

(m) Turbine rotors includes first, second, and third stage seal plates, air seals, rotor disks, wheels, and assemblies that have part numbers specified in the ASBs listed in Table A of this AD.

(n) A major cycle is an engine start, takeoff, landing, and shutdown.

(o) A minor cycle is multiple takeoffs and landings without an engine shutdown.

(p) A used turbine rotor is a turbine rotor whose cycles-since-new are more than zero.

#### Alternative Methods of Compliance

(q) The Manager, Los Angeles Aircraft Certification Office, has the authority to approve alternative methods of compliance for this AD if requested using the procedures found in 14 CFR 39.19.

#### Related Information

(r) None.

Issued in Burlington, Massachusetts, on February 15, 2006.

**Ann C. Mollica,**

*Acting Manager, Engine and Propeller Directorate, Aircraft Certification Service.*

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**BILLING CODE 4910-13-P**

## DEPARTMENT OF TRANSPORTATION

### Office of the Secretary

#### 14 CFR Part 382

RIN 2105-AD41

[OST Docket No. 2006-23999]

#### Accommodations for Individuals Who Are Deaf, Hard of Hearing, or Deaf-Blind

**AGENCY:** Office of the Secretary, Department of Transportation (DOT).

**ACTION:** Notice of Proposed Rulemaking (NPRM).

**SUMMARY:** This notice of proposed rulemaking (NPRM) proposes to amend a previously published proposed rule that implements the Air Carrier Access Act (ACAA), to provide for additional accommodations for air travelers who are deaf, hard of hearing or deaf-blind. This proposed rule applies to U.S. air carriers, to foreign air carriers for their flights into and out of the United States, to airport facilities located in the U.S. that are owned, controlled or leased by carriers, and to aircraft that serve a U.S. airport. It proposes to require U.S. and certain foreign air carriers to provide prompt access for individuals who identify themselves as requiring hearing

or visual assistance to the same information provided to other passengers in the terminal and on the aircraft; caption safety and informational videos, DVDs and other audio-visual displays shown on new and existing aircraft; caption entertainment videos, DVDs and other audio-visual displays on new aircraft; ensure that individuals calling a carrier's TTY line for information or reservations receive equal response time and level of service (including queuing or other automated response service) as that provided to individuals calling a non-TTY information or reservation line; enable captioning on televisions and audio-visual equipment located in those portions of U.S. airports that are owned, leased or controlled by carriers and open to public access to the extent that such equipment has captioning capability on the effective date of this rule; replace non-caption capable televisions and audio-visual displays with captioning capable technology in the normal course of operations or when relevant airport facilities undergo substantial renovation or expansion; and train carrier personnel to proficiency on recognizing requests for communication accommodations and communicating with individuals who have visual or hearing impairments.

**DATES:** Interested persons are invited to submit comments regarding this proposal. Comments must be received on or before April 24, 2006.

**ADDRESSES:** Comments on this notice of proposed rulemaking must refer to the docket and notice numbers cited at the beginning of this notice and be submitted to the Docket Management Facility of the Office of the Secretary (OST), located on the Plaza Level of the Nassif Building at the U.S. Department of Transportation, Room PL-401, 400 Seventh Street, SW., Washington, DC 20590-0001. The DOT Docket Facility is open to the public from 10 a.m. to 5 p.m., Monday through Friday. Commenters may also submit comments electronically. Instructions appear on the Dockets Management System (DMS) pages of the Department's Web site (<http://dms.dot.gov>).

**FOR FURTHER INFORMATION CONTACT:** Omar Guerrero or Blane A. Workie, Office of the General Counsel, Department of Transportation, 400 7th Street, SW., Room 4116, Washington, DC 20590, 202-366-9342 (voice), (202) 366-0511 (TTY), 202-366-7152 (fax), [omar.guerrero@dot.gov](mailto:omar.guerrero@dot.gov) or [blane.workie@dot.gov](mailto:blane.workie@dot.gov) (e-mail). Arrangements to receive this notice in an alternative format may be made by contacting the above named individuals.

#### SUPPLEMENTARY INFORMATION:

##### Background

This NPRM concerns the issue of accommodations for deaf, hard of hearing and deaf-blind individuals. The Department of Transportation (hereinafter "Department" or "DOT") first considered such an NPRM in 1996. At that time, DOT issued an NPRM on seating accommodations and stowage of collapsible wheelchairs in which it also requested comments on suggestions the Department had received regarding accommodations for deaf and hard of hearing persons. See 61 FR 56484 (Nov. 1, 1996). Specifically, the 1996 NPRM sought comments on the need for, technical feasibility of, and cost of the following accommodations: (1) The captioning of video material shown on aircraft (e.g., movies and other entertainment features); (2) the availability of telecommunications devices for the deaf where air phone service is provided to other passengers; (3) the provision of assistive listening technology for public address announcements in the aircraft; and (4) the provision of electronic messaging or assistive listening technology in gate areas. In the preamble of the final rule that resulted from the November 1996 proposed rulemaking, however, the Department deferred a decision on whether to require additional accommodations for deaf and hard of hearing passengers. See 63 FR 10528 (March 4, 1998).

In January 2000, DOT reopened consideration of this issue by convening a public meeting to discuss whether the Department should commence a rulemaking to require certain additional accommodations for deaf and hard of hearing passengers under the ACAA. See 62 FR 63279 (Nov. 19, 1999); 64 FR 66590 (Nov. 29, 1999). Later that year, the Department determined to institute a rulemaking on additional accommodations for deaf and hard of hearing individuals through the use of a regulatory negotiation. However, resource issues delayed the formation and progress of a regulatory negotiation on this issue.

Representatives from the deaf and hard of hearing community, during the May 2001 DOT forum regarding air travel for people with disabilities, asked that DOT follow-up on these early efforts to address deaf and hard of hearing accommodations with a rulemaking. In response to this request, DOT indicated that collaboration among air carriers, airports and the disability community would accelerate the initiation of rulemaking addressing these issues.

DOT entered into a Memorandum of Understanding (MOU) with the National Council on Disability (NCD) in August 2002 which served as a contract for a number of deliverables. Among a number of items in this MOU, NCD agreed to submit a proposal on improving accommodations for deaf and hard of hearing passengers. It was understood that this proposal would be construed as a petition for rulemaking. See Memorandum of Understanding Between United States DOT and NCD on Finding Cooperative Solutions to Accessibility Concerns Regarding Air Travel (August 19, 2002). Soon thereafter, NCD established the Deaf, Hard of Hearing and Deaf-Blind Workgroup. Numerous airline, airline association, airport, and disability community representatives participated in this group to develop a document to submit to DOT on ways to improve under part 382 accommodations in air travel for individuals who are deaf, hard of hearing or deaf-blind. The airline industry was represented by the Air Carrier Association of America (Association), Air Transport Association (ATA), International Air Transport Association (IATA), National Air Carrier Association (NACA), and the Regional Airline Association (RAA). The following individual airlines also participated in the workgroup: Alaska Airlines, American Airlines, America West Airlines, British Airways, Continental Airlines, Delta Air Lines, Hawaiian Airlines, JetBlue Airways, LA Beltway Airlines, Northwest Airlines, Southwest Airlines, United Airlines, and U.S. Airways. The disability community was represented by the American Association for the Deaf-Blind, Deaf & Hard of Hearing Advocacy Network, Equip for Equality, National Association of the Deaf, National Council on Disability, and Self Help & Hard of Hearing People. Airports Council International represented the airport industry.

The Deaf, Hard of Hearing and Deaf-Blind Workgroup met independently from DOT beginning in late 2002. The workgroup met in Washington, DC, on November 14, 2002, February 13, 2003, September 23, 2003, October 29, 2003, December 16, 2003, February 9, 2004, and April 28, 2004. In between these meetings the workgroup continued to work via electronic mail and telephone. The workgroup occasionally sought DOT's assistance to facilitate the continued cooperation of the workgroup members, to clarify administrative details (e.g., regulatory formatting and contact information for possible workgroup members), and to clarify

DOT's expectations of the workgroup. The Department encouraged the parties to work together to reach consensus on a proposed rule drafted by the workgroup members and to submit such proposal to DOT for consideration. Without discussing the substantive details of any proposal submitted by the workgroup, DOT further advised that submission of a consensus document would better educate DOT regarding the needs and concerns of the affected parties as DOT worked to fulfill its expressed intention to issue an NPRM to improve accommodations in air travel for deaf, hard of hearing and deaf-blind passengers. The Department did not provide guidance with regard to the substance of any provisions contained in any final proposal for rulemaking submitted by the workgroup as a whole or its members individually.

On July 19, 2004, the Deaf, Hard of Hearing and Deaf-Blind Workgroup submitted a petition for rulemaking to DOT titled, "Proposed Regulatory Language for Part 382 Amendments Concerning Accommodations for Deaf, Hard of Hearing and Deaf-Blind Passengers" (hereinafter "Workgroup Petition for Rulemaking"). The Workgroup Petition for Rulemaking states that all of the members involved agree that "recommendations must tangibly ensure air travel improvements for passengers who are deaf, hard of hearing and deaf-blind in all airports and on all air carriers," and that in order that such recommendations "are effectively implemented by all air carriers and airports, they must have the full force and power of law." The petition recommends numerous changes to part 382. Each proposal is followed by an explanation as to whether each stakeholder (e.g., air carrier or disability community advocate) agrees with the recommendation. If one stakeholder disagrees with a recommendation, a summary of the reason for the disagreement follows. Any statement of disagreement is generally followed by an alternate proposed rule. The Workgroup Petition for Rulemaking sought to amend the following sections of 14 CFR part 382: [1] § 382.5, Definitions; [2] § 382.23, Airport Facilities; [3] § 382.35, Attendants, [4] § 382.45, Passenger Information, [5] § 382.47, Accommodations for Individuals Who are Deaf, Hard of Hearing and Deaf-Blind; [6] § 382.55, Miscellaneous Provisions; and [7] § 382.61, Training. The proposal also makes recommendations regarding 49 CFR 27.71, which prohibits airports from discriminating against individuals based on disability. A discussion of

each specific recommendation, whether a consensus was reached, and reasons for disagreement among stakeholders appears below.

