



Provided By:
Pacific ADA Center
1-800-949-4232 (Voice/TTY)
(510) 285-5600 (Voice/TTY)
adatech@adapacific.org
www.adapacific.org

**UNITED STATES OF AMERICA
DEPARTMENT OF TRANSPORTATION
OFFICE OF AVIATION ENFORCEMENT AND PROCEEDINGS
WASHINGTON, DC**

May 13, 2009

**Answers to Frequently Asked Questions Concerning Air Travel of People with Disabilities
Under the Amended Air Carrier Access Act Regulation**

Section 382.7 – Applicability

1. Does the rule apply to foreign-originating charter flights?

Answer: Charter flights by foreign carriers that originate at a foreign airport and operate to a United States airport and then back to a foreign airport without picking up any passengers who did not begin their journey at the foreign airport are not subject to the requirements of Part 382 with respect to any passengers on those flights, including U.S. citizens.

2. On a code-share flight operated by a foreign carrier between two foreign points, is the U.S. code-share partner responsible for ensuring compliance with the service

provisions of Subpart I with respect to passengers holding tickets bearing that U.S. carrier's code?

Answer: Generally, no. In section 382.7 (c) of the final rule, Subpart I was inadvertently omitted from the list of subparts for which a U.S. carrier is responsible to ensure compliance with the service-related provisions on a flight operated by its foreign code share partner between two foreign points with respect to passengers traveling under its code. The correction of this omission will be addressed in an upcoming notice of proposed rulemaking. Until then, the Department's Aviation Enforcement Office will only hold U.S. carriers responsible for their passengers carried on a code-share flight operated by a foreign airline under the Air Carrier Access Act (i.e., the statute itself) for ensuring that the basic services outlined in this subpart are provided. Examples of basic services include: allowing passengers to bring mobility aids and other assistive devices, including a passenger's folding wheelchair, in the aircraft cabin to be stowed consistent with safety and security requirements; stowage of wheelchairs, other mobility aids, or other assistive devices in the baggage compartment if an approved stowage area is not available in the cabin; and returning wheelchairs, mobility aids and other assistive devices to the passenger in the condition in which they were received. An example of a service that will not be required on such flights is the acceptance of a passenger's electronic respiratory assistive device (e.g., POC) for use on board an aircraft.

3. On a code-share flight operated by a U.S. carrier between a U.S. airport and a foreign airport where a passenger is holding a ticket bearing a foreign carrier's code, which carrier is responsible for Part 382 violations involving that passenger?

Answer: In the above scenario, as the operating carrier, the U.S. airline would be responsible for violations of Part 382 with respect to all passengers on the flight, while the foreign carrier code-share partner would be responsible only with respect to passengers holding tickets bearing that carrier's code. As a matter of policy, the Aviation Enforcement Office would generally attribute responsibility to the carrier determined to actually be at fault after conducting an investigation.

Section 382.10(c) – Equivalent Alternative Determination

4. What information should be included in a request for an equivalent alternative determination?

Answer: Part 382 requires a carrier that submits an application for an equivalent alternative determination to include a detailed description of the alternative policy, practice, or other accommodation the carrier proposes to use in place of compliance with the cited provision(s) of Part 382, and an explanation of how the carrier will provide substantially equivalent accessibility to passengers with disabilities. We cannot specify what information would be appropriate in all circumstances. However, in the context of an equivalent alternative request involving movable aisle armrests, for example, diagrams, photos, and videos would likely be useful in showing that what the carrier desires to do is

an equivalent alternative to the accommodation described in the cited provision(s) of Part 382. The Department has also found it to be useful for carriers to consult with organizations representing persons with disabilities when developing an equivalent alternative application to ensure the alternative policy, practice, or other accommodation actually provides an equivalent alternative to the requirements of Part 382 for which the equivalent alternative request is being made. Providing the Department the views of such organizations would be helpful.

Section 382.11 (a)(3) – Non-discrimination and Benefits of Air Transportation Related Services

5. If a carrier’s premium service includes airline-provided transportation from the customer’s home or a central pick-up location in the city to the airport, must that transportation be accessible to passengers with disabilities?

Answer: Yes. Both U.S. and foreign air carriers are subject to ACAA requirements generally prohibiting discrimination in the provision of air transportation and related services (14 CFR 382.11(a)(1) and (3)). If an airline provides ground transportation services to its premium customers (e.g., first class passengers or elite frequent flyers), the Aviation Enforcement Office would regard the failure or refusal of an airline to provide “equivalent service” to a passenger with a disability in connection with a covered flight in the same class of service as a violation of these provisions. Equivalent service means that the airlines must ensure that, in all relevant respects (e.g., response time, where and when the service is provided, any limitations on service availability), the service provided to people with disabilities must be equivalent to that provided to everyone else. The equivalent service obligation does not mean that the airline itself must necessarily own accessible vehicles. It could be possible, for example, for the airline to have a contract or arrangement with another provider (e.g., ground transportation company that has accessible vehicles) to pick up a passenger with a disability for the airline, as long as the service provided was truly equivalent. The obligation of U.S. and foreign airlines to provide equivalent service under the ACAA applies both in the U.S. and in other countries (with respect to flights to and from the United States in the case of foreign carriers). It should be noted that, in addition to the ACAA requirements, U.S. and foreign carriers also have an obligation to provide “equivalent service” with respect to such airline-provided ground transportation in the U.S. under the Americans with Disabilities Act and the Department of Transportation’s ADA rules (49 CFR Part 37).

Section 382.23 – Medical Certificates and Medical Clearances

6. Under what circumstances may a carrier determine that there is reasonable doubt that a passenger can complete the flight safely without requiring extraordinary medical assistance during the flight and thus require the passenger to obtain a medical clearance as a condition for providing air transportation? How is “extraordinary medical assistance” defined?

