complete report." Electronic signatures will be accepted.

(e) You must retain correspondence and record of action taken on all disability-related complaints for three years after receipt of the complaint or creation of the record of action taken. You must make these records available to Department of Transportation officials at their request.

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

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

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

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

(2) As either carrier in a codeshare relationship, you must forward to your codeshare partner disability-related complaints you receive from or on behalf of passengers with respect to difficulties encountered in connection with service provided by your code-sharing partner.

(g) Each carrier, except for carriers in codeshare situations, shall comply with paragraphs (c) through (e) of this section for disability-related complaints it receives from or on behalf of passengers as well as disability-related complaints forwarded by another carrier or governmental agency with respect to difficulties encountered in connection with service it provides.

(h) Carriers that do not submit their data via the Web shall use the disability-related complaint data form specified in Appendix A to this Part when filing their annual report summarizing the disability-related complaints they received. The report shall be mailed, by the date specified in paragraph (d) of this section, to the following address: U.S. Department of Transportation, Aviation Consumer Protection Division (C-75), 1200 New Jersey Avenue, SE., West Building, Room W96-432, Washington, DC 20590.

§ 382.159 How are complaints filed with DOT?

(a) Any person believing that a carrier has violated any provision of this Part may seek assistance or file an informal complaint at the Department of Transportation no later than 6 months after the date of the incident by either:

(1) going to the web site of the Department's Aviation Consumer Protection Division at <http://airconsumer.ost.dot.gov> and selecting "Air Travel Problems and Complaints," or

(2) writing to Department of Transportation, Aviation Consumer Protection Division (C-75), 1200 New Jersey Avenue, SE., Washington, DC 20590.

(b) Any person believing that a carrier has violated any provision of this Part may also file a formal complaint under the applicable procedures of 14 CFR Part 302.

(c) You must file a formal complaint under this Part within six months of the incident on which the complaint is based in order to ensure that the Department of Transportation will investigate the matter.

BILLING CODE 4910-9X-P

	Vision Impaired	Hearing Impaired	Visual & Hearing Impaired	Paraplegics	Quadriplegics	Other Wheelchair	Chaper	Structur	Other Disability	Other Visually Impaired	Comme- mode Device	Allerges
Damage to Assistive Device Storage and Delay of Assistive Device Service												
Animal Problem												
Financial/Story Info												
Other												

Certification Statement: I, the undersigned, do certify that this report has been prepared under my direction in accordance with the regulations in 1-4 CFR Part 382. I affirm that, to the best of my knowledge and belief, this is a true, correct, and complete report

Signature: _____

FOR OFFICIAL USE ONLY (FOUO) - THIS INFORMATION IS UNCLASSIFIED EXCEPT WHERE SHOWN OTHERWISE

Appendix B to Part 382 —Cross-Reference Table

Part 382 in finding material in the new, renumbered Part 382.

The Department is providing the following table to assist users familiar with the current

SECTION NUMBERS: OLD AND NEW RULES

Old section (382.x)	New section (382.x)	Subject
General provisions:		
1	1	Purpose.
3	7	Applicability.
5	3	Definitions.
7	11, 13	Non-discrimination generally.
9	15	Contractors.
Aircraft accessibility:		
21(a)(1)	61	Movable armrests.
21(a)(2)	67	Stowage space in cabin for passenger wheelchair.
21(a)(3)	63	Accessible lavatories.
21(a)(4)	65	Carrier-supplied on-board wheelchair.
21(e) and (f)	71	Aircraft accessibility: miscellaneous.
Airport accessibility:		
23	51	General.
(New)	53	Vision/hearing impairments.
Services and information:		
31	19	Refusal of transportation.
31(c)	17	Number limits.
33	25, 27	Advance notice requirements.
35	29	Safety assistants (formerly "attendants").
37	87(a)	Seat assignments.
38	81 through 87	Seating accommodations.
39(a)	91 through 105	Enplaning, deplaning and connecting assistance.
39(b)	111 through 119	Assistance in cabin.
40 and 40a	99	Mechanical lifts.
41	121 through 133	Stowage of assistive devices.
43(a)	129(b)	Timely return of assistive devices.
43(b)	131	Liability limits.
43(c)	35	Liability waivers.
45(a)	41	Access to information (general).
45(b)	115	Individual safety briefings.
45(c)	119	Access to information in airport and aircraft.
45(d)	45	Availability of copy of rule.
47(a)	43	TTY's and reservations systems.
47(b)	69	Accessibility of videos on aircraft.
49	55	Security screening.
51	21	Communicable diseases.
53	23	Medical certificates.
55(a)	117	Service animals.
55(b)	33	Sitting on blankets.
55(c)	33	Restricting movement.
55	31	Charges for accommodations.
Administrative provisions:		
61	141, 143	Training.
63(c) and (d)	145	Manuals; directed changes.
65(a)	151, 153	Complaints Resolution Officials.
65(b)	155, 157	Written complaints to carriers.
65(c) and (d)	159	Complaints to DOT.

[FR Doc. 08 - 1228 Filed 5 - 7 - 08; 9:02 am]

BILLING CODE 4910-9X-P