### Formatting of the NPRM

This NPRM has been formatted in accord with the format of the NPRM issued on November 4, 2004, which proposes to extend part 382 to foreign air carriers and convert part 382 to a question and answer format. See 69 FR 64364 (Nov. 4, 2004). The Department expects to merge the final rule resulting from the instant NPRM with the final rule that results from the November 4, 2004, NPRM. For these reasons, the instant NPRM differs from the existing organization and numbering scheme of part 382 and adopts the structure of the November 4, 2004, NPRM. To assist readers in finding where related current provisions are located in the proposed regulatory text, a reference table is provided at the end of this preamble.

### The NPRM

The NPRM has ten main components on which we specifically solicit comment: (1) Changes in terminology; (2) new definitions being considered; (3) scope/coverage of the proposed rule; (4) carrier responsibility and associated costs related to requiring a passenger to travel with a safety assistant; (5) accessibility of carriers' telephone information and reservation services (i.e., service and response time for TTY information/reservation lines); (6) availability of accessible copies of part 382; (7) accessibility of airport facilities (e.g., captioning of televisions and other audio-visual devices in airports); (8) accommodations required at airports for individuals with a vision impairment or individuals who are deaf or hard of hearing; (9) accommodations required on aircraft for individuals with vision impairments or individuals who are deaf or hard of hearing; and (10) training for carrier personnel to better communicate with individuals who have visual or auditory impairments.

#### 1. Change of Terminology

This NPRM proposes to change the phrase, "telecommunication device for the deaf" and its acronym, "TDD," to "text telephone" and "TTY," respectively. All of the members of the Deaf, Hard of Hearing and Deaf-Blind Workgroup agreed to these proposed changes, noting that the proposed terms are "more widely used and recognized" than those currently used in part 382. The Department seeks comment on the suitability of this proposed terminology change.

*2. Section 382.3 What do the terms in this part mean?*

In the context of the Deaf, Hard of Hearing and Deaf-Blind Workgroup, the disability community requested that DOT add a definition of “hard of hearing, deaf, and deaf-blind” to part 382. It recommends that DOT define “hard of hearing, deaf, and deaf-blind” to include “the entire spectrum of hearing disability, including congenital deafness and acquired deafness, and mild through profound hearing loss which may or may not occur with vision loss or other types of disabilities.” According to these stakeholders, the recommended definition clarifies that individuals who are deaf or hard of hearing may also have vision loss or other disabilities (e.g. mobility or cognitive disability) and is “consistent with the most widely accepted language among the disability community.” The air carrier representatives did not comment on this issue.

From DOT’s perspective, the definition of an “individual with a disability” as provided for in the ACAA and part 382 is quite broad. It includes individuals whose blindness, deafness and/or hearing loss substantially limits one or more major life activities (e.g., hearing, seeing), and individuals who have a record of, or are regarded as having such impairment. It is unclear the benefit that would derive from including a specific definition in part 382 of individuals who are hard of hearing, deaf, and deaf-blind, particularly when no other type of disability is separately defined. As a result, this proposal does not adopt the recommendation of the disability-rights community to add a definition of “deaf, hard of hearing, and deaf-blind” in part 382. The Department seeks comment on the potential benefits and drawbacks of including the proposed, or some other definition of “deaf, hard of hearing and deaf-blind” in part 382.

The Workgroup Petition for Rulemaking also recommends defining the term “captioning” as follows:

All references to “captioning” throughout the entire regulation, regardless of type of captioning, will refer to captions that comply with the Americans with Disabilities Act Accessibility Guidelines (ADAAGs) standards for text and high-contrast. When ADAAG standards are not available for specific applications, captions shall be high-contrast on a consistent background, and of a size that is easy to read.

The NPRM does not propose to include this definition. The Access Board has advised us that ADAAG was not intended to apply to captions that are displayed on televisions or other video

displays. ADAAG does have provisions regarding contrast but those are intended to cover signage—not captions on televisions or other video displays. Moreover, as used in the instant NPRM, the term “high-contrast captioning” refers to “white lettering on a consistent black background.” Where it has intended to require “high-contrast” captioning, the Department has used the term “high-contrast” and given this subsequent description thereof. For example, section 382.51 proposes to require carriers to provide “high-contrast captioning” on audio-visual displays in airports. Similarly, § 382.69, which proposes to require carriers to caption all in-aircraft safety and informational videos, DVDs and other audio-visual displays states that such captioning must be “high-contrast \* \* \* (e.g., white letters on consistent black background).” Section 382.69 also requires carriers to provide “high-contrast” captioning on entertainment videos, DVDs and other audio-visual displays on new and refurbished aircraft. The Department seeks comment on the effect and necessity of including a definition of “captioning” in § 382.3. In a related matter, the Department seeks comment on the content of any definition of “captioning” that may be included in § 382.3 (e.g. Should the Department adopt the definition proposed by the disability community in the Workgroup Petition for Rulemaking or include another definition) or elsewhere in part 382. Specifically, the Department seeks comment on the meaning or meanings of the term “high-contrast” as it refers to captioning of televisions and audio-visual displays. For example, is there a standard definition of “high-contrast” captioning? Is white lettering on a consistent black background the only type of “high-contrast” captioning used on televisions and/or other audio-visual displays, or is there another type of “high-contrast captioning”? To the extent that there is more than one type of “high-contrast” captioning, is one better or more accessible to a larger number of individuals than the other(s)? If there is more than one type or definition of “high-contrast” captioning, which type or definition is most appropriately used within the text of part 382?

The instant NPRM contains the term “informational” several times in reference to videos, DVDs and other audio-visual displays. This NPRM does not contain a definition of this new term, which does not appear in the current version of part 382 or the November 4, 2004, NPRM. The

Department intends that the term “informational” to include all videos, DVDs and other audio-visual displays that do not qualify as safety or entertainment, including, but not limited to, videos, DVDs and other audio-visual displays addressing weather, shopping, frequent flyer programs, customs and immigration information, carrier routes and other general customer service presentations. The Department seeks comment on whether it should include a definition of “informational videos, DVDs and other audio-visual displays” in this section or elsewhere within this Part. The Department also seeks comment on the substance of any such definition.

*3. Section 382.5 To whom do the provisions of this part apply?*

This NPRM proposes that this part be applicable notably to U.S. air carrier operations but also to certain foreign air carriers. On April 5, 2000, the Wendell H. Ford Aviation Investment and Reform Act for the 21st Century (AIR-21) amended the ACAA specifically to prohibit foreign carriers from discriminating against otherwise qualified individuals with disabilities. See 49 U.S.C. 41705(a). To implement the statutory application of the ACAA to foreign carriers, on November 4, 2004, DOT issued an extensive NPRM proposing to amend numerous portions of part 382 and apply the rule to foreign carriers. See 69 FR 64364 (Nov. 4, 2004). The November 4, 2004, NPRM explained that the “intended scope of the statutory coverage of foreign air carriers, consistent with international law, focuses on traffic to and from the United States” and proposed to cover flights operated by foreign carriers that begin or end at a U.S. airport. However, when a foreign air carrier is “code-sharing” with a U.S. carrier, the November 4, 2004, NPRM proposes to require that the foreign air carrier comply with the service-related requirements of part 382 even in situations where it is using a particular aircraft in operations only between foreign airports. Like the November 4, 2004, NPRM, the instant NPRM, with respect to flights operated by foreign air carriers, proposes to cover only aircraft that are used for flights operated to and from the United States, so long as the flight is not part of a code-sharing arrangement with a U.S. carrier. Because it is the Department’s intention that the instant NPRM apply to foreign carriers in nearly the same manner as proposed in the November 4, 2004, NPRM, the entirety of § 382.5 as proposed in the November 4, 2004, NPRM is reproduced in the instant NPRM (with one minor

change discussed in the next paragraph). To the extent that individuals have already submitted comments regarding the extension of part 382 to foreign carriers in response to the November 4, 2004, NPRM, those comments will be considered with regard to the final rule issued as a result of the instant NPRM.

As proposed in the instant NPRM, § 382.5 would make one minor change to the proposed § 382.5 contained in the November 4, 2004, NPRM. With regard to U.S. carriers, § 382.5 as proposed in the instant NPRM would apply to all of their operations and aircraft regardless of where their operations take place, except as stated in § 382.51. Section 382.51 proposes that the required captioning of televisions and other audio-video displays would apply only to U.S. airport terminal facilities owned, leased or controlled by U.S. or foreign air carriers. DOT believes that this exception is necessary because the alteration of equipment or physical space at foreign airports by U.S. air carriers may be difficult or impossible. Several U.S. air carriers have expressed concern that they would not be able to comply with certain requirements related to facilities at foreign airports because they do not have complete control over the equipment and space inside foreign airport facilities. The Department seeks comment on the cost and feasibility of requiring U.S. carriers to modify equipment and/or space at foreign airport terminals that they lease, own or control. For example, would it be likely that televisions located in U.S. owned, leased or controlled portions of foreign airports would have captioning capabilities, and if so what would be the cost and feasibility of enabling such capabilities?

*4. Section 382.29 May a carrier require a passenger with a disability to travel with a safety assistant?*

This section proposes amendments regarding carrier responsibility related to requiring individuals with disabilities to travel with a safety assistant. The instant NPRM and the November 4, 2004, NPRM use the term "safety assistant" to replace the term "attendant," which is used in the current version of part 382. This change has been made to more accurately reflect the duties of any individual who travels with a disabled passenger in order to assist that passenger with safety-related matters. Currently, part 382 permits a U.S. carrier to require an individual with both severe hearing and severe vision impairments to travel with a safety assistant if the person cannot establish some means of communication

with carrier personnel, adequate to permit transmission of the safety briefing required under Federal Aviation Administration (FAA) rules. The November 4, 2004, NPRM did not propose to change the substance of this requirement, except to extend the rule to foreign air carriers. The proposed § 382.29(b)(4) in the instant NPRM, on the other hand, places a new obligation on U.S. and foreign air carriers; they would share the responsibility with passengers with severe hearing and severe vision impairments to make reasonable efforts to establish communication with one another in order to ascertain the need for a safety assistant. It also makes clear that the individual with severe hearing and vision impairments has the responsibility of initially informing carrier personnel of his or her need for communication accommodations.

