eliminated, the request should include specific proposed actions to address it.

Compliance

Compliance with this AD is required as indicated, unless already done.

To prevent uncontained failure of the CCOC, which could cause release of debris, damage to the airplane, or fire, do the following:

Inspections

(a) Perform initial and repetitive fluorescent magnetic particle inspections (FMPI) or fluorescent penetrant inspections (FPI) of drain bosses and Ps4 bosses of the CCOC for cracks, and, if necessary, replace with serviceable parts before further flight, in accordance with the procedures and intervals specified in paragraph 1.A. of the Accomplishment Instructions of PW JT8D Alert Service Bulletin (ASB) A6359, Revision 3, dated August 31, 2001.

(b) For all CCOC's P/N 797707 inspect for proper Ps4 and drain boss material, and, if necessary, replace with serviceable parts before further flight, in accordance with the procedures and intervals specified in paragraph 1.B. of the Accomplishment Instructions of PW JT8D ASB A6359, Revision 3, dated August 31, 2001.

Effective Date for Computing Compliance Intervals

(c) Use the effective date of this AD for computing compliance intervals whenever PW JT8D ASB A6359, Revision 3, dated August 31, 2001, refers to the publication date of the ASB.

Terminating Action

(d) At the next part accessibility after the effective date of this AD when the CCOC has accumulated cycles-in-service greater than the initial inspection threshold specified in Table 1 of PW JT8D ASB A6359, Revision 3, dated August 31, 2001, replace the CCOC with a one-piece machined CCOC assembly, P/N 815556, in accordance with PW JT8D Service Bulletin (SB) 6291, dated May 20, 1997, or Revision 1 dated July 9, 1997, or Revision 2, dated August 27,1999, or Revision 3 dated August 31, 2001. Installation of an improved, one-piece CCOC, P/N 815556, constitutes terminating action to the inspections required by this AD.

Definition

(e) For the purpose of this AD, part accessibility is defined as an engine disassembly in which the CCOC is removed from the engine.

Alternative Methods of Compliance

(f) An alternative method of compliance or adjustment of the compliance time that provides an acceptable level of safety may be used if approved by the Manager, Engine Certification Office (ECO). Operators must submit their request through an appropriate FAA Principal Maintenance Inspector, who may add comments and then send it to the Manager, ECO.

Note 2: Information concerning the existence of approved alternative methods of compliance with this airworthiness directive, if any, may be obtained from the ECO.

Special Flight Permits

(g) Special flight permits may be issued in accordance with §§ 21.197 and 21.199 of the Federal Aviation Regulations (14 CFR 21.197 and 21.199) to operate the airplane to a location where the requirements of this AD can be done.

Issued in Burlington, Massachusetts, on February 7, 2002.

Francis A Favara,

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

[FR Doc. 02–3668 Filed 2–13–02; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Office of the Secretary

14 CFR Part 382

[OST Docket No. 2002–11473]

RIN 2105–AD04

Reporting Requirements for Disability-Related Complaints

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

ACTION: Notice of proposed rulemaking (NPRM).

SUMMARY: This document proposes to require most certificated U.S. air carriers and foreign air carriers operating to and from the U.S. that conduct passenger-carrying service to record and categorize complaints that they receive alleging inadequate accessibility or discrimination on the basis of disability according to the type of disability and nature of complaint, prepare a summary report of those complaints, submit the report annually to the Department of Transportation's (Department or DOT) Aviation Consumer Protection Division, and retain copies of correspondence and record of action taken on disability-related complaints for three years. Under procedures established by the Paperwork Reduction Act of 1995, before seeking OMB approval to collect information from the public, Federal agencies must solicit public comment on proposed collections of information.

DATES: Interested persons are invited to submit comments regarding this proposal and comments must be received on or before April 15, 2002.

ADDRESSES: Comments on this notice of proposed rulemaking must refer to the docket and notice numbers cited at the beginning of this document 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 9 am to 5 pm, Monday through Friday.