Answer: A carrier may determine that there is reasonable doubt that a passenger can complete the flight safely without requiring extraordinary medical assistance during the flight when the passenger's condition does not appear to be medically stable (e.g., the passenger has apparent significant difficulty in breathing, appears to be in substantial pain, etc.). Extraordinary medical care is care that may require the use of onboard emergency medical equipment (e.g., automated external defibrillator or enhanced emergency medical kit (EEMK)) or voluntary assistance from another medically trained passenger, or a delay/diversion to obtain the medical assistance necessary to stabilize that passenger. Extraordinary medical assistance may also be needed when a passenger is unable to self-administer medication or routine medical care necessary to maintain the stability of his/her condition during a flight (e.g., insulin injection). In instances where the carrier reasonably concludes that extraordinary medical assistance may be necessary, it may require a medical certificate. The carrier is also free to offer the passenger the option of undergoing preflight medical clearance.

7. When there is reasonable doubt that a passenger can complete a flight safely without extraordinary medical assistance, and the carrier consequently requires the passenger to provide a medical certificate from his/her physician as a condition for air travel, what information should the certificate contain?

Answer: When a passenger's ability to complete a flight safely without extraordinary medical assistance is in doubt, the carrier may require a medical certificate that states whether the passenger is medically stable for the flight. The medical certificate should also explicitly state that the passenger is capable of completing the flight safely without requiring extraordinary medical assistance. The passenger may assist the carrier by providing information regarding his/her condition and prognosis including whether the condition is chronic or acute, although the rule does not permit airlines to require this information as a condition of travel. If the passenger has such a medical certificate indicating that he/she is capable of completing the flight safely, the carrier may require medical clearance only 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. It would be a violation of Part 382 for a carrier to routinely require a medical clearance and refuse to honor a medical certificate provided by a passenger.

8. Are airlines required to provide in-flight emergency medical assistance to passengers?

Answer: No. There are no federal regulations requiring carriers to provide emergency medical care or to establish a standard of care for the provision of emergency medical care. The FAA does have certain requirements for equipment, training, and procedures which crewmembers and/or medical professionals providing voluntary medical assistance can use to respond to medical events on the aircraft. Under most airline policies, however, the use of certain emergency medical equipment (e.g., EEMK) is restricted to medical professionals providing voluntary assistance.

- 9. What should carriers do to safeguard the personal medical information (e.g., physician’s statements, medical certificates, and documentation from licensed mental health professionals for emotional support and psychiatric service animals) that Part 382 permits them to require of certain passengers in order to provide certain accommodations?**

Answer: We recommend that airlines not retain personal medical information that they require a passenger to provide as a condition for obtaining disability accommodations. If airlines choose to retain such information, we recommend that they take steps to safeguard it (e.g., maintaining the information in a separate confidential file for as long as they retain the passenger’s reservation records for the flights involved).

382.27 – Advance Notice

- 10. When must a carrier accommodate a passenger accompanied by an emotional support or psychiatric service animal who has not provided 48 hours’ advance notice?**

Answer: Carriers must accommodate a passenger accompanied by an emotional support or psychiatric service animal who has not provided 48 hours’ advance notice if the carrier can do so by making reasonable efforts, without delaying a flight. The carrier, at its discretion, may waive its 48 hours’ advance notice requirement in order to expedite the short-notice air travel of a passenger accompanied by an emotional support or psychiatric service animal.

Section 382.29 (b) & (c) – Safety Assistant

- 11. If a passenger with a mobility impairment presents himself/herself with a safety assistant to the carrier and it appears to carrier personnel that the passenger, relying on the physical assistance of the safety assistant, will not be able to evacuate the aircraft in case of an emergency, can the carrier require a different safety assistant?**

Answer: Yes, a carrier can require a different safety assistant if its personnel reasonably believe that, relying on the physical assistance of the safety assistant presented, the passenger with a mobility impairment cannot evacuate the aircraft. However, if the passenger with a disability disagrees with the carrier’s decision, the carrier cannot charge for transporting the new safety assistant.

- 12. When is a carrier permitted to require a passenger it believes cannot physically assist in his or her own evacuation to travel with a safety assistant and to pay for the assistant?**

Answer: An airline is permitted to require a passenger to travel with a safety assistant after it has asked the passenger whether he/she can physically assist in his/her own

evacuation and the airline reasonably concludes that the passenger cannot do so. The Aviation Enforcement Office interprets this provision as allowing the carrier to require the passenger to pay for the transportation of a safety assistant if the passenger cannot state how he/she is able to *physically assist* or concedes that he/she is unable to do so. If the passenger explains how he/she can physically assist in his/her evacuation and maintains that he/she can do so, but the carrier disagrees, the carrier may require the passenger to find a safety assistant but the carrier may not charge for the transportation of the safety assistant. Alternatively, the carrier may choose to provide a safety assistant to the passenger (e.g., another passenger or an off-duty crewmember).

Section 382.31 (c) – Web Fare Discounts

13. If a carrier’s commercial website is inaccessible to passengers with visual impairments, is that carrier required to disclose the existence of, and sell discounted web-based fares to a passenger with a visual impairment who calls or appears in person to inquire about airfares, make a reservation, or purchase a ticket?

Answer: Yes, when a carrier’s commercial website is inaccessible to passengers with visual impairments, the carrier must disclose web-based discount fares to any prospective passenger who contacts the carrier via other normal channels for inquiring about fares, making a reservation, or purchasing transportation (e.g. telephone reservation line, airport ticket counter) and states that he or she has a visual impairment and is unable to use the web site. The carrier must sell a web-based discount fare to such a person if his or her itinerary qualifies for the fare as it is offered on the web (e.g., same cities and dates).