Proposed § 382.29(b)(4) is a result of comments received from the Deaf, Hard of Hearing and Deaf-Blind Workgroup. To support its recommendation that the responsibility to communicate be shared by carriers and deaf-blind passengers, the disability community in the Workgroup Petition for Rulemaking cited "[a]necdotal reports \* \* \* [that] indicate that qualified passengers who are deaf-blind have been treated with a lack of sensitivity by airline employees, and have been denied air travel due to communication difficulties caused by employee unfamiliarity with communication techniques." Air carrier representatives disagreed with the recommendation that the responsibility to communicate be shared by airlines and deaf-blind passengers. These carrier representatives appear to believe that the change proposed by the disability stakeholders would result in "airline personnel [having] to unilaterally identify passengers who need communication accommodations, but whose disabilities are not readily apparent" and assert that "[o]nly self-identification would be a reliable, objective way to establish when a passenger requires a communications accommodation."

Section 382.29(b)(4) as proposed in this NPRM addresses the concerns expressed by both the disability and carrier representatives. It requires self-identification by individuals with severe hearing and vision impairments to ensure that carrier personnel are aware of the need for communication accommodations and requires both air carrier personnel and individuals with severe hearing and severe vision loss to make reasonable efforts to establish adequate communication with one another. That is, once a passenger self-

identifies as needing accommodation, the joint communication requirement begins.

The Department seeks comment on the joint responsibility provision of proposed § 382.29(b)(4). In particular, the Department seeks comment on how this joint responsibility provision would work in practice. The Department also seeks comment on what may qualify as reasonable attempts to communicate, whether this standard is specific enough to allow carrier personnel and/or individuals who are deaf-blind to understand their responsibilities under this proposed subsection, and whether there is another more appropriate standard for use in this section of the instant NPRM.

In addition to the joint responsibility proposal, the instant NPRM proposes in § 382.29(c) to clarify that U.S. and foreign carriers must make reasonable efforts to find a safety assistant at no additional cost to the disabled passenger where the carrier's assessment that such assistance is needed is contrary to a disabled passenger's self-assessment. It is the Department's belief that a number of carriers already train their employees to assist individuals in locating a safety assistant when the carrier determines that one is necessary despite the individual's assertion that he or she is capable of traveling independently. Some U.S. carriers even provide their employees with a preferred order of selecting attendants. For example, a carrier may train its personnel to select an attendant in a particular order, such as [1] nonrevenue passengers, [2] carrier's airport personnel, [3] ticketed customers who have checked in for the same flight, and [4] a person accompanying the disabled passenger to the airport. Additionally, the rule as proposed would allow carriers to select the most cost-effective manner to comply with this requirement. Therefore, a carrier may choose to use nonrevenue passengers and personnel, or it may determine that it is less costly simply to solicit volunteer passengers in exchange for a free one-way ticket. Either way, the carrier is free to choose the least costly and most workable option for accomplishing this objective. Given that part 382 currently requires carriers to cover the cost of transportation for a safety attendant who is required by a carrier over the objection of a passenger with a disability, DOT believes there would be little to no additional cost associated with this proposed duty.

With respect to foreign air carriers, the November 4, 2004, NPRM proposed to adopt the requirements of the currently effective part 382, with regard

to the circumstances under which a carrier may require that a safety assistant travel with persons with severe hearing and severe vision disabilities. Also like the current part 382, the November 4, 2004, NPRM proposed to require U.S. and foreign carriers to absorb the cost of travel for any safety assistant required by the carrier, where that assessment is contrary to the self-assessment of an individual with severe hearing and severe vision impairments that he or she can travel independently. Because of this, the Department believes that the cost of complying with this section of the instant NPRM will be the same for U.S. and foreign carriers. That is, the only costs of this section attributable to the instant NPRM are those associated with [1] the proposed shift in communication responsibilities to one that is shared between carriers and passengers with disabilities; and [2] the new requirement that air carriers make reasonable efforts to locate a safety attendant where one is required over the self-assessment of the passenger that he or she may travel independently. The Department believes that these costs are minimal. The Department seeks comment on whether this proposed section has any costs other than the two stated above. The Department seeks comment on whether foreign carriers will incur greater costs than U.S. carriers in complying with this section of the instant NPRM, and if so, why. The Department seeks comment on whether it should allow additional time for foreign carriers to comply with this proposed section, and if so, why and how long.

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

This NPRM proposes to require U.S. and foreign carriers to ensure that the service and response times are equal for TTY information/reservation lines and non-TTY information/reservation lines, including the provision of a queue or auto attendant feature. Currently, § 382.47(a), requires those U.S. carriers that provide telephone reservation and information services to the public to make equivalent TTY service available for individuals who are deaf or hard of hearing. Section 382.47(a) of the current rule further requires that TTY service be available during the same hours as the telephone service provided to other members of the public, that the response time for answering calls be equivalent, and that no greater charges be levied against TTY users than users of non-TTY lines. The November 4, 2004, NPRM, §§ 382.43(a)(1) through (3),

proposed to extend these same requirements to foreign air carriers one year after the effective date of the rule. The instant NPRM maintains the requirements of the current rule and proposed sections of the November 4, 2004, NPRM, but proposes one change as described below. Thus, there is only one new requirement (and associated cost) attributable to the instant NPRM.

Section 382.43(a) of the instant NPRM proposes only one change to its current equivalent, § 382.47(a), which states: "The TDD service \* \* \* response time for answering calls shall be equivalent." Section § 382.43(a) proposes to add the following to the end of this sentence: "including the provision of a queue message if one is provided to the general public (i.e., non-TTY users or callers)." The disability community supports the proposed addition to § 382.43(a), stating that constituents report that often they are unable to direct dial into reservation and information services through a TTY line and that the response time to TTY users lags behind response time to non-TTY phone messages. In the Workgroup Petition for Rulemaking the disability community stated that a queue feature (also referred to herein as an "auto attendant") allows telephone systems to handle multiple callers at the same time by allowing callers to hold for connection to the desired department or service. A queuing or auto attendant system automatically answers calls and puts them in line (queue) for the next available customer service representative. The disability community asserts that a queue feature is common on non-TTY lines, but that often TTY lines are not queued and therefore such lines can only handle one call at a time. Without a queuing system, if a call comes in while the TTY line is in use, the second TTY caller will receive a busy signal and be unable to connect to the airline to make a reservation, obtain information or leave a message without calling back, perhaps, multiple times. The lack of queuing features on TTY lines may cause delays and inconvenience for deaf and hard of hearing individuals that are not encountered by nondisabled individuals.

It is the Department's belief that, for the reasons stated in the first paragraph of this section, the only cost attributable to this NPRM provision for both U.S. and foreign carriers would be the cost of installing queuing or auto attendant features on their TTY lines. The Department further believes that it would not be costly for carriers to install queuing features on TTY lines. This belief is supported by information provided in the Workgroup Petition for

Rulemaking and the regulatory evaluation. The regulatory evaluation indicates that most carriers use queuing or auto attendant features on their non-TTY lines that can easily be applied to their TTY lines. Air carrier representatives in the Workgroup Petition for Rulemaking stated that they need further guidance on their queuing capabilities. The Department seeks comment on the ability of U.S. and foreign air carriers that have queuing or auto attendant features to apply such features to their TTY lines. The Department also seeks comment on how many U.S. and foreign carriers have queuing or auto attendant features and whether they may use these existing systems to have queuing or auto attendant features on their TTY lines. To the extent that individuals have already submitted comments in the November 4, 2004, NPRM regarding whether there are countries the communications infrastructures of which would not readily permit the use of TTYs, those comments will also be considered with regard to the final rule issued as a result of the instant NPRM.

*6. Section 382.45 Must carriers make copies of this part available to passengers?*

The proposed § 382.45, among other things, continues the requirement in the existing rule for carriers to make a copy of 14 CFR part 382 available for review by any member of the public on request. The current provision only applies to U.S. carriers, but the November 4, 2004, NPRM proposed to extend this requirement to foreign air carriers. In addition to requiring that carriers make part 382 available at the airports they serve in the U.S. and at foreign airports for flights to the U.S., the proposed § 382.45 in the instant NPRM also requires U.S. and foreign air carriers to provide passengers with information on [1] how to obtain an accessible copy of 14 CFR part 382 from DOT's Disability Hotline or by calling, emailing or writing DOT's Aviation Consumer Protection Division and [2] how to obtain disability-related assistance from DOT's Disability Hotline or the Department's Aviation Consumer Protection Division.

The disability community in the Workgroup Petition for Rulemaking recommended a broader rule than that proposed by the instant NPRM. It recommended that § 382.45(a) require carriers to make available a copy of part 382 at each airport in accessible formats. Air carriers opposed such a requirement stating:

"Carriers cannot support the proposed requirement [in proposed 382.45(f)]. It would impose an unnecessary and costly burden on the airlines, with little or minimal value over existing procedures. Under current (d), a copy of Part 382 must be available for review upon request. Part 382 is available on the DOT website in accessible formats. Moreover, the DOT Disability Hotline is available to assist passengers with disabilities in understanding the requirements of Part 382 should they experience difficulties at an airport. We recall, as well, that we received some support from the deaf and hard of hearing and deaf-blind community on this."

After considering both arguments, the Department is proposing to continue the existing section 382.45 language in the instant document for three primary reasons. First, the proposal of the disability community in the Workgroup Petition for Rulemaking is overly broad in requiring that part 382 be made available in accessible formats at airports. That proposal may require carriers to identify all conceivable accessible formats and to provide part 382 in each of these formats. Such broad language is likely to result in a disjunct between what the disability community believes to be the universe of accessible formats and the accessible formats provided by carriers. Second, the Department makes available part 382 in accessible formats. Third, it is reasonable to assume that many individuals requesting a copy of part 382 also have questions about their rights under this part. Given this assumption, the Department believes that it would be more useful for such individuals to have carriers provide them with information on how to contact DOT to obtain an accessible copy of part 382 and receive assistance regarding disability-related air travel problems. Thus, DOT is proposing to require that, upon request, U.S. and foreign air carriers provide passengers with information on how to obtain an accessible copy of part 382 and disability-related assistance from DOT. The Department also seeks comment about the potential costs to U.S. and foreign carriers and benefits to passengers if it were to require that carriers have accessible copies of part 382 available at all airports for U.S. services.