FOR FURTHER INFORMATION CONTACT: 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), or *blane.workie@ost.dot.gov* (e-mail). Arrangements to receive this document in an alternative format may be made by contacting the above named individual.

SUPPLEMENTARY INFORMATION:

Background

The Air Carrier Access Act (ACAA, 49 U.S.C. 41705) prohibits discriminatory treatment of persons with disabilities in air transportation. The Wendell H. Ford Aviation Investment and Reform Act for the 21st Century (''AIR–21''; Public Law 106–181), signed into law on April 5, 2000, extended the requirements of the Air Carrier Access Act to cover foreign air carriers and required, among other things, that the Secretary of Transportation ''regularly review all complaints received by air carriers alleging discrimination on the basis of disability'' and ''report annually to Congress on the results of such review.'' The only practical way the Department can implement the statutory requirement to review disability complaints received by air carriers and report annually to Congress on the results of the review is by requiring carriers to record and submit disability-related complaint data to the Department.

The NPRM

In an effort to implement the statutory requirements of AIR–21, the Department proposes to require most U.S. air carriers and foreign air carriers to record disability-related complaints that they receive and categorize them in specific groups, submit these data annually to the Department, and retain copies of the disability-related complaints and a record of action for a period of time. The NPRM has six main components on which we specifically solicit comment: (1) The scope/coverage of the rule; (2) the definition of a disability-related complaint; (3) the categories of data collected; (4) the frequency of data reporting; (5) the procedures for submission of data; and (6) the period of record retention.

A. Scope

Under the proposed rule, certificated air carriers that conduct passenger-carrying service would be required to

record, categorize, and submit disability-related complaint data. A certificated air carrier means a U.S. direct air carrier holding a certificate issued under 49 U.S.C. 41102 to conduct passenger and/or cargo and mail operations, or holding an exemption to conduct direct passenger operation under 49 U.S.C. 40109. By definition, a certificated air carrier does not include air taxi operators or commuter air carriers operating under 14 CFR part 298. Some air carriers that would be eligible for air taxi or commuter status have voluntarily chosen to become certificated for operational, legal or public relations reasons.

The proposed rule would not apply to any flights performed by a commuter air carrier, air taxi operator, or certificated air carrier operating only ''small aircraft'' (aircraft with 60 or fewer seats) under 14 CFR part 298. However, if an airline operates both large aircraft (aircraft with more than 60 seats) and small aircraft, then all flights of that airline are covered regardless of the size of the aircraft used on a particular flight. Currently, there are approximately 123 certificated air carriers that hold authority to conduct passenger-carrying service, of which 64 operate large aircraft and 59 operate only small aircraft.

The Department is proposing to apply the rule only to carriers operating larger than 60-seat aircraft, i.e., excluding all commuter carriers and certificated carriers operating only small aircraft, because large certificated air carriers carry 85 percent of the domestic traffic and the Regulatory Flexibility Act encourages agencies to consider flexible approaches to the regulation of small businesses and other small entities that take into account their special needs and problems. The approach taken in this NPRM of exempting carriers operating only small aircraft is consistent with the Department's policy of exempting small entities from regulations when possible. However, we specifically request comment as to whether the Department should expand coverage of the rule to include certificated air carriers operating only aircraft with 60 or fewer seats, commuter carriers, or even air taxi operators.

This NPRM also proposes to require foreign air carriers operating to and from the United States that conduct passenger-carrying service to record, categorize and submit disability-related complaint data. The proposed rule would not apply to flights of foreign airlines between two foreign points. A foreign air carrier means a direct air carrier that is not a citizen of the United States as defined in 49 U.S.C. 40102(a) that holds a foreign air carrier permit issued under 49 U.S.C. 41302 or an exemption issued under 49 U.S.C. 40109 authorizing direct foreign air transportation. The proposed rule would exempt foreign air carriers that are operating only small aircraft (i.e., aircraft designed to have a maximum passenger capacity of 60 or fewer seats or a maximum payload capacity of not more than 18,000 pounds). These airlines are primarily trans-border air taxis operating between the U.S. and Canada, and to a lesser extent between the U.S. and Mexico and the U.S. and the Caribbean. If a foreign airline, such as Air Canada, operates both large and small airplanes, the flights on the small airplanes would still be covered because the airline holds authority to fly large airplanes. The foreign air carriers that we propose to cover are as similar as possible to U.S. air carriers that we propose to cover considering the different legal authority applicable to foreign operators.