Section 382.51(a)(5) – Airport Accessibility

14. How does the Department define the term "control" used in defining a carrier's facility in 14 CFR 382.3 and in Subpart D (Accessibility of Airport Facilities), which require a carrier to comply with certain provisions of Part 382 if the carrier “owns, leases, or controls” the airport facility.

Answer: The Aviation Enforcement Office defines control as the use of a facility by an airline during its operations and as may be further described in its use and lease agreement with the airport. For example, a carrier that uses a gate at an airport for the purpose of deplaning or enplaning its aircraft has control of the gate area during its deplaning or enplaning operations and is required to ensure that the applicable provisions of Part 382 are met.

15. Under what authority are U.S. airports required to cooperate with airlines to implement provisions of Part 382 that involve joint airline/airport responsibilities?

Answer: Most U.S. airports receive Federal financial assistance from the FAA. Therefore, airports are subject to section 504 of the Rehabilitation Act of 1973, which

prohibits discrimination on the basis of disability in Federally-assisted programs. In some areas (e.g., provision of lifts where level-entry boarding is not available), Part 382 and the Department's section 504 regulation (49 CFR Part 27) already impose joint requirements on airlines and airports. The Department anticipates amending Part 27 to ensure that any new joint airport/airline responsibilities in the revised Part 382 are covered under Part 27 as well as under Part 382.

16. Where should carriers and airports establish the service animal relief areas required at U.S. airports under the rule?

Answer: While not specifically required by our rule, carriers and airports may wish to consider the benefits of establishing animal relief areas both inside and outside the secure area (e.g., to accommodate passengers with short connection times, to minimize time needed for escort service, passenger convenience). In doing so, carriers should consult with service animal training organizations. In establishing animal relief areas inside the secure area, carriers and airports should coordinate closely with the Transportation Security Administration (TSA) and the Customs and Border Protection (CBP) offices serving the airport to ensure that the animal relief area can be used consistent with TSA and CBP procedures.

17. Who is responsible for the installation and maintenance of service animal relief areas at U.S. airports?

Answer: Animal relief areas should be provided in cooperation between airlines and the airport operator and in consultation with local service animal training organization(s). The national and international service animal organizations below have directories of training organizations on their websites that carriers and airport operators can use to find the nearest service animal training organization to the consulting airport. Such groups are often able to put airlines and airports in touch with sources of the necessary technical expertise on establishing relief areas.

- American Dog Trainers Network
<http://www.inch.com/~dogs/service.html>
- Assistance Dogs International -
<http://www.assistancedogsinternational.org/membersstatecountry.php>

If the Department's Aviation Enforcement Office received a complaint alleging that an animal relief area was not available or not being properly maintained, the carrier(s) would ultimately be responsible for ensuring these areas are available and maintained, with respect to terminal facilities it owns, leases or controls. However, the actual establishment of the animal relief area as well as its maintenance could be handled contractually with the airport operator since several carriers could be using the same designated animal relief area.

18. What factors should airlines and airports consider in designating and constructing areas for service animal relief at U.S. airports?

Answer: Factors to consider in establishing relief areas include the size and surface material of the area, maintenance, and distance to relief area which could vary based on the size and configuration of the airport. The best solution based on these factors will vary from airport to airport and therefore involvement of all the stakeholder groups in the planning is critical (e.g., airline, airport, service animal training organization, TSA, CBP). Some considerations for designating and constructing areas that are safe for humans and animals include:

- Designate relief areas solely for that purpose. This helps keep the area free of hazards and distractions, and helps prevent the spread of waste contamination.
- Establish relief areas:
 - accessible to passengers with all types of disabilities;
 - of a size adequate for larger dogs to use;
 - that minimize the travel distance to and from the gate for passengers making connecting flights; and
 - equipped with adequate lighting to enhance usability and security.
- Keep the area clean (e.g., free of broken glass, bottle caps, and trash). When feasible, the area should also be free of loud noises and strong odors.
- Use a gravel or sand surface for relief areas. Gravel can be disinfected adequately to reduce the chance of germs being spread between animals or being carried outside of the relief area.
- Adequate drainage should be installed to allow cleaning by regularly hosing down the relief area.
- Provide trash cans for waste disposal that are emptied frequently.

Note that there is a requirement for carriers to consult with service animal training organizations in establishing animal relief areas. (See question 17 above.)

19. Some carriers have voluntarily established disability advisory boards to provide feedback on services that may affect individuals with disabilities. May a carrier consult with its disability advisory board members in lieu of a local service animal training organization on the establishment of airport service animal relief areas?

Answer: A carrier may consult with its disability advisory board members on the establishment of an airport service animal relief area, but may not do so in lieu of consulting a local service animal training organization. Where there is no local service animal training organization, the Aviation Enforcement Office would consider

consultation with a national or international service animal training organization to satisfy the requirement.

20. How will travelers accompanied by assistance dogs/service animals know where the relief areas are located in U.S. airports?

Answer: Passengers who request that the carrier provide them with assistance to an animal relief area should be advised by the carrier of the location of the animal relief area. Additionally, if requested, it would be the responsibility of the carrier to accompany a passenger traveling with a service animal to and from the animal relief area. The requirement to provide animal relief areas is effective on May 13, 2009, for U.S. carriers and May 13, 2010, for foreign carriers. (See also question 29.)

Subpart E (Sections 382.61 – 382.71) – Aircraft Accessibility

21. Given the many variations in aircraft seat design, how does the Department define “movable aisle armrest” for purposes of complying with the requirements of section 382.61?