*7. Section 382.51 What requirements must carriers meet concerning the accessibility of airport facilities?*

Proposed § 382.51 requires U.S. and foreign carriers, with respect to terminal facilities they own, lease, or control at a U.S. airport, to: (1) Enable and keep on at all times the captioning feature, if such a feature exists on the effective date of this proposed rule, on all

televisions and other audio-visual displays providing safety, information or entertainment content in those portions of the airport that are open to general public access; (2) enable, upon request, the captioning function, if such a feature exists on the effective date of this proposed rule, on televisions and audio visual displays in restricted passenger access areas (e.g. clubrooms); (3) replace non-caption-capable televisions and audio-visual displays with televisions and audio-visual displays that have captioning capabilities as those devices are replaced in the normal course of operations and/or when applicable airport facilities undergo substantial renovation or expansion; and (4) equip with captioning capability newly acquired televisions and other audio-visual displays for passenger entertainment. This is a new requirement that is not contained in the current version of part 382 or the November 4, 2004, NPRM.

The Department requests comments as to whether there are any instances where a carrier may lease a terminal facility at a U.S. airport but the airport retains control over the televisions and other audio-video displays in that facility. If such instances exist, the Department would consider requiring carriers and U.S. airports to work together to enable captioning on audio-visual equipment (including televisions) that have captioning capability and to replace non-caption capable audio-visual displays with captioning capable technology. The Department believes that airports and carriers have worked together for decades to find a basis for agreement on a wide variety of air transportation matters, so the concept of airports, which are subject to the Americans with Disabilities Act, and air carriers working together to determine how captioning will be provided would not be difficult.

In drafting the proposed § 382.51, the Department assumed that most televisions currently in use at U.S. airports will have captioning capabilities because all televisions with screens of 13" or larger, made or sold in the U.S. since July 1, 1993, are required by federal law to have captioning capabilities. Because of this, DOT believes and the regulatory evaluation supports that requiring carriers to enable the captioning feature should not be costly or otherwise onerous. The Department's assumption is supported by the fact that in the Workgroup Petition for Rulemaking the air carriers proposed the following language which is nearly identical to that proposed in § 382.51(a)(5) in this NPRM:

All televisions and other audio-video displays presently provided for passenger entertainment by and under the control of air carriers in the terminal (e.g. passenger lounges and gate areas), to the extent such televisions and other audio-video displays are presently capable of having caption display, shall have the captioning enabled at all times when the television or video display is in operational [sic]. Such television or other audio video displays with captioning capabilities maintained in private areas (e.g., club facilities) will be turned on by the carrier upon request. These provisions will become mandatory one hundred eighty days after the effective date of the regulation.

Given the substantial similarity between the proposed § 382.51(a)(5) and the language suggested by air carriers in the Workgroup Petition for Rulemaking, it appears that carriers have considered any costs of the requirement and their ability to implement it and have found its implementation to be feasible. The Department seeks comment on these assumptions, as well as the feasibility of the requirements in the proposed § 382.51(a)(5).

In the Workgroup Petition for Rulemaking, carriers also requested a 180-day waiting period for this provision to become effective. The Department has not adopted this proposal. The requirements of § 382.51(a)(5) do not require new equipment or construction. Rather, compliance with this section is a matter of providing the training necessary to turn on the captioning feature of a television or other audio-visual display. Such training, which if done by an individual at home would require the perusal of the television manual, does not appear to require a lengthy amount of time or in-depth instruction. Given the straightforward nature of the implementation involved in complying with proposed § 382.51(a)(5), DOT believes that the thirty day implementation period for the rule as a whole is adequate. DOT seeks comment on reasons that a longer time frame may be necessary.

In the Workgroup Petition for Rulemaking the disability community proposed that § 382.51(a)(5) contain the following additional sentence: "Captioning must be high contrast, such as white letters on a consistent black background." The air carrier Workgroup participants did not include such language in their proposal but did not oppose its inclusion. Section 382.51(a)(5) does not adopt the disability community's high-contrast captioning language in this particular subsection because section 382.51(a)(5) requires carriers to use any captioning feature already installed on their televisions and other audio-visual

displays. It may be possible that certain televisions and audio-visual devices do not have a high-contrast captioning feature but have another type of captioning feature. Under the proposed § 382.51(a)(5) carriers would be required to enable the captioning feature even if it were not high-contrast. Under the language of proposed § 382.51(a)(5), if the features of the television or other audio-visual display allow for it, high-contrast captioning must be enabled. The Department seeks comment on whether televisions and other audio-visual displays equipped with captioning features would necessarily have high-contrast captioning, whether such televisions and audio-visual displays may have some type of captioning other than "high-contrast" (e.g., low or medium contrast), and whether the availability of high-contrast captioning as opposed to another type of captioning depends on the age, cost or screen size of the television or other audio-visual display. The Department seeks comment on whether its assumptions in adding the final sentence of proposed § 382.51(a)(5) are correct and/or appropriate.

Section 382.51(a)(6) in this NPRM addresses televisions and audio-visual displays that do not have captioning features on the effective date of this proposed rule. It proposes to require carriers to supply televisions and other audio-visual displays equipped with high-contrast captioning when [1] carriers replace televisions and other audio-visual devices in the normal course of operations; or [2] the area of the airport terminal in which the non-caption-capable devices are located undergoes substantial renovation or expansion. Under the first situation, if a carrier, in the normal course of operation, replaces an individual television or audio-visual device that does not have high-contrast captioning capabilities (e.g., because a television or other audio-visual device becomes inoperable, the carrier decides to replace several old, low quality, television sets or other audio visual devices) then it must replace it with a television or audio-visual device capable of displaying high-contrast captions.

Under the second situation, proposed § 382.51(a)(6) is triggered when a carrier undertakes substantial renovation or expansion of a portion of the airport which it owns, leases or controls. Carriers would be required to replace any television or other audio-visual device present in an area undergoing substantial renovation or expansion that is not capable of high-contrast captioning, even if the renovation or

expansion did not require or contemplate the replacement of audio-visual equipment. For example, if a carrier plans to replace the carpeting, seats, and podiums/counters in one of the terminals over which it has control (i.e., substantial renovation), it must replace any televisions and audio-visual devices that are not high-contrast-caption-capable with high-contrast-caption-capable devices even if such replacement were not part of the original renovation plan.

Air carriers in the Workgroup Petition for Rulemaking proposed a narrower replacement rule as follows:

To the extent that televisions and other audio-video displays for passenger entertainment are included in expansion or renovation plans on or after the effective date of this regulation for airport areas controlled by air carriers, these televisions and other audio-video displays for passenger entertainment shall be equipped with captioning capability.

The Department has rejected this language and proposes the slightly broader language of § 382.51(a)(6) because of the minor cost of replacing televisions and audio-visual displays as compared to the significant costs associated with substantial renovations and expansions. The Department also believes that § 382.51(a)(6) as proposed will not require the replacement of many televisions or other audio-visual displays given that most televisions and audio-visual displays in use at airports incorporate such capabilities by federal law. The Department seeks comment on the reasonability of requiring carriers to replace non-caption-capable audio-visual equipment located in areas of substantial renovation or expansion particularly if replacing these items was not part of the original renovation plan and whether there are renovation costs (e.g. rewiring) that we have not considered. The Department further seeks comment on whether the terms "substantial renovation" and expansion provide enough guidance for industry compliance. Also, the Department requests comment as to whether there are any instances where the audio-visual equipment may be part of an airport-wide system that extends beyond areas of substantial renovation or expansion.

In the Workgroup Petition for Rulemaking the disability community proposed that carriers be required to ensure that all televisions and audio-visual displays provided for passenger information and entertainment by and under the control of carriers have captioning capabilities within 180 days of the date that the final rule is issued. The Department has not adopted this

proposal because of cost considerations. The Department seeks comment on whether it should require carriers to ensure that all airport televisions and audio-visual equipment under their control contain high-contrast captioning capability within 180 days of the date that the final rule is issued.

*8. Section 382.53 What accommodations are required at airports for individuals with a vision and/or hearing impairment?*

This NPRM proposes to require carriers to provide the same information to deaf, hard of hearing and deaf-blind individuals in airport terminals that it provides to other members of the public. This information must be provided in a prompt manner when such individuals identify themselves as needing visual and/or auditory assistance. Currently, § 382.45(c) requires carriers to provide timely access to "information the carrier provides to other passengers in the terminal or on the aircraft \* \* \* including, but not limited to, information concerning ticketing, flight delays, schedule changes, connections, flight check-in, gate assignments, and the checking and claiming of luggage" and "aircraft changes that will affect the travel of individuals with a disability." The November 4, 2004, NPRM, proposed to change the rule by requiring U.S. and foreign air carriers to provide the information "promptly" upon request and to ensure that information provided to the general public is provided to individuals who are deaf, hard of hearing or deaf-blind who request the information at "each gate, baggage claim area, ticketing area, or other terminal facility that [the carrier] own[s], lease[s], or control[s] at any U.S. airport."

There are three elements to the proposed provision in the instant NPRM. First, it includes the proposed requirement from the November 4, 2004, NPRM, that carriers provide information "promptly" to requesting individuals. Second, the instant NPRM also expands the current list of specific examples of information carriers must provide upon request. Third, the instant NPRM changes the language in the current Part 382 and applies to information "at each gate, baggage claim area, ticketing area, or other terminal facility" owned, leased, or controlled by U.S. and foreign carriers.

Section 382.53 in the instant NPRM proposes to require carriers to provide the same information provided to the general public to requesting individuals who are deaf, hard of hearing or deaf-blind promptly. The current rule, § 382.45(c), requires carriers to provide

the information in a "timely" manner. The November 4, 2004, NPRM required that carriers provide the information "promptly." The instant NPRM also requires that the information be provided "promptly." In requiring the prompt provision of information to requesting deaf, hard of hearing and deaf-blind passengers the Department believes that it is requiring that carriers transmit information at a faster pace than currently required by the "timely" standard in § 382.45(c). DOT considered requiring the transmission of equal information "simultaneously," but rejected this standard as being unworkable in practice. Thus, by requiring U.S. and foreign air carriers to provide "prompt" access to information equal to that provided to the public, the Department is proposing a standard between "timely" and "simultaneously." The Department seeks comment on this change, including whether the standard and the discussion above is adequate to allow carriers to identify their duties under the rule.