Currently, there are 306 foreign air carriers that hold effective economic authority from the Department to serve the United States under 49 U.S.C. 41301 and/or 40109. Of these, 231 hold authority to operate large aircraft using their own aircraft and crews. See OST Docket 2001–10416, DOT Order 2001–8–15. The other 75 are either foreign air carriers that operate only small aircraft or foreign air carriers that conduct U.S. operations by wet lease, in which both an aircraft and crew are leased from a U.S. carrier or from a foreign carrier whose government aviation authority is in compliance with International Civil Aviation Organization (ICAO) standards. This NPRM proposes to cover the 231 foreign air carriers that operate large aircraft using their own aircraft and crews, and the small number of foreign air carriers that operate large aircraft under a wet-lease arrangement with an acceptable carrier to enable their airlines to fly into the United States. Under the wet-lease arrangement, it is the operating carrier (lessee) and not the airline that is providing the aircraft and crew (lessor) that is responsible for recording disability-related complaint data and submitting such data to the Department in an annual report.

B. Definition of Disability-Related Complaint

Because this proposed rule would require covered carriers to record, categorize, and submit disability-related complaint data, it is important that the phrase ''disability-related complaint'' be defined. For purposes of this NPRM, a disability-related complaint is a specific expression of dissatisfaction received from, or submitted on behalf of, an individual with a disability against a covered air carrier or foreign air carrier concerning a difficulty associated with the person's disability, which the person experienced when using or attempting to use the carrier's services. A complaint may be made by letter, comment card, e-mail, telephone call, or in person.

A given contact (e.g., a letter, e-mail message, or phone call) might express more than one complaint. Each disability-related complaint contained in a given contact must be categorized and reported. Service-related complaints (e.g., a late flight, a delayed refund) that have nothing to do with an individual's disability should not be reported to the Department simply because they were made by, or on behalf of, an individual with a disability. When an individual with a disability complains about disability-related matters as well as matters that are not related to his or her disability, the disability-related complaint(s) must be categorized and reported; the complaint(s) that are not related to the disability are not to be categorized or reported under the proposed rule.

In circumstances where a flight that is the subject of a disability-related complaint was a code-sharing flight, the determination of which carrier must report the complaint is driven by passenger perception of the identity of the carrier responsible for the problem. For example, if a passenger flies with ABC Airways from Charlottesville to Washington, DC with a connection from Washington to New York on XYZ Airways (ABC's code-sharing partner), and the passenger has disability-related problems on the ABC Airways portion of the journey but sends a complaint to XYZ Airways, XYZ Airways must record and categorize the complaint and report that complaint. When an individual with a disability complains to a carrier about a disability-related difficulty encountered in connection with service provided by that carrier's code-sharing partner, the carrier that received the complaint should report the complaint since the passenger perceives that carrier as being ultimately responsible for the difficulty.

In a code sharing situation, we are proposing to require that the carrier that receives the complaint from the passenger report the complaint because code-share flights are often marketed by U.S. carriers as their own service. Code sharing is a common industry practice in which one airline offers service in its

own name to a particular city, but some or all of the transportation is provided by another carrier. The two-character airline designator code that is used to identify these flights in schedules and on tickets is the code of the carrier whose name is used rather than that of the carrier actually providing the service. It is important to keep in mind that we are not proposing, in circumstances where a carrier receives a complaint involving another carrier with whom it does not have a code-sharing relationship, that the carrier that received the complaint report that complaint to DOT. In such situations, the carrier would simply forward the complaint to the carrier that is responsible for the airline service.