Answer: The term “movable aisle armrest” in section 382.61 refers to an armrest on an aisle seat that moves or folds out of the way while the seatback remains in an upright position to permit a passenger with a mobility impairment to safely make an unobstructed transfer (with assistance from carrier personnel if the passenger’s physical ability necessitates such assistance) from an aisle wheelchair to his or her aircraft seat.

22. What factors will determine whether an aircraft seat design can be considered an equivalent alternative to a seat with a movable aisle armrest as required by Part 382?

Answer: There is no specific list of factors that the Department will consider when determining whether or not an aircraft seat without a movable aisle armrest provides an equivalent alternative to this requirement. However, in making the determination as to whether the seat is equivalent the Department looks to see whether individuals can make an assisted and unassisted horizontal transfer from the onboard aisle or boarding chair to the aircraft seat without being lifted over an armrest or other obstacle. Some factors that the Department will consider include, but are not limited to (1) the fabric used on the seat, (2) the pitch of the row of seats, (3) the training required to properly transfer passengers into the seat, (4) the shape of the seat’s shell, (5) whether the armrest moves only when the seat is placed in an angled or reclined position, and (6) any obstruction of the foot well when the seat is placed in an angled or reclined position. In reviewing equivalent alternative determination requests for the requirement that aircraft have a movable aisle armrest, the Department will view the seat and its surroundings in totality and determine whether or not the seating accommodation provides access to persons with a disability equivalent to what can be achieved via a movable aisle armrest. See question 4 for further information as to what should be included in an equivalent alternative request.

23. Since the applicability of certain requirements of Part 382 is linked to the passenger seating capacity of an aircraft (e.g., moveable aisle armrests on aircraft of 30 or more seats, onboard wheelchair to reach accessible lavatory on aircraft of more than 60 seats, priority stowage space for a collapsible passenger wheelchair on aircraft of 100 or more seats), may a carrier avoid complying with such requirements by reducing the number of seats on an aircraft?

Answer: No. The Department has long held that a carrier may not avoid compliance with our aircraft accessibility requirements by reducing the number of seats on an aircraft. Therefore, it looks at the manufacturer's maximum designed seating capacity of a given aircraft type for purposes of determining compliance with Part 382. For example, if a manufacturer designs an aircraft type to hold a maximum of 110 passenger seats, a carrier that stipulates that the aircraft is to be delivered with 99 seats, or that takes delivery of an aircraft with 110 seats and then removes 11 seats, would still need to provide a priority space in the aircraft cabin to store a passenger's folding wheelchair which is required on aircraft with a designed seating capacity of 100 or more seats. (See 14 CFR 382.67). Similarly, if an aircraft with a maximum designed seating capacity of 65 seats is modified to have fewer than 60 seats, there would still be a requirement for an onboard wheelchair. (See 14 CFR 382.65).

On aircraft whose maximum designed seating capacity is 30 or more, and the seating has been modified to fewer than 30 seats, movable aisle armrests must be provided on at least one-half of the remaining aisle seats in rows in which passengers with mobility impairments are permitted to sit under FAA or applicable foreign government safety rules. (See 14 CFR 382.61).

Section 382.81 – Seating Accommodations

24. Can an airline require passengers with a disability accompanied by service animals to sit in the bulkhead row?

Answer: No. As stated in 382.81 (c), a passenger with a disability traveling with a service animal must be provided, as the passenger requests, either a bulkhead seat or a seat other than a bulkhead seat that would accommodate the service animal subject to applicable safety regulations. If the passenger chooses a seat other than a bulkhead seat, the carrier is not required to permit the passenger to specify a particular seat of his or her choosing (e.g., "7C") that he or she would not be entitled to under the carrier's normal seat-selection procedures, except to the extent necessary to accommodate the animal as required by sections 382.117(b) and (c) of the rule.

25. May a carrier exclude a passenger with a disability seeking to travel with a service animal from his or her specific assigned seat or require that passenger to sit in a particular seat in the cabin?

Answer: No, except to comply with FAA or applicable foreign government safety regulations. A service animal may be placed at the feet of a person with a disability at any bulkhead seat or in any other seat as long as when the animal is seated/placed/curled up on the floor, no part of the animal extends into the main aisle(s) of the aircraft and the service animal is not at an emergency exit row seat.

Section 382.87 – Other Seating Accommodations

26. Must a passenger needing more than one seat to accommodate his/her disability pay for the additional seat(s)?

Answer: A person who requires more than one seat for any reason (e.g., because of obesity or a disability) can be required to pay for all of the seats used.

Section 382.91 (b) – Moving Within the Terminal

27. Part 382 states that the delivering carrier (i.e., the first carrier) is responsible for connecting assistance. What happens if the receiving carrier (the second carrier) has no staff at its gates at the time that the delivering carrier would be bringing the passenger to the receiving carrier’s gate?

Answer: As a general matter, the Aviation Enforcement Office interprets the requirement to provide connecting assistance to include the delivering carrier positively “handing off” a passenger receiving connecting assistance to staff of the receiving carrier. If the receiving carrier has no staff at any of its gates in that terminal at the time the passenger is brought there (e.g., if the passenger missed the second flight because the first flight was delayed), the staffer of the delivering carrier who is providing the assistance should advise the passenger of this fact and offer to take the passenger to another location of the receiving carrier that may be staffed (e.g., the ticket counter, or an office location). The passenger should not be left at an unstaffed gate unless he or she has agreed.