With respect to carrier compliance in providing prompt access to the same information provided to the general public to passengers who are deaf, hard of hearing and deaf-blind, § 382.53 proposes a performance standard (e.g. "prompt") rather than requiring that carriers use a specific medium (e.g., LCD displays screens, wireless pagers, etc.). DOT believes that using a performance standard allows carriers to design a compliance plan that best suits their needs as an organization and to consider such factors as customer base, location of operation, and passenger flow. The Department is aware of four potential mechanisms that could be used alone or in conjunction with each other to communicate with individuals who are deaf or hard of hearing: Whiteboards (*i.e.*, a white smooth, erasable board on which carrier personnel could easily write all notifications provided orally to the public and also easily remove such information to make room for more current information), LCD displays, restaurant type or wireless pagers, and handwritten notes. Carriers may choose any one of these methods or alternative methods that meet the promptness standard.

However, the Department is concerned that there may not be readily available methods of communicating with individuals who are deaf-blind although it recognizes that there are different levels of both deafness and blindness and that the combination of severities in deaf-blind persons varies according to the individual. The

methods the Department is aware of take time or require special training as they consist of: (1) Using a finger to write in block letters on the palm or forearm of the individual who is deaf-blind (block printing); (2) using an index card with the letters of the alphabet raised to enable the communicator to place the fingertip of the deaf-blind person's index finger on the desired letters to feel the shape of the raised letter; and (3) tactile signing or fingerspelling where the deaf-blind person feels the shape of the signs by placing his or her hands on top of the signer's hands. The Department is not proposing to require carriers to use any of the aforementioned methods to communicate with deaf-blind individuals. We specifically request comment regarding other less specialized methods of communicating with individuals who are deaf-blind. If less specialized methods are not available, we seek comment as to whether the Department should limit the requirement for carriers to provide prompt access to the same information provided to other passengers at airports and on aircraft to individuals with *vision or hearing* impairments rather than to individuals with *vision and/or hearing impairments*. The Department also seeks comment on whether it should maintain a performance standard or require compliance in a certain manner. Further, the Department requests information about the methods that carriers are currently using to comply with § 382.45(c) as well as methods other than those mentioned above that may be used to comply with the proposed requirement to provide prompt information in the terminal and aircraft.

In a related matter, DOT has decided not to adopt the proposal that deaf and hard of hearing individuals not be required to self-identify as needing auditory assistance. Such a proposal would turn the performance standard into a requirement for a specific type of accommodation to accommodate these individuals (*e.g.*, LCD displays). A key component of proposed § 382.53 is that deaf, hard of hearing and deaf-blind passengers identify themselves to carrier personnel as needing auditory and/or visual assistance. The disability community representatives of the Workgroup oppose such a requirement and state that passenger information "should be made available automatically in audio and visual formats and without requirement or expectation that a carrier be informed of the need for communication accommodations." Carriers disagreed

stating that a rule that did not require deaf, hard of hearing and deaf-blind passengers to self-identify would be unnecessarily costly. The Department agrees with the carrier representatives that a rule requiring transmission of information accessible to deaf, hard of hearing and deaf-blind individuals irrespective of whether or not there are individuals needing such information would be unnecessarily costly, and we also conclude that the burden of self-identification to passengers is minimal in comparison to the cost of the alternative. Consequently, we are maintaining the self-identification requirement in the proposed § 382.53.

DOT believes that eliminating the self-identification requirement would be costly because it would limit the compliance options available to carriers. A rule requiring transmission of information in formats accessible to deaf, hard of hearing and deaf-blind individuals at all times regardless of whether any individual self-identifies as needing visual or auditory assistance or both would eliminate or increase the cost of the various methods currently available to carriers to comply with the requirement that they provide timely information to individuals who are deaf, hard of hearing, or deaf-blind. For example, such a rule would eliminate the use of wireless or restaurant type pager systems because both systems require that carriers provide pagers to passengers who self-identify as needing assistance. Eliminating the self-identification requirement would remove a carrier's ability to assign pagers to those who request auditory or visual accommodation or require carriers to give pagers to every passenger, which would be costly and unworkable. A rule requiring transmission of information in formats accessible to deaf, hard of hearing and deaf-blind individuals irrespective of receipt of a request for such information, may also increase the personnel costs of carriers using whiteboards. Carrier personnel would have to immediately write all public announcements down on a whiteboard at every gate for every flight. This would likely require continued and regular diversion of personnel from gate desk or boarding duties to write public announcements on a whiteboard or the assignment of additional personnel to ensure proper transmission of accessible information via whiteboard and adequate operation of the gate desk and boarding process. The use of LCD screens, estimated to cost \$1900 per screen (plus \$800 for computer chips and a keyboard to control up to four



screens), would be costly and, similar to the whiteboard solution, would require increased personnel time to input each public announcement onto the LCD displays.

Furthermore, the benefit to deaf, hard of hearing and deaf-blind passengers does not appear to substantially increase by requiring carriers to transmit accessible information irrespective of self-identification. Thus, the increased cost as compared to the little or no increased benefit to disabled consumers, weighs in favor of maintaining the self-identification portion of proposed § 382.53. The Department seeks comment on potential benefits of eliminating the self-identification clause of proposed § 382.53 that it may not have considered as well as the potential costs associated with doing so.

With regard to the second proposed change, proposed § 382.53(a)(2), which addresses information provided in airports, adds the following specific information to the current list: flight cancellations, boarding information, volunteer solicitation on oversold flights (e.g. offers of compensation for surrendering a reservation, individuals being paged by airlines), and emergencies (e.g. fire, bomb threat etc.).

In support of this expanded list in the Workgroup Petition for Rulemaking, the disability community representatives stated:

Air carriers routinely provide much information important to successful and enjoyable air travel. In addition to safety briefings and emergency announcements, typical air travel involves airline announcements such as gate agents paging a passenger (to resolve a ticketing issue, etc.), gate changes, preboarding, flight delays, boarding instructions, movie selections, and other non emergency information. If an airline provides information to all its passengers, it should make sure that information is accessible to all its passengers, not just those who can hear or see. It's paternalistic for airlines to predetermine what passenger information is important to a passenger with a hearing disability, and to limit the information available to that passenger. At a minimum, any information provided by the airlines over a public address/loudspeaker should be provided simultaneously in formats accessible to passengers who have hearing loss.

Air carriers objected to the expanded list of airport terminal information stating: "The current regulatory language in subsection (c) is the only essential information carriers should be required to provide individuals in the terminal."

In proposing the expanded lists, DOT aims to clarify that in airport terminals and on aircraft, airlines must provide the same information to passengers with

hearing and visual disabilities as it provides to non-disabled passengers via public address or other means. The term "clarify" is used because DOT believes that even under the current § 382.45(c) a carrier is required to provide timely the same information given to non-disabled passengers, including the items listed in proposed § 382.53(a)(2). Both the current § 382.45(c) and proposed § 382.53(a)(2) specifically require carriers to ensure that deaf, hard of hearing and deaf-blind passengers have timely access to information the carrier provides to other passengers in the terminal and on aircraft. Both the current and proposed rules contain the language "including, but not limited to" immediately prior to the specific list. Therefore, to the extent carriers have interpreted this requirement as being limited to the items in the specific list or to communications the carrier deems essential, that is in error. Neither the plain text of § 382.45(c) nor proposed § 382.53(a)(2) use the term "essential" to define the type of information carriers are required to provide to deaf, hard of hearing and deaf-blind individuals who identify themselves as requiring accommodation. The Department seeks comment on the items contained in the proposed lists and whether additional items should be added. The Department also seeks explanation and justification for the carriers' assertion that the only type of information carriers should be required to make available to passengers who are deaf, hard of hearing and deaf-blind is "essential" information.

With regard to the third proposed change, the current § 382.45(c) requires that carriers "ensure that qualified individuals with a disability \* \* \* have access to information the carrier provides to other passengers in the terminal \* \* \*" The November 4, 2004, NPRM, § 382.53(a)(1)(i), proposed to require U.S. carriers to "make this information available at each gate, baggage claim area, ticketing area, or other terminal facility that you own, lease, or control at any U.S. or foreign airport." The instant NPRM maintains this language from the November 4, 2004, NPRM. The Department does not believe that this change in language expands the areas within the airport terminal where carriers are obliged to provide accessible information upon request from individuals who are deaf, hard of hearing, or deaf-blind. Rather, the Department believes that the language in the instant and November 4, 2004, NPRMs is more specific and illustrative than the word "terminal." The Department seeks comment on the currently proposed language.

The disability community in the Workgroup Petition for Rulemaking also proposed that § 382.53 require carriers to "include training to proficiency in basic visual, auditory and tactile methods for communicating effectively with passengers who have visual, hearing or other disabilities affecting communication." The disability community asserts that this clause is necessary "to remove the excuse that communication accommodations were not provided because the employee "didn't know how"." The Department has proposed a provision in proposed § 382.141 to require training to proficiency in basic visual and auditory methods, and believes that it is unnecessary to include it in § 382.53 as well. The Department seeks comment on the necessity and efficacy, if any, of including this proposed training requirement in section § 382.53 as well as § 382.141.

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

The NPRM proposes to increase the accommodations required on aircraft for individuals who are deaf and hard of hearing by: [1] Requiring U.S. and foreign carriers within a specified time-period to caption all safety and informational videos on aircraft; and [2] requiring U.S. and foreign air carriers to provide high-contrast captioning on entertainment videos, DVDs and other audio-visual displays on new aircraft. Under the current rule, § 382.47(b), aircraft that present safety briefings by video must make such video presentations accessible to persons who are deaf or hard of hearing. Under the current rule, aircraft may be exempt from this requirement if open captioning or an inset would interfere with the video presentation such that the video was ineffective, or the captioning or inset was unreadable. The November 4, 2004, NPRM does not address these issues.

With regard to the captioning of safety and informational videos, proposed § 382.69(a) makes three changes to the current rule, § 382.47(b). The proposed § 382.69(a) eliminates the current exemption where use of captioning or an inset would render the video ineffective, requires the captioning of informational videos, DVDs and other audio-visual displays shown on aircraft, and sets a timetable for compliance with its provisions (180 days from effective date of the rule to caption audio-visual displays played for safety purpose and

240 days from effective date of the rule to caption audio-visual displays played for informational purpose).