Disability-related complaints must also be recorded and reported without regard to the carrier's perception of the validity of the complaint—i.e., carriers must record and report complaints that they believe are not justified, as well as complaints about disability-related incidents that do not constitute a violation of the Department's rule on air travel by passengers with disabilities. The proposed rule would require that all disability-related complaint data, regardless of the manner in which a disability-related complaint is submitted or the validity of the complaint, be recorded and categorized by the covered carriers so that the Department can monitor disability complaints received by carriers and report annually to Congress. The Department seeks comments on all of these proposed procedures and definitions.

C. Categories of Data Collected

We propose to require covered carriers to record and categorize disability-related complaints that they receive in a manner similar to the way disability-related complaints are recorded and categorized by the Department's Aviation Consumer Protection Division (ACPD). That division maintains a database covering all of the service-related air travel complaints received by the Department against airlines, including disability-related complaints. Disability-related complaints have two core elements: the nature of the passenger's disability and the nature of the alleged discrimination or service problem related to the disability. ACPD uses the following 13 categories to identify the nature of a passenger's disability: vision impaired, hearing impaired, vision and hearing impaired, mentally impaired, communicable disease, allergies (e.g., food allergies, chemical sensitivity), paraplegic, quadriplegic, other wheelchair, oxygen, stretcher, other assistive device (cane, respirator, etc.), and other disability. ACPD also categorizes the alleged discrimination or service problems related to the disability in the following 12 areas: refusal to board, refusal to board without an attendant, security issues concerning disability, aircraft not accessible, airport not accessible, advance-notice dispute, seating accommodation, failure to provide adequate or timely assistance, problem with storage/damage/delay relating to assistive device, service animal problem, unsatisfactory information, and ''other.'' We are proposing that carriers use the Department's complaint categories to identify the types of complaints that they receive according to the passenger's disability and the nature of the grievance.

It is important to keep in mind that a contact from a passenger may express more than one complaint (i.e., more than one service problem) and a passenger may have more than one disability. We are proposing that in recording and categorizing complaints, carriers treat each disability-related problem as a separate incident, determine the type of service problem for each incident, and then settle on the primary disability that needed to be accommodated for each incident. For instance, consider the example of Jane, who is deaf and a wheelchair user. Jane sends a complaint to ABC Airlines alleging that there was a failure to provide her with ground personnel to assist in pushing the wheelchair at three of the airports through which she traveled and she missed her flight at the fourth airport because the gate agent did not let her know when she should board the aircraft. The carrier should count these disability-related problems as four separate incidents (i.e., four complaints) and should categorize each of them as ''Failure to Provide Assistance.'' In this hypothetical, the carrier should determine that the primary disability that needed to be accommodated for three of the incidents (failure to provide personnel to assist in pushing the wheelchair at three airports) is Jane's mobility impairment, and the primary disability that needed to be accommodated for the other incident (failure to inform Jane about the boarding for her flight) is Jane's deafness. In some cases, it could be more difficult to determine how to select among the 13 categories identifying the passenger's disability and the 12 areas identifying the service problem. We would expect carriers to use reasonableness as a standard in making these determinations. Clearly, the failure to record complaints would be more problematic than would be the occasional failure to properly categorize a complaint because of the judgmental issues involved. We request comment as to whether we should include additional categories for types of disabilities and/or nature of complaints.