If no staff of the receiving carrier can be located, the delivering carrier should advise the passenger of this fact. If the passenger asks to be taken to the terminal entrance or motor vehicle pickup point — for example, in order to go to a hotel — the delivering carrier must do so. If the passenger wishes to remain at the airport, the delivering carrier’s obligation to an ambulatory passenger ends at that point. For a non-ambulatory passenger, the delivering carrier is subject to section 382.103, which states that a carrier must not leave a passenger who has requested connecting assistance unattended in a wheelchair or comparable device, in which the passenger is not independently mobile, for more than 30 minutes. In that situation the delivering carrier must take the passenger to a location staffed by the delivering carrier, or at a minimum must check on the passenger at least every 30 minutes. The obligation to provide connecting assistance ends 12 hours after the delivering carrier began the connecting assistance to that passenger, or when the airport

closes, or when the delivering carrier's operations at that airport end, whichever comes first.

- 28. Where should assistance begin 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? Where should assistance end in moving from the gate to the terminal entrance (or a vehicle pick-up point adjacent to the entrance) after an arriving flight? Define the terms "terminal entrance" and "vehicle drop-off point adjacent to the entrance."**

Answer: A passenger with a disability is entitled to assistance, on request, in moving from the curb at the entrance to the airport terminal from which his/her flight is operating, through the airport and to his/her aircraft seat for departure and from his/her aircraft seat to the curb at the entrance to the airport terminal upon arrival. "Terminal entrance" refers to the area where passengers can directly enter a terminal after arriving by ground transportation, which could include by automobile or other means of public transportation, such as by bus, train, or subway. It does not include parking garages or car rental areas adjacent to an airport terminal. "Vehicle drop-off point" refers to the location where ground transportation vehicles are permitted to drop off individuals at the curb or other immediate entrance to an airport terminal.

Passengers arriving at a terminal entrance where an airline has no employees (neither its own nor contractors on its behalf) at the curbside or other vehicle drop-off point (e.g., a subway walkway directly connecting the subway facility to an airport terminal entrance) are responsible for entering the terminal (or having an individual do so on his or her behalf) to request assistance from his or her airline. Although not required by our rules, carriers are encouraged to consider the feasibility of installing a well-marked telephone or other means by which airline passengers can contact the appropriate airline in such situations.

- 29. Who is responsible for providing escort assistance to an airport service animal relief area and how can a passenger accompanied by a service animal obtain such assistance?**

Answer: Airlines are responsible for providing assistance to animal relief areas upon request at those airports where such animal relief areas are required. Airlines are free to use contractors to provide this service. Passengers can obtain such assistance by requesting it from appropriate airline personnel. (See question 20 also dealing with service animal relief escort assistance.)

Sections 382.95 – 382.105 - General Requirements for Boarding and Deplaning Assistance

30. If a passenger asks a skycap representing a carrier other than the carrier operating his/her flight to provide wheelchair assistance, would that carrier be required to provide such assistance?

Answer: It depends. If the passenger is traveling on a code-share flight and the code of the skycap's carrier is shown on the passenger's ticket, both that carrier and the carrier operating the flight would be required to provide wheelchair assistance to the passenger with a disability. If the passenger is not traveling on a code-share flight, a carrier which is not shown on the passenger's ticket and which is not operating the passenger's flight would not be obliged to provide such assistance under Part 382. We would, however, strongly encourage those carriers to help disabled passengers in distress regardless of who they are flying.

31. What recourse do carriers have when it appears that a passenger requesting wheelchair assistance is not disabled and is abusing the accommodation requirement by requesting such assistance in order to facilitate or expedite clearance through the security screening or customs and border protection checkpoint at the airport?

Answer: Given the great variety of disabilities, not all of which are immediately apparent to a casual observer, carriers should not assume that a passenger who requests wheelchair assistance but lacks a visible disability is necessarily abusing the service. It is permissible to ask a passenger about his or her disability as it relates to the need for wheelchair assistance. For example, carrier personnel could ask "How does the requested wheelchair service assist with your disability?" Avoid questions like "What is your disability?" The latter question implies that a carrier is asking for a medical label or for the cause of a disability, which would be intrusive and inconsistent with the intent of the ACAA. Part 382 requires that the specified accommodations be provided to all qualified passengers, even if this results in service being provided to an occasional person whose need for accommodations may be questionable.

32. Where enplaning, deplaning, or connecting assistance provided by an airport or its contractors at a foreign airport is determined by a carrier to be inadequate to meet the requirements of Part 382 due to insufficient training, is the carrier required to supplement the enplaning, deplaning and connecting service, the training of the airport/contractor employees, or both?

Answer: If an airport or its contractors fail, for whatever reason, to provide prompt and adequate enplaning, deplaning, and connecting assistance as required by Part 382, an airline must supplement the services provided by the airport contractor by providing the supplemental services itself or hiring a contractor to do so. If the airline believes that it is precluded by law from supplementing the airport's services, it may apply for a conflict of law waiver under 382.9. The requirement for an airline to train contractors applies only to its own contractors and not to an airport's contractors. However, we would encourage an airline to work with airports whenever inadequate training appears to be the cause of an airport-provided service failure.

Section 382.117 – Service Animals

33. What type of documentation are carriers permitted to require as a condition of permitting a service animal to travel on a flight segment scheduled to take 8 hours or more?

Answer: The carrier may require documentation that the animal will not need to relieve itself during the expected duration of the flight or that the animal can relieve itself in a way that does not create a health or sanitation issue on the flight. Examples of documentation a passenger could provide include either a written statement from a veterinarian, a signed statement from the passenger containing the procedures that he/she employs to prevent the animal from having to relieve itself (e.g., limitation on the provision of food and water) and an assurance that the use of these procedures has prevented the animal from relieving itself for a period similar to that of the planned duration of the flight, or a signed statement with photographs or other illustrations of the animal's ability to relieve itself without posing a health or sanitation problem (e.g., the use of a passenger-provided absorbent plastic-backed pad).

