



**Air Transport
Association of
America, Inc.**

**Briefing for
Susan E. Dudley, Administrator,
Office of Information and Regulatory
Affairs**



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Air Carrier Comments on
Nondiscrimination on the Basis of Disability in Air Travel Rulemaking
RIN: 2105-AC97

Airlines have every incentive to assist disabled passengers in access to air transportation and have an excellent record in this regard. Customer service is a critical part of the airline business and airlines provide access every day, such as: wheelchair assistance, boarding and deplaning assistance, wheelchair stowage, telecommunication devices for the deaf, carriage of service animals, medical oxygen, seating accommodations, and customer service assistance.

DOT has failed to meet its statutory requirement to perform a comprehensive Cost Benefit Analysis (CBA) on this rulemaking. The proposed regulations do not pass a CBA. Accordingly, OMB should send this rulemaking back to DOT for additional study and revision.

DOT has exceeded its statutory authority under the Air Carrier Access Act (ACAA), by proposing three sets of prescriptive regulations that will cost airlines more than \$1.7 billion (over 10 years in 2005 dollars) when alternative programs are available to provide non-discriminatory access to air transportation without imposing an undue burden.

OMB should require the Department to issue a supplemental notice, proposing flexible regulations that allow airlines to use their own best practices, including the latest technology, to accomplish DOT's stated goals.

Nondiscrimination on the Basis of Disability in Air Travel— Medical Oxygen and Portable Respiration Assistive Devices Proposal

Regulatory Proposal

ATA Comments

Medical Oxygen Proposal

(Proposed § 382.133, 382.135, § 382.137)

Airlines must:

- Provide medical oxygen
- Free of charge to passengers
- Test respiratory assistive devices
- To determine if it will cause interference with the navigation or communication systems
- For each model of aircraft
- When requested by any manufacturer or individual who desires to use such device
- Complete testing within 90 days of request
- Devices include:
 - ventilator,
 - respirator,
 - continuous positive airway pressure machine, or
 - portable oxygen concentrator

- DOT underestimated costs by almost \$775 million over 10 years
- ATA member cost survey indicated a \$1.3 billion cost over 10 years.
- DOT should issue a supplemental notice to include:
 - Proposing flexible device carriage, allowing:
 - Passenger-owned devices
 - Airline provided oxygen at cost
 - Or both
 - Retain the current scheme permitting airlines to recoup costs
 - Expand the current FAA testing scheme for portable oxygen concentrators
 - A general FAA interference standard could apply to all devices
 - FAA could rely on RTCA to set standard
 - Device manufacturer would test device against FAA/RTCA standard
 - Airlines could rely on manufacturer test results for interference determination and manufacturer labeling
 - Eliminates repetitive testing for each airplane model
 - Speedy device access, one set of test results versus numerous airplane model results
 - This scheme is also used for child restraint systems § 121.311(b)
- Limit size of any carry-on device to those that will fit under seat or in overhead bin

Medical Oxygen and Respiratory Assistive Device 10-Year Cumulative Costs (2005 Dollars)

Cost Area	ATA Estimate	DOT Estimate	Difference
Testing	\$75,700,293.00	\$93,547,596.00	-\$17,847,303.00
Maintenance	\$230,900,294.00		\$230,900,294.00
Positioning	\$109,131,072.00		\$109,131,072.00
Communications & Coordination	\$342,957,566.00		\$342,957,566.00
Training	\$124,225,673.00	\$65,752,877.00	\$58,472,796.00
Operational	\$313,271,751.00	\$417,967,060.00	-\$104,695,309.00
Facilities	\$11,499,678.00		\$11,499,678.00
IT	\$14,334,988.00		\$14,334,988.00
Other	\$129,985,488.00		\$129,985,488.00
Totals	\$1,352,006,803.00	\$577,267,533.00	
Total Difference			<u>\$774,739,270.00</u>