D. Frequency of Data Reporting

The proposed rule would require the covered carriers to group disability-related complaints that they receive in specific categories. We estimate that air carriers receive about fifty times more disability-related complaints directly from passengers than the Department receives. During the discovery phase of a private lawsuit against one major air carrier, it was revealed that the carrier, for the period between January 1993 and November 1996, received a total of 5,072 disability-related complaints while DOT received a total of only 142 such complaints against that carrier. Enforcing the Civil Rights of Air Travelers with Disabilities: Recommendations for the Department of Transportation and Congress, National Council on Disability, February 26, 1999, p. 68. In other words, this airline received about 35 disability-related complaints directly from passengers for every disability-related complaint received by DOT against that airline. However, the disability complaint data received by DOT during its own enforcement investigations suggest that air carriers may receive up to a hundred times more disability complaints directly from passengers than the Department receives. Based on complaint data produced by one airline during the discovery phase of litigation and airline complaint data gathered by the Department during its enforcement investigations, our best estimate is that air carriers receive about fifty disability-related complaint for every disability-related complaint received by the Department.

During the 2000 calendar year, the ACPD received a total of 661 disability-related air travel complaints. Assuming that carriers receive about fifty times more disability-related complaints than the Department, we deduce that carriers receive a total of approximately 33,050 disability-related complaints each calendar year. The proposed rule would require the covered carriers to categorize each of these projected 33,050 disability-related complaints according to the passenger's disability and the alleged discrimination or service problem related to the disability. We solicit comments as to the reasonableness of the Department's

estimate of the number of disability-related complaints carriers receive each year.

The NPRM also proposes that carriers annually submit a report summarizing the disability-related complaint data to the Department of Transportation. We are proposing that the first report summarizing disability-related complaint data to the Department of Transportation be submitted by January 26, 2004, for complaints received by carriers during the calendar year 2003. All subsequent submissions will be due on the last Monday in January and would cover data from the prior calendar year. We request comments as to whether annual submission of disability-related complaint data is appropriate or if there are reasons to increase the reporting frequency, e.g. require biannual or quarterly reports. Commenters suggesting increased reporting frequency should include cost estimates.

E. Procedures for Submission of Data

Another important provision of the NPRM concerns the procedure for reporting the disability-related complaint information. The NPRM proposes to require carriers to report a summary of the disability-related complaint data to ACPD in a particular manner, using a disability-related complaint data form identical to the one in the proposed new section 382.70 rather than allowing each airline to develop its own data collection form. In addition, the proposed rule would mandate that carriers submit this disability-related complaint data via a form on the World Wide Web rather than submitting paper copies, disks, or e-mail. The NPRM does provide for limited exceptions in situations where the carrier can demonstrate that it would suffer undue hardship if it were not permitted to submit paper copies or disks of the disability-related complaint data form, or to e-mail the data.

To ensure that using the Web to submit disability complaint information would be easy, reliable, and secure, a specific web page with a registration system and the disability-related complaint data form would be established and its web address would be furnished to the covered carriers. Each carrier would only have to register once. Registering would consist of inputting the name and mailing address of the carrier; the name, telephone number, and e-mail address of a contact person for that carrier; a login name; and a password. Upon providing this information, carriers would receive an automatic computerized acknowledgment that their request for registration has been received. Shortly thereafter, officials from the Department would validate the information received and the carrier would be informed that the registration process has been completed. Each carrier would use its login name and password to access the disability-related complaint data form, fill out and edit the form, and submit the form to the Department.

We believe that completing the disability complaint data form, like registering, would not be a difficult task for the carriers. To complete the form, each carrier would insert the total number of disability-related incidents for each specific category. For example, if a covered carrier receives a total of 5 contacts about 8 separate incidents (8 complaints) of failure to provide bulkhead seating for passengers who have a fused knee, then the carrier would insert the number ''8'' in the box where the ''Seating Accommodation'' row intersects the ''Other Disability'' column. In a similar fashion, the carrier would add up the total number of incidents for the other categories and insert the appropriate number in each of the boxes. Every box in the form should have a number in it. If the carrier does not have any incidents to report in a particular area, the carrier should insert the number ''0''. The proposed rule would also require the covered carrier to include on the form the name and mailing address of the carrier, information about the contact person for the carrier, the telephone number for the contact person, the submission date for the form, the period of data collection, the total number of incidents/complaints for the period covered, and a certification that all entries made by the authorized representative of the carrier are true and correct.