Proposed § 382.69(a) eliminates the permanent exemption for captioning of safety videos where the use of captioning or a sign language inset would render the safety video ineffective. U.S. carriers may still benefit from the safety video exemption for up to 180 days after this rule's effective date, while they are taking measures to comply with this section of the rule. We propose that foreign carriers, similar to U.S. carriers, be given 180 days to comply with the section proposing to require high-contrast captioning on videos, DVDs and other audio-visual displays played for safety purposes on an aircraft; however, foreign carriers are not required to make the stop-gap measures required of U.S. carriers in proposed § 382.69(a)(1)(i). Under proposed § 382.69(a)(1) U.S. and foreign carriers must adequately and effectively caption safety and informational videos, DVDs and other audio-visual displays such that the captions are usable by deaf and hard of hearing individuals. In removing the current permanent exemption applicable to safety videos, it is the Department's intent that carriers find a way to caption all audio-visual safety, as well as informational materials such that they are usable by passengers with and without disabilities. It is notable that during the 180-day compliance period U.S. carriers are not required to take any temporary measures with regard to informational videos unlike the requirement with respect to safety videos. The Department seeks comment on the continued need for a permanent exemption clause applicable to safety videos in the on-board captioning rule. The Department also seeks comment on the technical feasibility of captioning all safety and informational videos, DVDs and other such audio-visual displays. Specifically, the Department seeks comment on whether carriers will be able to caption all safety and information videos, DVDs and other audio-visual displays such that the videos are useful to individuals with and without auditory disabilities.

With regard to the extension of the rule to include new and existing informational videos, DVDs and audio-visual displays, the definition of "informational" is discussed above in connection with § 382.3 and does not require further discussion in this section. The Department does, however, seek comment on the extension of the aircraft captioning requirement to informational videos, DVDs and other audio-visual equipment. The

Department also seeks comment on the feasibility of meeting the implementation timetable set in the proposed rule (e.g., Is 240 days sufficient time for U.S. and foreign air carriers to provide high-contrast captioning on videos, DVDs and other audio-visual displays played for informational purposes on an aircraft? Should foreign air carriers be provided additional time to implement the proposed requirement for high-contrast captioning on videos, DVDs and other audio-visual displays played for safety purposes, particularly since U.S. carriers operating aircraft with video safety briefings were required since 1990 to phase in captioned tapes as old tapes were replaced?).

Section 382.69(b) also proposes to require carriers to provide high-contrast captioning on all videos, DVDs and other audio-visual displays presented for entertainment purposes in new aircraft. Proposed § 382.69(b) defines "new" aircraft as those ordered after the effective date of the rule or delivered more than two years after the effective date of the rule. Under proposed § 382.43(c) "new" aircraft also include each aircraft whose cabin audio-visual elements have been replaced after the effective date of this rule. The disability community in the Workgroup Petition for Rulemaking proposed a broader rule that would require the captioning of entertainment videos, DVDs and other audio-visual equipment on existing and new aircraft within 60 days of the effective date of this rule. The disability community stated that it did not believe the captioning of such videos would be difficult given that airlines provide "multilanguage captioned videos/DVDs on international flights." The air carrier community in the Workgroup Petition for Rulemaking stated only that the captioning of entertainment videos "raise[s] a number of significant and problematic issues that will need to be discussed in length."

The Department is not proposing to require the captioning of entertainment videos on existing aircraft because of its belief that the costs associated with such required captioning would outweigh the benefits. As stated in the regulatory evaluation, providing captioning for in-flight entertainment systems would require the installation of equipment on an aircraft's audio-visual system as a whole or on its individual audio-visual units. That is, each solution for captioning entertainment videos, DVDs, or other audio-visual systems on aircraft would require small construction/installation projects on each aircraft. Along with such construction-like projects comes

the removal of aircraft from the flight schedule so that the work can be done. DOT does not believe that it is reasonable to propose a rule requiring carriers to undertake such modifications to ensure the accessibility of entertainment materials. This is in contrast to requiring the enabling of already existing captioning functions which does not require any construction-like installation, but only requires the pressing of buttons that already exists on the television or audio-visual equipment. The Department seeks comment on whether to require that carriers ensure the captioning of entertainment videos, DVDs and other audio-visual displays on existing aircraft.

However, the Department believes that the incremental cost of ensuring the accessibility of videos, DVDs and other audio-visual systems used for entertainment on new or substantially refurbished aircraft would be minimal. This belief is informed by the analysis and research done in the regulatory evaluation. As a result, proposed § 382.69(b) requires such entertainment systems on new aircraft to provide high-contrast captioning. The Department seeks comment on the proposed requirement that air carriers provide high-contrast captioning on all videos, DVDs and other audio-visual displays shown for entertainment purposes on "new" aircraft, including the costs, benefits and feasibility thereof.

For purposes of proposed § 382.69(b), "new" aircraft are aircraft ordered after the effective date of this rule or delivered more than two years following the effective date of this rule, or aircraft whose cabin audio-visual elements are replaced after the effective date of this rule. With respect to the refurbishment provision the Department has chosen language that would not deter carriers from updating their aircraft in small increments, particularly accessibility features. An older aircraft must have its audio-visual displays replaced in order to trigger the captioning requirements in this section. Less substantial aircraft renovations would not require cabin audio-visual displays used for entertainment purposes to be captioned. (Such audio-visual displays may have to be fitted for captioning if they also provide safety and/or informational materials.) It is notable that the definition of "new" in proposed § 382.69(b) adopts a substantial portion of the language and requirements of current §§ 382.21(a) and (c). The Department seeks comment on its definition of "new" as proposed by this subsection of the instant NPRM.

**10. Section 382.119** *What accommodations are carriers required to provide on aircraft for individuals with a vision and/or hearing impairment?*

The NPRM addresses accommodations U.S. and foreign air carriers must provide upon request to individuals with vision and/or auditory impairments on board aircraft. Like its airport terminal counterpart, proposed § 382.119(a) requires foreign and U.S. air carriers, upon request, to provide deaf, hard of hearing, and deaf-blind individuals with the same information provided to non-disabled passengers in a prompt manner. By way of example, proposed § 382.119(a)(1) specifies the following list: “flight safety, procedures for take-off or landing, flight delays, schedule or aircraft changes, diversion to a different airport, scheduled departure and arrival times, boarding information, weather conditions, beverage and menu information, connecting gate assignments, claiming of baggage, individuals being paged by airlines, aircraft changes that affect the travel of persons with disabilities, and emergencies (e.g., fire, bomb threat, etc.).” Currently, § 382.45(c) requires carriers to provide timely access to “information the carrier provides to other passengers in the terminal or on the aircraft.”

Section 382.119 makes two changes to the current rule and/or the November 4, 2004, NPRM. First, the instant NPRM incorporates the proposed requirement from the November 4, 2004, NPRM, that carriers provide information “promptly” to requesting individuals. Second, the

instant NPRM also expands the current list of specific examples of information carriers must provide upon request. The change of the standard from “timely” to “prompt” is fully discussed above and does not necessitate further discussion in this section. The Department seeks comment on whether the change from “timely” to “prompt” is appropriate with regard to the provision of information on-board aircraft.

With regard to the second change to the currently effective § 382.45(c), proposed § 382.119(a)(1) adds the following: Procedures for take-off and landing, diversion to a different airport, scheduled departure and arrival times, weather conditions, beverage and menu information, connecting gate assignments, individuals being paged by airlines, and emergencies (e.g. fire, bomb threat, etc.). The addition of specifics was discussed above under proposed § 382.53. The fact that the additions to § 382.45(c) proposed in the instant rule are different than the proposed changes addressed under § 382.53 results from the change of the location covered by the provisions from the airport terminal to the aircraft. The Department seeks comment on the specifics contained in the proposed list in the instant section.

**11. Section 382.141** *What training are carriers required to provide for their personnel?*

Proposed § 382.141 would require carriers to train their employees to recognize requests for communication accommodations by individuals with

vision or hearing impairments and to use the most common methods that are readily achievable for communicating with such individuals. In further defining this requirement, proposed § 382.141 requires carriers to train their employees to proficiency in basic visual and auditory methods for communicating with passengers who have visual, hearing or other disabilities affecting communication. This is a new requirement and, as such, does not appear in current part 382, nor in the November 4, 2004, NPRM.

By proposing that carriers train their employees to communicate with individuals with hearing impairments, the Department is not proposing to require carriers to train their employees to use sign language but rather to train their employees about the common methods that are readily achievable that could be used alone or in conjunction with each other to communicate with individuals who are deaf or hard of hearing (e.g., handwritten notes). The Department seeks comments on whether use of the terms “common methods” and “readily available” provides sufficient guidance to carriers on how to fully comply with this training requirement. The Department also seeks comments on the type of training that would be involved in meeting the proposed requirement, and on the effect, feasibility and necessity of expanding proposed § 382.141 to require carriers to train their employees to communicate with deaf-blind individuals.

**12. Reference Table**

Current rule text	New proposed rule text
§ 382.23(e) .....	§§ 382.51(a)(5), (6), (7), & (8).
§§ 382.35(b) & (c) .....	§§ 382.29(b)(4) & (c).
§ 382.45(c) .....	§§ 382.43(a)(1) & (2).
§ 382.47(a) .....	§ 382.43(d).
§ 382.47(b) .....	§ 382.43(b)(1), (b)(2) & (c).
§ 382.61(a)(4) .....	§ 382.141.

**Regulatory Analysis and Notices**

*Executive Order 12866 (Regulatory Planning and Review) and DOT Regulatory Policies and Procedures*

This proposal, if adopted as a final rule, would meet the criteria under Executive Order 12866 or the Department of Transportation Regulatory Policies and Procedures for a significant rule because of public interest, the international implications of the proposals, and its relationship to a larger November 2004 NPRM of the Air Carrier Access Act deemed to be significant.