34. May carriers require documentation that an animal accompanying a passenger with a disability is a service animal?

Answer: Generally no, except in limited circumstances as discussed below. Unless a foreign carrier has received a conflict of laws waiver permitting the carrier to impose such a requirement, or the carrier finds that the verbal assurances of the passenger are not credible and there are no other indications of the animal's status such as a harness, tag or vest, the airline may not require such documentation. Carriers are permitted to require documentation for emotional support animals and psychiatric service animals.

35. What conditions may carriers impose on the transport of service dogs?

Answer: Carriers must transport all service dogs (e.g., guide dogs, seizure alert dogs, etc.) as long as safety and animal health requirements are met.

36. Must carriers accept emotional support and psychiatric support animals in the aircraft cabin?

Answer: U.S. carriers must accept any emotional support or psychiatric service animal in the aircraft cabin consistent with applicable safety and animal health requirements and ensure that its foreign code share partners do the same on covered flights with respect to passengers traveling under the U.S. carrier's code. Foreign carriers must accept any emotional support or psychiatric service dog in the aircraft cabin consistent with applicable safety and animal health requirements on covered flights.

37. What should airline personnel do if a passenger with a disability is accompanied in the airplane cabin by a service animal that does not fit in the space immediately in

front of the passenger and there is no other seat in the cabin with sufficient space to safely accommodate the animal?

Answer: If a service animal does not fit in the space immediately in front of the accompanying passenger with a disability and there is no other seat with sufficient space to safely accommodate the animal and its partner (i.e., user), there are several options to consider for accommodating the service animal in the cabin in the same class of service. The carrier should speak with other passengers to find a passenger in an adjacent seat who is willing to share foot space with the animal, or a passenger in a seat adjacent to a location where the service animal can be accommodated (e.g., in the space behind the last row of seats) or adjacent to an empty seat, who is willing to exchange seats with the service animal's partner. As noted in the preamble to our rule, there are probably no circumstances in which the purchase of a second seat would be necessary to accommodate the service animal. If a class of service on a flight is totally filled, there would not be any seat available for purchase. If the class of service had even one middle seat unoccupied, the passenger with a service animal could be seated next to the vacant seat. It is likely that even a large animal (e.g., Great Dane) could use some of the floor space of the vacant seat, making any further purchase by the passenger unnecessary. Only if there is no alternative available to enable the passenger to travel with the service animal in the cabin on that flight should the carrier offer options such as transporting the service animal in the cargo hold or transportation on a later flight with more room. When transportation on a later flight is offered, carriers are strongly encouraged, but not required by Part 382, to allow any passenger who wishes to rebook on a different flight to the same destination and on the same airline to do so at the same fare.

38. If a carrier determines that a service animal cannot accompany a passenger with a disability in the cabin due to a behavior problem on the part of the animal that may result in a direct threat to the health or safety of others or a fundamental alteration in service, what should the carrier do?

Answer: The carrier should first permit the passenger to try available means of mitigating the problem (e.g., muzzling a barking service dog) before deciding to exclude the service animal from the cabin. If those means are not successful, the carrier may follow its company policy on pets because the animal has shown that it has not been successfully trained to function as a service animal in public settings. Whenever the airline decides not to accept an animal for travel as a service animal, the airline must provide the passenger a written explanation of its decision within 10 calendar days of the incident.

39. If a carrier determines that a service animal cannot accompany a disabled passenger in the cabin and the passenger refuses to allow the animal to be transported in the cargo hold and requests instead to be rebooked on a later flight, must the carrier do so without additional charge?

Answer: If an airline cannot safely transport a service animal (e.g., because it is too large to fit anywhere in the cabin), a carrier must follow its nondiscriminatory contract of

carriage provisions applicable to the passenger's fare in determining how to best re-accommodate such passengers. Although not required by Part 382, carriers are strongly encouraged to allow any such passengers who wish to rebook on a different flight to the same destination and on the same airline to do so at the same fare.

40. How can a passenger accompanied by a service animal find out whether the country he or she is traveling to has animal health regulations that carriers as well as the passenger with a service animal must comply with in order to ensure the legal entry of the service animal into that country?

Answer: Passengers should always confirm well in advance with the embassy or consulate of the country they plan to visit and with the airline on which they will be traveling, which animal health regulations apply. Most countries have animal health regulations that require certain health conditions to be met before an animal can be legally admitted to the country. At a minimum, most countries require a valid rabies vaccination certificate issued by a licensed veterinarian. Additional health measures may be required within specified time frames before you travel and species restrictions may also apply. Passengers should be aware that many islands have similar restrictions, even for animals traveling from the mainland of the same country (e.g., Hawaii), and check with the island's designated animal health authority before traveling to determine what conditions apply.

41. For purposes of providing documentation stating a passenger's disability-related need for an emotional support or psychiatric service animal¹, what kind of practitioners qualify as "licensed mental health professionals"?

Answer: Any licensed mental health professional (e.g., psychiatrist, psychologist, licensed clinical social worker) including a medical doctor who is specifically treating a passenger's mental or emotional disability is a practitioner qualified to provide documentation stating the passenger's need for an emotional support or psychiatric service animal. A qualified practitioner would include a general practitioner who is treating the passenger's mental or emotional disability.

42. May a carrier require that the documentation a passenger provides in order to travel with an animal that is used as an emotional support or psychiatric service animal state the passenger's specific mental or emotional condition?

¹ The Psychiatric Service Dog Society has filed a petition for rulemaking with the Department requesting the deletion of 14 CFR 382.117 (e) and related portions of the rule and guidance (DOT-OST-2009-0093). These provisions authorize airlines to require documentation stating the passenger's need for the use of a psychiatric service animal or emotional support animal, and to require up to 48 hours' advance notice to review and verify this documentation. The Department will be seeking public comment on this petition. If the Department changes its rule in response to this petition, this FAQ, as well as FAQ 8, 9, 42, and 43 will be revised as appropriate.