F. Retention of Records

The NPRM proposes to require the covered carriers to retain copies of the disability-related complaints for three years. Currently, the Department's regulations in 14 CFR 249.20 require only certificated U.S. air carriers to retain correspondence and record of action taken on all consumer complaints for three years. This NPRM proposes to require that foreign air carriers operating to and from the United States that conduct passenger-carrying service with large aircraft also retain correspondence and record of action taken on all disability-related complaints related to their U.S. service for three years. In addition, we propose to require the covered carriers make these records available for review by Department of Transportation officials at their request.

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 not be ''significant'' under Executive Order 12866 or the Department of Transportation Regulatory Policies and Procedures because the cost resulting from this action would be minimal since most air carriers already record and categorize data about disability related complaints that they receive. The primary cost imposed by this notice of proposed rulemaking (NPRM) is the time to read, categorize, and record the disability complaint correspondence that the carriers receive. While we believe that the carriers are already performing these functions, we have included these expenses in the regulatory analysis.

In the year 2000, ACPD received complaints for 661 incidents from people with disabilities concerning airline service difficulties. We estimate that there were approximately 33,050 disability incidents in 2000 based on our assumption that airlines receive 50 disability complaints for each disability complaint received by ACPD. Some of the air carriers may receive only one complaint a year while some of the larger operators could receive 4000 annual complaints. Using a zero base review, we estimate that on average it will take 15 minutes per complaint to read or listen to the complaint and properly categorize the incident or incidents. We expect that it would take 8,262 hours to review all of the complaints. (15 minutes × 33,050 complaints). We have assigned an annual industry cost of $206,550 ($25 dollars per hour × 8,262 hours) for this burden.

The carriers that receive a high volume of disability related complaints will most likely set up a computerized program to automate their data collection. Of the 661 incidents mentioned above, 84% of them were against 10 carriers. As a result, we estimate that 10 to 15 carriers will expend a one time total of 2 hours to program an automated system. For those carriers that set up an automated system to record the complaints, we estimate an industry cost of $2,000 to $3,000. This estimate is based on an assumption of $100 for each programming hour ($100 × 20 to 30 hours). This would be a one-time only expense.

The one-time cost for the industry to register on the web is estimated to range from $1,844 to $2,313, based on our estimate that it will take approximately 15 minute to register on the web for the

295 to 370 respondents at a cost of $25 per hour ($25 × 15 minutes × 295 to 370 air carriers). In order to register, carriers would need to input the following information: carrier name, carrier address, contact person, telephone number of contact person, e-mail address of contact person, login name, and password.

The industry's annual cost to key punch its reports onto the web based form is estimated to range from $3,688 to $4,625. Once again we used a $25 per burden hour estimate and calculate it will take 30 minutes to type in the 156 data items ($25 × 30 minutes × 295 to 370 air carriers).

The annual cost for foreign carriers to comply with the record retention requirement is estimated to range from $28,875 to $38,250. This estimation is based on our expectation that this requirement will place a one hour annual burden on each foreign air carrier, storage fees of $100 dollars per carrier, and a $25 per carrier hour filing expense {($100 + $25) × 1 hour × 231 to 306 air carriers}.

As a result, the first year total cost to the industry of the rule proposed in this NPRM will range from $242,957 to $254,738. After the first year, the annual cost should range from $239,113 to $249,425. The average annual cost per carrier should be approximately $674 ($249,425 divided by 370 air carriers). However, the carrier cost range would run from a low of $25 for a carrier with a very small complaint total to a high of slightly over $10,000 for those carriers receiving 4,000 annual complaints.

This NPRM, if adopted, would benefit passengers with disabilities partly because, in addition to reporting annually to Congress, the Department expects to make the data on complaints received by carriers alleging discrimination on the basis of disability available to the general public. Passengers with disabilities will be able to compare carrier complaints related to the type of disabilities that they may have. Also, the data will provide the Department useful information to monitor air carrier compliance with the Air Carrier Access Act (ACAA, 49 U.S.C. 41705), which prohibits discriminatory treatment of persons with disabilities in air transportation. While the benefits of the rulemaking are intangible, it is our belief these benefits outweigh the minimal reporting costs. The Office of the Secretary has prepared and placed in the docket a regulatory evaluation for the proposed rule, which explains the costs and benefits of the rule in more detail.