To improve air travel by deaf, hard of hearing and deaf-blind individuals, this NPRM proposes the following alterations and additions to 14 CFR part 382: (1) Air carriers and passengers with disabilities must make reasonable efforts to communicate to facilitate the determination of whether a safety attendant is required; (2) where air carriers require a safety attendant, contrary to a disabled individual’s self-assessment that one is not required, the carrier must make reasonable efforts to locate an attendant; (3) on TTY lines for reservation and information, air carriers must install queue or auto attendant

features if such are offered to the public via non-TTY telephone lines; (4) carriers must provide requesting individuals with the Department’s contact information such that individuals may obtain copies of part 382 and other disability-related information in accessible formats; (5) air carriers must enable captioning functions, where present, on televisions in U.S. airport terminals; (6) air carriers must provide deaf, hard of hearing, and deaf-blind individuals with the same information provided to the public promptly upon request; (7) air carriers must provide high-contrast captioning on all safety

and informational videos on new and existing aircraft within a specified period of time; (8) air carriers must caption entertainment videos on new aircraft; and (9) carriers must train their personnel to recognize requests for communication accommodations and on basic visual, and auditory methods for communicating with deaf, hard of hearing and deaf-blind individuals.

This NPRM would apply to U.S. and foreign air carriers. As proposed and addressed in the November 4, 2004, NPRM, this rule would apply only to foreign aircraft and operations involved with flights beginning or ending at U.S. airports. With regard to equipment-related requirements, as opposed to service requirements, this rule proposes to be limited to U.S. airport facilities.

Because the rule will impose new requirements on U.S. and foreign carriers, the Department has produced a regulatory evaluation for this NPRM. The evaluation estimates that the benefit-cost ratio of the proposed rule is approximately 1.14; that is the benefits of the proposed rule outweigh its costs by fourteen cents for each dollar. The regulatory evaluation estimates that the present value cost of compliance over a 20-year period is \$157.43 million for the entire rule. It is further noteworthy that in most cases the benefits of each individual proposal outweigh the costs of each proposal. The proposal regarding employee training is an exception but this proposal is integral to each of the other proposals because training is a necessary component to effectuating all of the proposals, if adopted.

The proposals of this NPRM will increase accessibility to air travel for deaf, hard of hearing and deaf-blind individuals, which provides numerous and important benefits to passengers with disabilities. It is also noteworthy that many of the accommodations proposed by this rule benefit nondisabled individuals (e.g., increased use of signage at airport gates would assist nondisabled individuals who miss announcements made via public address systems in noisy terminals). The regulatory evaluation also estimates that there will be tangible economic benefits to deaf and hard of hearing passengers, as well as U.S. and foreign air carriers in terms of increased revenue from the additional passengers that will be able to travel as barriers to travel are reduced. The regulatory evaluation estimates the benefits to be \$179.74 million in 20-year present value terms. The net benefit of the proposed rule is \$22.31 million (\$179.74 million in benefit minus \$157.43 million in cost).

The Department seeks comment on the regulatory evaluations' approach and the accuracy of its estimates of costs and benefits. We specifically request comment and information on the current rate of captioning in the terminal and on aircraft (i.e., the extent to which carriers already provide captioning on the aircraft or at each gate, baggage claim area, ticketing area, or other terminal facility that they own, lease or control at any U.S. or foreign airport). The Department also seeks comment with respect to the assumptions made to quantify the entertainment value of captioning of televisions in airport waiting areas, particularly the estimate that people would be willing to pay 32 cents an hour to watch television at an airport based on the average monthly price of cable service and the average number of hours per month that the average American watches television.

#### *Executive Order 13132 (Federalism)*

This NPRM has been analyzed in accordance with the principles and criteria contained in Executive Order 13132 ("Federalism"). This notice of proposed rulemaking would not (1) have a substantial direct effect 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) impose substantial direct compliance costs on state and local governments; or (3) preempt state law. Therefore, the consultation and funding requirements of Executive Order 13132 do not apply.

#### *Executive Order 13084*

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

#### *Regulatory Flexibility Act*

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 impact on a substantial number of small entities. We hereby certify that the rule proposed in this notice of proposed rulemaking will not have a significant economic impact on a substantial number of small

entities. A direct air carrier or a foreign air carrier is a small business if it provides air transportation only with small aircraft (i.e., aircraft designed to have a maximum passenger capacity of not more than 60 seats or a maximum payload capacity of not more than 18,000 pounds). See 14 CFR 399.73. This NPRM provides low cost alternatives to small carriers by setting standards that allow for inexpensive, "low tech," compliance options (e.g., whiteboards). In addition, the captioning requirements are unlikely to apply to many small carriers, which do not utilize safety, informational, and/or entertainment videos, DVDs or other audio-visual displays. Taking into account the flexibility factors of the NPRM, the regulatory analysis concludes that the cost of compliance with this rule for small businesses will be less than \$10,000. Therefore, this rule will not have a significant impact on a substantial number of small businesses.

#### *Paperwork Reduction Act*

The proposed rule does not contain information collection requirements that require approval by the Office of Management and Budget (OMB) under the Paperwork Reduction Act (44 U.S.C. 2507 *et seq.*).

#### *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 7th day of February, 2006, at Washington DC.

**Norman Y. Mineta,**  
*Secretary of Transportation.*

#### **List of Subjects in 14 CFR Part 382**

Air carriers, Civil rights, Individuals with disabilities, Reporting and recordkeeping requirements.

For the reasons set forth in the preamble, the Department is further proposing to amend the proposed rule published at 69 FR 64364, November 4, 2004, as follows:

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

1. The authority citation for 14 CFR part 382 is proposed to be revised to read as follows:

**Authority:** 49 U.S.C. 41702, 47105, 47112 and 41310.

#### **PART 382—[NOMENCLATURE CHANGE]**

2. In 14 CFR part 382, the word "TDD" is proposed to be revised to read

“TTY” wherever it occurs. The term “telecommunication device for the deaf” is proposed to be revised to read “text telephone” wherever it occurs.

3. Section 382.5 is proposed to be revised to read as follows:

**§ 382.5 To whom do the provisions of this part apply?**

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

(b) Except as otherwise indicated within this part, if you are a foreign air carrier, this part applies to you only with respect to flights 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.

*Example 1:* A passenger books a nonstop flight from Paris to Chicago. This is a “flight” for purposes of this part.

*Example 2:* A passenger books a journey on a foreign carrier from Washington, DC, to Berlin. The foreign carrier flies nonstop to Frankfurt. The passenger gets off the plane in Frankfurt and boards a connecting flight, on the same or a different foreign carrier, that goes to Berlin. The Washington-Frankfurt leg of the journey is a “flight,” for purposes of this part; the Frankfurt-Berlin leg is not (unless it is a code-shared flight with a U.S. carrier, see paragraph (c) of this section).

*Example 3:* A passenger books a journey on a foreign carrier from New York to Cairo. The plane stops for refueling and a crew change in London. The passengers reboard the aircraft (or a different aircraft, assuming the flight number remains the same) and continue to Cairo. Both legs are parts of a covered “flight” for purposes of this part, with respect to passengers who board the flight in New York.

*Example 4:* In Example 3, the carrier is not required to provide services under this part to a passenger who boards the aircraft in London and goes to Cairo. Likewise, on the return trip, the foreign carrier is not required to provide services under this part to a passenger who boards the aircraft in Cairo and whose journey ends in London.

*Example 5:* If you are a foreign carrier that actually operates a flight that is also listed as a flight of a U.S. carrier through a code-sharing arrangement, the provisions of this part covering U.S. carriers apply to the flight.

(c) Notwithstanding any other provision of this section, if you are a foreign air carrier that uses a particular aircraft for flights only between foreign airports, and you do not use the aircraft for any flights that begin or end at a U.S. airport, you are not required to comply with the aircraft accessibility requirements of Subpart E (*i.e.*, those addressing movable aisle armrests,

accessible lavatories, on-board wheelchairs, and priority space to store passengers wheelchairs) with respect to that aircraft. However, you must comply with the service-related requirements of this part for any flight that is covered by this part (*e.g.*, a code-shared flight).

(d) 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.

(e) If you are an indirect air carrier, §§ 382.17 through 382.157 of this part do not apply to you.

(f) Notwithstanding any provisions of this part, you must comply with all FAA safety regulations and TSA security regulations that apply to you.

4. Section 382.29 is proposed to be amended by revising paragraphs (b) introductory text, (b)(4), and (c) to read as follows:

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

\* \* \* \* \*

(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:

\* \* \* \* \*

(4) A person who has both severe hearing and severe vision impairments or a person who is deaf-blind, if communication adequate to permit transmission of the safety briefing required by 14 CFR 121.571(a)(3) and (a)(4) or 14 CFR 135.117 (b), cannot be established. Both carrier personnel and passengers with disabilities must make reasonable attempts to establish communication adequate to permit transmission of the safety briefings required by FAA regulations. This duty to make reasonable efforts to establish communication includes, but is not limited to, carrier personnel making reasonable attempts to communicate with individuals with severe hearing and severe vision impairments and to such individuals making reasonable attempts to establish communication with carrier personnel.

(c) 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 disabled individual’s self-assessment that he or she is capable of traveling independently, you must not charge for the transportation of the safety assistant and you must make reasonable efforts to provide the individual with a disability with a safety assistant.

\* \* \* \* \*

5. Section 382.43 is proposed to be amended by revising paragraph (a) and the section heading to read as follows:

**§ 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 are deaf or hard of hearing through the use of a text telephone (TTY), as follows:

(1) You must make TTY service available 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/callers is equivalent to the response time and level of service provided to the general public (*i.e.*, non-TTY users or callers), including the provision of a queue message if one is provided to the general public.

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

(4) If you are a foreign carrier, you must meet this requirement by [date one year from the effective date of this part].

\* \* \* \* \*

6. Section 382.45 is proposed to be revised to read as follows:

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

As a carrier, you must keep a current copy of this part at each airport you serve. As a foreign carrier, this means that you must keep a copy of this part at each airport serving a flight that begins or ends at a U.S. airport. You must make the copy available for review by any member of the public on request. You must also provide the following information to any member of the public upon request:

(a) How to obtain an accessible copy of this part. The requestor should be referred to the Department of Transportation’s Disability Hotline or the Department of Transportation’s Aviation Consumer Protection Division; and

(b) How to obtain disability related assistance from the Department of Transportation’s Disability Hotline service or the Department of Transportation’s Aviation Consumer Protection Division.