Answer: No. A carrier may only require that a passenger's documentation confirm that a passenger has a mental or emotional disability recognized in the Diagnostic and Statistical Manual of Mental Disorders- Fourth Edition (DSM-IV), in addition to three other items (i.e., the passenger needs the animal for air travel and/or activity at the passenger's destination, the individual providing the assessment is a licensed mental health professional and that passenger is under his/her care, the date and type of mental health professional's license and the state or other jurisdiction in which it was issued).

43. May a carrier accept documentation from a licensed mental health professional concerning a passenger's need for a psychiatric or emotional support animal if the documentation is more than one year old?

Answer: Carriers may, at their discretion, accept from the passenger with a disability documentation from his or her licensed mental health professional that is more than one year old. We encourage carriers to consider accepting "outdated" documentation in situations where such passenger provides a letter or notice of cancellation or other written communication indicating the cessation of health insurance coverage, and his/her inability to afford treatment for his or her mental or emotional disability.

Section 382.121 – Stowage of Mobility Aids and Other Assistive Devices in the Cabin

44. When may a bag containing an assistive device be counted towards a passenger's carry-on bag limit?

Answer: An assistive device is any piece of equipment that assists a passenger with a disability to hear, see, communicate, maneuver, or perform other functions of daily life, and may include medical devices and medications. A carrier may count toward a passenger's carry-on limit a carry-on bag containing items other than an assistive device. For example, a bag containing both medications related to the passenger's disability and toiletry items or one in which a back brace and clothing are packed would be subject to the carry-on limit even though the medications and back brace meet the definition of assistive device. To the extent possible, all of a passenger's assistive devices should be included in one bag. When making a determination as to whether an item qualifies as an assistive device, the carrier may ask the passenger how the item assists the person in performing a function of daily life.

45. May carriers assess excess baggage charges for an assistive device tendered as checked baggage that exceeds the standard size, weight, or number limit in the carrier's free baggage allowance?

Answer: As a general matter, a carrier must not charge for assistive devices that exceed the standard baggage limits on size, weight, or number of pieces. However, there are circumstances under which the carriage of devices due to their weight, size, or number would constitute an undue burden or cause a fundamental alteration of the carrier's

service. In such situations the carrier may not be required to transport the assistive device free of charge or possibly at all. These situations necessitate case-by-case determinations.

46. Is a carrier obliged to make room for a passenger’s assistive device in an overhead compartment or other in-cabin stowage area if all compartments are full by the time the passenger boards the aircraft?

Answer: Carriers must offer pre-boarding to passengers with a disability who self-identify at the gate as needing to stow accessibility equipment (see section 382.93). If a passenger with a disability does not self-identify and take advantage of the opportunity to pre-board, and all overhead compartments are full by the time the passenger boards, the carrier would not be obliged to remove and check carry-on items of other passengers in order to stow the assistive device in the cabin. Although not required by our rule, in situations where such a passenger would need to use the assistive device during the flight (e.g., a cane used to walk to the aircraft lavatory), we would encourage the carrier to ask other passenger(s) to agree to gate check an item and allow the passenger to stow this device in the cabin despite the passenger’s not having pre-boarded.

Section 382.125 - Assistive Devices Stowed in the Cargo Compartment

47. Are food and equipment that a service animal requires to function as a service animal considered assistive devices under Part 382?

Answer: Equipment used by a service animal (e.g., harness, leash, vest) in conjunction with its work as a service animal is an assistive device under the rule. Food is not equipment under this definition and therefore when tendered as carry-on or checked baggage, the standard size, weight, and baggage allowance limits of the carrier may apply.

Section 382.131 – Liability Limits for Mobility Aids on International Flights

48. What are the liability limits for loss or damage to wheelchairs and other assistive devices on international flights?

Answer: Baggage liability limits for most international travel, including flights of U.S. carriers, are governed by the Montreal Convention and other international agreements, rather than by 14 CFR Part 254. Therefore, on covered flights between a U.S. and a foreign airport, compensation for loss, damage or delay of a wheelchair or other assistive device is usually limited to 1,000 Special Drawing Rights. (See www.imf.org for the current value of a Special Drawing Right.)

Section 382.133 – Respiratory Assistive Devices

49. May a carrier require advanced notice or a physician's statement more than 48 hours before a flight's scheduled departure from a passenger wishing to use an approved portable oxygen concentrator (POC) in the aircraft cabin? May a carrier require advance notice or a physician's statement more than 48 hours before the scheduled departure of a domestic flight or more than 72 hours before the scheduled departure of an international flight from a passenger wishing to use carrier-supplied oxygen (for carriers that supply oxygen in flight)?

Answer: No, a carrier cannot require a passenger wishing to receive carrier-supplied medical oxygen to provide advance notice or a medical certificate more than 72 hours in advance for international flights or more than 48 hours in advance for domestic flights. A carrier also cannot require a passenger wishing to use his/her POC to provide advance notice or a medical certificate more than 48 hours in advance. Further, if a passenger provides a medical certificate less than 48 hours or 72 hours, as appropriate, in advance of the scheduled departure of the flight, the carrier must still review the medical certificate if it can do so by making reasonable efforts. Of course, a carrier is free to request and encourage passengers with disabilities to provide a medical certificate well in advance of the time allotted in the rule.

50. May a carrier require a passenger to obtain a new physician's statement for each flight?

Answer: No, a carrier may only require that the medical certificate be dated within 10 days of the scheduled date of the initial (outgoing) flight shown on the passenger's itinerary for that trip. A carrier may not require a second medical certificate dated within 10 days of the scheduled date of the passenger's continuing or return flight in connection with the same trip, even if the continuing or return flight has been rescheduled to a later date.