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. See 14 CFR 399.73. The proposed rule does not apply to U.S. and foreign air carriers that are operating only a 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). Moreover, the economic impact of the proposed rule is minimal.

Paperwork Reduction Act

This NPRM contains information collections that are subject to review by OMB under the Paperwork Reduction Act of 1995 (Public Law 104–13). Under the Paperwork Reduction Act of 1995, before an agency submits a proposed collection of information to OMB for approval, it must publish a document in the **Federal Register** providing a 60-day comment period and otherwise consult with members of the public and affected agencies concerning each proposed collection of information.

Interested parties are invited to send comments regarding any aspect of this information collection, including: (1) The necessity and utility of the information collection; (2) the accuracy of the estimated burden; (3) ways to enhance the quality, utility, and clarity of the collected information; and (4) ways to minimize the collection burden without reducing the quality of the collected information. Comments submitted in response to this notice will be summarized and/or included in the request for OMB approval of this information collection.

This NPRM proposes three information collection requirements: (1) A proposal for carriers to record and categorize disability-related complaints that they receive according to type of disability and nature of complaint on a standard form; (2) a proposal for each covered carrier to submit an annual report summarizing the disability-related complaint data; and (3) a proposal for carriers to retain correspondence and record of action taken for all disability-related complaints. The Department will use the data submitted by carriers to report annually to Congress on the results of its review as required by law.

The title, description, and respondent description of the information collections and an estimate of the annual recordkeeping and periodic reporting burden are stated below.

(1) Requirement to read, record and categorize each disability related complaint from a passenger or on behalf of a passenger.

Respondents: Certificated U.S. air carriers and foreign air carriers operating to and from the United States that conduct passenger-carrying service with large aircraft.

Estimated Annual Burden on Respondents: 15 minutes to 1,000 hours a year for each respondent (time to record and categorize one complaint [15 minutes] multiplied by the number of complaints respondents receive [1 complaint a year to 4,000 annual complaints a year]. The number of complaints received by carriers varies greatly. In the year 2000, ACPD received complaints for 661 incidents from people with disabilities involving airline service difficulties. The10 carriers that received the most complaints accounted for 84% of the total complaints received by ACPD. Carriers are estimated to receive 50 complaints for each one ACPD receives.

Estimated Total Annual Burden: 8,262 hours for all respondents (time to

record and categorize one complaint [15 minutes] multiplied by the total number of complaints for all respondents [33,050])

Frequency: 1 to 4,000 complaints per year for each respondent (Some of the air carriers may receive only one complaint a year while some of the larger operators could receive 4,000 annual complaints based on our assumption that airlines receive 50 disability complaints for each disability complaint received by ACPD).

(2) Requirement to submit a report to DOT summarizing the disability-related complaint data (key-punching web-based matrix report).

Respondents: Certificated U.S. air carriers and foreign air carriers operating to and from the United States that conduct passenger-carrying service with large aircraft.

Estimated Annual Burden on Respondents: 30 minutes a year for each respondent to type in the 156 items (matrix consists of 13 disabilities and 12 service problems).

Estimated Total Annual Burden: 148 to 185 hours for all respondents (annual burden [30 minutes] multiplied by the total number respondents [295 to 370])

Frequency: 1 report to DOT per year for each respondent

(3) Requirement to retain correspondence and record of action taken on all disability-related complaints for three years.

Respondents: Foreign air carriers operating to and from the United States that conduct passenger carrying service with large aircraft.

Estimated Annual Burden on Respondents: 1 hour a year for each respondent

Estimated Total Annual Burden: 231 to 306 hours for all respondents (annual burden [1 hour] multiplied by the total number respondents [231 to 306])

Frequency: 1 to 4,000 complaints per year for each respondent

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.