7. Section 382.51 is proposed to be amended by revising paragraph (a) introductory text and adding paragraphs (a)(5) through (a)(7) to read as follows:

**§ 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:

\* \* \* \* \*

(5) To the extent audio-video displays are capable of having caption display on [the effective date of this rule], you must enable the captioning on all televisions and other audio-video displays providing passengers with safety briefings, information or entertainment in the portions of the airport terminal open to all passengers (e.g., passenger lounges and gate areas). In those portions of the airport terminal with restricted passenger access (e.g. club facilities), you must, upon request, enable the captioning of television or other audio-video displays. To the extent technically feasible, the captioning must be high-contrast (e.g., white letters on a consistent black background).

(6) To the extent that there are televisions and other audio-video displays providing passengers with safety briefings, information or entertainment that do not have high-contrast captioning capabilities on [the effective date of this rule], you must replace them with televisions and other audio-video displays equipped with high-contrast (e.g., white letters on a consistent black background) captioning capability whenever such devices are replaced in the normal course of operations and/or whenever such portion of the airport facilities are undergoing substantial renovation or expansion.

(7) Televisions and other audio-visual displays for passenger safety briefings, information or entertainment that are newly acquired by carriers [on or after the effective date of the rule] must be equipped with high-contrast captioning capability (e.g., white letters on a consistent black background).

\* \* \* \* \*

7. Section 328.53 is proposed to be revised to read as follows:

**§ 382.53 What accommodations are required at airports for individuals with a vision and/or hearing impairment?**

(a) As a U.S. carrier, you must ensure that qualified individuals with a disability who identify themselves as persons needing visual and/or hearing assistance have prompt access to the same information provided to other passengers at each gate, baggage claim area, ticketing area, or other terminal facility that you own, lease or control at any U.S. or foreign airport as described

in paragraph (a)(1) of this section below to the extent that it does not interfere with employees' safety and security duties as set forth in FAA, TSA and applicable foreign regulations. As a foreign carrier, you must make this information available at each gate, baggage claim area, ticketing area, or other terminal facility that you own, lease, or control at any U.S. airport. At foreign airports, you must make this information available only at terminal facilities that serve flights that begin or end in the U.S.

(1) The covered information includes, but is not limited to, information concerning flight safety, ticketing, flight check-in, flight delays or cancellations, schedule changes, boarding information, connections, gate assignments, checking and claiming of 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, etc.).

(2) [Reserved]

(b) As a foreign air carrier at a U.S. airport, or a U.S. or foreign air carrier at a foreign airport, you must meet the requirement of this section by [date one year from effective date of this rule].

8. It is proposed that a § 382.69 be added as follows:

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

(a) As a carrier you must ensure that all videos, DVDs and other audio-visual displays played for safety and/or informational purposes in aircraft are high-contrast captioned (e.g., white letters on consistent black background). You must meet this requirement according to the following timetable:

(1) *Safety briefings.* You must provide high-contrast captioning (e.g., white letters on a consistent black background) on new and existing systems within [a date one-hundred and eighty (180) days after the effective date of this rule.]

(i) Prior to [a date one-hundred and eighty (180) days after the effective date of this rule], you must ensure that video, DVD, and other audio-visual displays addressing safety issues are accessible to deaf and hard of hearing persons by using open captioning or an inset for a sign language interpreter as part of the video, DVD, or other audio-visual presentation unless the open captioning or inset for a sign language interpreter would interfere with the video

presentation as to render it ineffective or unreadable. In such circumstances, you may use an equivalent non-video alternative to this requirement. This temporary provision applies only to U.S. air carriers.

(ii) [Reserved]

(2) *Informational briefings.* You must provide high-contrast captioning (e.g., white letters on a consistent black background) on new and existing systems by [a date two-hundred and forty (240) days after the effective date of this rule.]

(b) As a carrier you must also ensure that all videos, DVDs and other audio-visual displays shown for entertainment purposes on new aircraft are high-contrast captioned (e.g., white letters on consistent black background). For purposes of this subsection, new aircraft are aircraft ordered after [insert effective date of this rule] or delivered after [insert date two years from the effective date of this rule], or in which the cabin audio-visual elements have been replaced after [insert the effective date of this rule].

9. Section 382.119 is proposed to be added to read as follows:

**§ 382.119 What accommodations are carriers required to provide on aircraft for individuals with vision and/or hearing impairments?**

(a) As a carrier, you shall ensure that qualified individuals with a disability who identify themselves as needing visual and/or hearing assistance have prompt access to the same information provided to other passengers in the terminal and on the aircraft as described in paragraph (a)(1) of this section to the extent that it does not interfere with crewmembers' safety duties as set forth in FAA and applicable foreign regulations.

(1) The covered information includes, but is not limited to, information concerning flight safety, procedures for take-off and landing, flight delays, schedule or aircraft changes, diversion to a different airport, scheduled departure and arrival times, boarding information, weather conditions, beverage and menu information, connecting gate assignments, claiming of baggage, individuals being paged by airlines, aircraft changes that affect the travel of persons with disabilities, and emergencies (e.g., fire, bomb threat, etc.).

(2) [Reserved]

(b) As a foreign air carrier at a U.S. airport, you must meet the requirement of this section by [date one year after the effective date of this rule].

10. Section 382.141 is proposed to be amended by revising paragraphs (a)

introductory text, (a)(3) through (6), and (b) introductory text, and adding paragraph (b)(7) to read as follows:

**§ 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.

\* \* \* \* \*

(3) You must train your employees to recognize requests for communication accommodations and to use the most common methods that are readily achievable for communicating with individuals who have visual or auditory impairment. As part of this obligation, you must train your employees to proficiency in basic visual and auditory methods for communicating effectively with passengers who have visual, hearing or other disabilities affecting communication.

(4) You must consult with organizations representing persons with disabilities in developing your training program and your policies and procedures.

(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.

(6) You must provide, or require your contractors to 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 Complaints Resolution Officials (CROs), for purposes of § 382.151, must receive training concerning the requirements of this part and the duties of a CRO by [date 60 days after the effective date of this rule.] For employees who have already received CRO training, this training may be limited to changes from the previous version of part 382.

Employees subsequently designated as Complaints Resolution Officials shall receive this training before assuming their duties under § 382.151. You must ensure that all employees performing the Complaints Resolution Official function receive annual refresher training concerning their duties and the provisions of this part.

(b) As a carrier that operates 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.

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**DEPARTMENT OF LABOR**

**Mine Safety and Health Administration**

**30 CFR Part 49**

**RIN 1219-AB44**

**Underground Mine Rescue Equipment and Technology**

**AGENCY:** Mine Safety and Health Administration (MSHA), Labor.

**ACTION:** Request for Information; notice of public meeting.

**SUMMARY:** MSHA will hold a public meeting to receive comments on specific topics raised in its Request for Information (RFI) published in the *Federal Register* on January 25, 2006 (71 FR 4224). The RFI sought comments, data, and other information on topics relevant to underground mine rescue equipment and technology. The purpose of the meeting is to receive technical information with respect to technology used for underground communications and tracking of underground miners in order to improve mine rescue capabilities in both coal and in metal and nonmetal mines.

**DATES:** The public meeting will be held on Monday, March 13, 2006 at the National Press Club, 529 14th Street, NW., First Amendment Lounge, 13th Floor, Washington, DC 20045. If individuals or organizations wish to make an oral presentation for the record, they should submit their request at least five days prior to the meeting date. MSHA encourages speakers to request speaking time in advance of the meeting. You may request to speak by contacting the Office of Standards, Regulations, and Variances, at (202) 693-9440 or by e-mail to Yvonne Quinn at [Quinn.Yvonne@dol.gov](mailto:Quinn.Yvonne@dol.gov). Include the regulatory information number, RIN 1219-AB44, in your e-mail. Any unallotted time will be made available to persons making same-day requests to speak at the meeting.

Members of the public may submit written comments relating to the RFI as set out in the **ADDRESSES** section of this

Notice. The post-public meeting comment period will close concurrently with the comment period for the RFI on March 27, 2006.

**ADDRESSES:** You may use mail, facsimile (fax), or electronic mail to send us your request to make an oral presentation at the public meeting or to submit written comments. Clearly identify your request and send it one of the following ways:

(1) Fax: (202) 693-9441. Include RIN 1219-AB44 in the subject line of the fax.

(2) By electronic mail to [comments@msha.gov](mailto:comments@msha.gov). Include RIN 1219-AB44 in the subject line of your electronic mail.

(3) Mail/Hand Delivery/Courier: MSHA, Office of Standards, Regulations, and Variances, 1100 Wilson Blvd., Room 2313, Arlington, VA 22209-3939. If hand-delivered in person or by courier, please stop by the 21st floor first to check in with the receptionist before continuing on to the 23rd floor.

*Docket:* To access comments electronically, go to <http://www.msha.gov> and click on "Comments" under "Rules and Regulations." All comments received will be posted without change at this Web address, including any personal information provided. Paper copies of the comments may also be reviewed at the Office of Standards, Regulations, and Variances, 1100 Wilson Blvd., Room 2349, Arlington, VA.

**FOR FURTHER INFORMATION CONTACT:** Robert Stone, Acting Director, Office of Standards, Regulations, and Variances, MSHA, 1100 Wilson Boulevard, Room 2350, Arlington, VA 22209-3939. Mr. Stone can be reached at [Stone.Robert@dol.gov](mailto:Stone.Robert@dol.gov) (Internet e-mail), (202) 693-9440 (voice), or (202) 693-9441 (facsimile).

To subscribe to the MSHA listserv and receive automatic notification of MSHA *Federal Register* publications, visit the site at <http://www.msha.gov/subscriptions/subscribe.aspx>.

**SUPPLEMENTARY INFORMATION:**

**Format of the Public Meeting**

The public meeting will begin on March 13 at 8:30 a.m. and is scheduled to end at 5 p.m. Please note that speakers and all members of the public may also submit written documentation to the MSHA panel on the date of the meeting. Any written comments received at the meeting will be included in the public meeting record.

The meeting will be held at the National Press Club, 529 14th Street, NW., First Amendment Lounge, 13th Floor, Washington, DC 20045. The meeting will begin with an opening