51. Are ventilators, respirators, continuous positive airway pressure machines (CPAP) or FAA-approved portable oxygen concentrators (POCs) labeled by the manufacturers as meeting applicable FAA requirements for medical portable electronic devices?

Answer: Few, if any, such devices have been labeled as meeting applicable FAA requirements for medical portable electronic devices as of the date this document was issued.

52. May a carrier refuse to allow a passenger to use on the aircraft any respirator, ventilator, CPAP machine or FAA-approved POC that does not have a manufacturer's label indicating compliance with the standards of RTCA/DO-160 (current edition) or other applicable FAA or foreign government requirements for medical portable electronic devices?

Answer: Yes. Carriers may refuse to allow a passenger to use a respirator, ventilator, CPAP machine or FAA approved POC onboard the aircraft if the proper manufacturer's

labeling is not present on the device. However, we would encourage carriers to voluntarily conduct the necessary tests on a particular respirator, ventilator or CPAP machine model that is not labeled, in order to determine its compliance with the applicable safety standards and allow passengers to use those devices found to be safe on its aircraft. We also encourage carriers to allow the use of POCs on aircraft in accordance with the guidance contained in FAA Information for Operators InFO 090POC (May 1, 2009) at http://www.faa.gov/other_visit/aviation_industry/airline_operators/airline_safety/info/all_infos/media/2009/info09006.pdf. If the manufacturer has already tested the device and it meets the RTCA standard, despite the device not being labeled, the carrier may voluntarily accept the device for use in the aircraft cabin without performing additional tests.

53. May a carrier refuse to allow a passenger to stow on the aircraft any respirator, ventilator, CPAP machine or FAA-approved POC that does not have a manufacturer's label indicating compliance with the standards of RTCA/DO-160 (current edition) or other applicable FAA or non-U.S. government requirements for medical portable electronic devices?

Answer: No. Carriers must allow passengers to *carry* a respirator, ventilator, CPAP machine or FAA-approved POC onboard aircraft, subject to applicable safety requirements, even if the device may not be *used* onboard the aircraft.

54. When the required manufacturer's label is not present on a ventilator, respirator, CPAP machine or FAA-approved POC, what safety requirements apply to the stowage of the device on the aircraft?

Answer: To be accepted for stowage on an aircraft, a ventilator, respirator, CPAP machine or FAA-approved POC that does not have the required manufacturer's label on the device must comply with FAA size and weight limits and have the battery removed, packaged, and protected from short circuit and physical damage in accordance with the FAA's Special Federal Aviation Regulation (SFAR) 106, Section 3 (b)(6).

55. Must carriers accept a non-approved portable oxygen concentrator (POC) for transport in the aircraft cabin if it will not be used by the passenger during the flight or in the cargo hold of the aircraft?

Answer: No. Carriers are only required to accept FAA-approved or non-U.S. government-approved POCs, whether for use in the cabin or simply for stowage there or in the cargo hold. The U.S. Pipeline and Hazardous Materials Safety Administration [PHMSA] has determined that certain POC models are free of hazardous material and are listed in the FAA Special Federal Aviation Regulation 106, as amended, *Use of Certain Portable Oxygen Concentrator Devices Onboard Aircraft*.

56. May a carrier deny boarding if a lengthy flight delay results in a passenger having insufficient battery power to operate his/her portable oxygen concentrator (POC) for at least 150% of the maximum planned flight duration?

Answer: Yes. If the passenger does not have the required number of fully charged batteries to operate his/her POC onboard the aircraft for at least 150% of the maximum planned flight duration, the carrier may deny boarding to the passenger.

57. Must carriers require passengers to furnish enough batteries for at least 150% of the expected maximum flight duration?

Answer: No. Section 382.133 (f)(2) allows carriers to require passengers to bring enough fully charged batteries to power the device for not less than 150% of the expected maximum flight duration. The general requirement under SFAR106, section 3 (b)(5) is that passengers must carry on the flight a sufficient number of batteries to power the device for the duration of the oxygen use specified in the passenger's physician statement, including a conservative estimate of any unanticipated delays. Carriers may use their own discretion in determining the number of batteries necessary to meet this requirement.

58. May carriers charge a processing fee for accepting an FAA-approved POC provided by the passenger for use onboard the aircraft?

Answer: No. Since the rule requires carriers to permit an individual with a disability to use an FAA-approved POC or its equivalent in the cabin during covered flights, carriers may not charge a processing fee for accepting such devices. (See section 392.31.) The carrier may, however, charge for oxygen it voluntarily provides to passengers, a service not required by Part 382.

Section 382.141(a) – Training

59. Are there any certification requirements to teach CRO training classes?

Answer: No, Part 382 does not mandate any certification be obtained by persons providing CRO training. Part 382 only states the information that must be included in CRO training (see 14 CFR 382.141).

60. How is the term “training to proficiency” defined?

Answer: Proficient is defined as being well-advanced, adept, or skilled in a trade or profession. An employee who is trained to proficiency is one who provides services or accommodations to passengers in the right way, the first time. Training to proficiency is training that ensures that the individual receiving the training becomes accomplished or skilled in the subject matter being taught, as appropriate to the duties of that employee. For example, an employee whose sole job is loading and retrieving baggage and assistive devices might arguably only need to be well-trained in those aspects of Part 382 dealing with the treatment of mobility aids. On the other hand, an employee being trained to be a CRO must be trained to be an expert on all aspects of Part 382.

Issued on 05/13/09 by the Office of the Assistant General Counsel for Aviation Enforcement and Proceedings and its Aviation Consumer Protection Division.