List of Subjects in 14 CFR Part 382

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

Issued this 1st day of February, 2002, at Washington, DC.

Norman Y. Mineta,

Secretary of Transportation.

For the reasons set forth in the preamble, the Department proposes to amend 14 CFR Part 382 as follows:

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

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

Authority: 49 U.S.C. 41702, 41705, and 41712.

2. A new § 382.70 is proposed to be added to read as follows:

§ 382.70 Disability-related complaints received by carriers.

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

(b) This section applies to certificated U.S. carriers and foreign air carriers operating to, from, and in the United States, conducting passenger operations with at least one aircraft having a designed seating capacity of more than 60 passengers. Foreign air carriers are covered by this section only with respect to disability-related complaints dealing with service to and from the United States.

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

(d) Carriers shall submit an annual report summarizing the disability-related complaints that they received during the prior calendar year using the form specified in Appendix A to this part. The first report shall cover complaints received during calendar year 2003 and shall be submitted to the Department of Transportation by January 26, 2004. Carriers shall submit all subsequent reports on the last Monday in January of that year for the prior calendar year. All submissions must be made through the World Wide Web except for situations where the carrier can demonstrate that it would suffer undue hardship if it were not permitted to submit the data via paper copies, disks, or e-mail, and DOT has approved an exception. All fields in the form must be completed; carriers are to enter ''0'' where there were no complaints in a given category. Each annual report must contain the following certification signed by an authorized representative of the carrier: ''I, the undersigned, do certify that this report has been prepared under my direction in accordance with the regulations in 14 CFR part 382. I affirm that, to the best of my knowledge and belief, this is a true, correct, and complete report.'' Electronic signatures will be accepted.

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

(f) Each carrier shall comply with paragraphs (c) through (e) of this section for covered complaints it receives from or on behalf of passengers as well as complaints forward by another carrier or governmental agency with respect to difficulties encountered in connection with service it provides. Each carrier shall also comply with paragraphs (c) through (e) of this section for covered complaints it receives from or on behalf of passengers with respect to difficulties encountered in connection with service provided by a code sharing partner.

(g) Carriers that do not submit their data via the Web shall use the disability-related complaint data form specified in Appendix A when filing their annual report summarizing the disability-related complaints they received. The report shall be mailed, by the dates specified in paragraph (d) of this section, to the following address:

U.S. Department of Transportation, Aviation Consumer Protection Division, 400 7th Street, SW., Room 4107, C–75, Washington, DC 20590.

3. A new Appendix A is proposed to be added to part 382 to read as follows:

Appendix A to Part 382—Disability Complaint Reporting Form

BILLING CODE 4910–62–P

Disability Complaint Reporting Form

Name of Carrier: _____ Submission Date: _____

Contact Person: Period of Data Collection: _____

Name: _____
Telephone # (include country code if outside the U.S.): _____
Email address: _____
Mailing address: _____

Total number of complaints (i.e., incidents): _____

REPORT OF DISABILITY-RELATED COMPLAINT DATA

	Vision Impaired	Hearing Impaired	Vision & Hearing Impaired	Paraplegic	Quadriplegic	Other wheelchair	Oxygen	Stretcher	Other Disability	Other Assistive Device	Mentally Impaired	Communicable Disease	Allergies
Refusal To Board Passenger													
Refusal to Board w/o Attendant													
Security issues: Disability													
Aircraft Not Accessible													
Airport Not Accessible													
Advance Notice Dispute													

Seating Accomm-odation													
Failure to Provide Assistance													
Assistive Device													
Service Animal Problem													
Unsatisfa-ctory Info													
Other													

Certification Statement: I, the undersigned, do certify that this report has been prepared under my direction in accordance with the regulations in 14 CFR Part 382. I affirm that, to the best of my knowledge and belief, this is a true, correct, and complete report

Signature: _____

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