Nondiscrimination on the Basis of Disability in Air Travel 2004 Proposal

Regulatory Proposal	ATA Alternatives
<p>Airport Terminal Assistance Proposal (Proposed § 382.91) Airlines must provide assistance to a disabled passenger who requests it between an airport terminal entrance to a gate and all stops in between.</p>	<ul style="list-style-type: none"> •DOT failed to complete any cost/benefit analysis for US carrier compliance •ATA member cost survey indicates \$720,000 to \$8.2 million per airline annually •<u>Eliminate Proposal</u>: the current rule requiring assistance for boarding, deplaning, and between gates strikes a balance between passenger accessibility and airline (vs. airport) assistance •Airports are directly regulated for disability access under the Rehabilitation Act and Americans with Disabilities Act •Indirect regulation of airport access through airlines is misplaced
<p>Movable Armrests (Proposed § 382.61) Airlines must provide movable armrests for half of all aisle seats in all classes of service, a disabled person is eligible to sit in</p>	<ul style="list-style-type: none"> •<u>Eliminate Proposal</u>: passengers should continue to use current accessible seating •First and business class seating provide ample room for accessibility •Airlines receive few if any complaints about access in first or business class service •Replacing first and business class seats would create enormous costs for very little benefit, given the lack of accessibility complaints
<p>Priority Wheelchair Stowage (Proposed § 382.67) Airlines must designate minimum stowage space for wheelchairs on airplanes with 100 or more seats</p>	<ul style="list-style-type: none"> •DOT should codify alternative means of compliance instead of this proposal <ul style="list-style-type: none"> ◦DOT asks in preamble whether the alternative means should be codified ◦Airline secures wheelchair across 2 or 3 seats with FAA approved strap •If minimum dimensions are retained DOT should: <ul style="list-style-type: none"> ◦Still adopt the alternative means listed above ◦Study what space is required for average wheelchair storage ◦American National Standards Institute and Rehabilitation Engineering Society of North America have a procedure for determining average wheelchair measurements.
<p>Website Accessibility - (Proposed § 382.43(b)) Airlines must ensure its website and websites of third parties are accessible (using 36 CFR 1194) to individuals with vision impairments and other disabilities.</p>	<ul style="list-style-type: none"> •<u>Eliminate Proposal</u>: passengers should continue to use telephones or text telephones, if they are unable to access airline websites •DOT failed to quantify benefits, which therefore does not justify the costs •All fares are available to customers that use telephone or text telephones •If DOT must adopt this proposal they should: <ul style="list-style-type: none"> ◦Use Rehabilitation Act Information Technology accessibility standards (36 CFR 1194) as one means of compliance, not the only means ◦Limit scope to one accessible website to avoid application of standards in foreign jurisdictions ◦Limit scope to web pages necessary to book a flight, which are most often visited

DOT Cost Analysis for the Nondiscrimination on the Basis of Disability in Air Travel 2004 Proposal

Key Area	DOT Preliminary Regulatory Evaluation	ATA Comments
1. Website Accessibility - initial compliance costs (Proposed § 382.43(b))	Cost to U.S. industry (64 carriers) = \$1.126 million: cost per carrier = \$17,600.	Several ATA members report initial compliance costs ranging from \$300,000 to over \$1 million per airline.
2. Website Accessibility - recurring costs (Proposed § 382.43(b))	none	ATA members' <u>annual</u> recurring costs estimates range from \$10,000 to \$200,000 per airline.
3. Movable Armrests (Proposed § 382.61)	none	Two ATA members report that the cost of reconfiguring their premium class product would cost \$42 million to \$50 million in capital, labor, and certification costs.
4. Priority Wheelchair Stowage (Proposed § 382.67)	none	One ATA member reports the proposal would impact half of its fleet at a cost of \$25,000 per aircraft in labor and capital costs. There's an additional \$175,000 per fleet type for certification costs.
5. Airport Terminal Assistance (Proposed § 382.91)	none	ATA members report that the cost of the proposal would range from an additional \$720,000 <u>annually</u> for a smaller carrier up to \$8.2 million annually for a larger carrier. Primary costs are labor-related.

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

Regulatory Proposal

ATA Comments

Accessible Airport Audio-Video Facilities (Proposed § 382.51)

Airline must:

- Where available, enable captioning displays on all audio-video displays an airline owns, leases or controls at an airport
- Replace airport displays that do not provide captioning with high-contrast captioning displays, when replaced in the normal course of business.
- Newly acquired airport displays must have high-contrast captioning

- Adopt proposal to require airlines to enable captioning on caption-capable displays the airline owns, leases, or controls
- Adopt proposal requiring airlines to replace displays that do not have captioning in the normal course of business.
- Suggest a flexible standard for type of captioning, “high contrast” or “white letters on a consistent black background” may be used now, but technology developments may change the industry standard.

Accessibility of Information Onboard Aircraft (Proposed § 382.119)

Airlines must::

- Provide “prompt” information to hearing impaired passengers
- Provide additional information

- Eliminate Proposal: airlines should continue to provide information to hearing impaired passengers in the same manner they do today.
- Compliance will be infeasible:
 - DOT vastly underestimated costs to install new video displays in the regulatory evaluation
 - Alternatively, crewmembers obligation to promptly transcribe every in-flight informational announcement will naturally tend to limit announcements except for mandatory FAA safety announcements
- DOT should retain current informational requirements

Airport Accommodations (Proposed § 382.53)

Airline must:

- Provide “prompt” information to hearing impaired passengers.
- Provide additional information
- Provide additional information at additional locations

- Eliminate Proposal: airlines should continue to provide information to hearing impaired passengers in the same manner they do today.
- Compliance will be infeasible in many instances
 - Airline interaction with passengers generally ends after a passenger disembarks at their destination
 - Technology suggested for “prompt” communications at additional locations would require significant acquisition costs or significant personnel increases
 - Airlines do not have staff at baggage retrieval areas and have gate agents focused on safety and security functions
- Passengers should contact carrier personnel to obtain additional information

Accommodations for Individuals Who Are Deaf, Hard of Hearing, or Deaf- Blind Proposal (continued)

Regulatory Proposal	ATA Comments
<p>Safety Assistant (Proposed § 382.29) Airlines must make reasonable efforts to provide disabled passenger with a safety assistant if airline determines airline personnel cannot adequately communicate with passenger</p>	<ul style="list-style-type: none">•DOT should adopt proposal, but change rule text to <u>permit</u> but <u>not require</u> a carrier to provide a safety assistant•Maintains flexibility
<p>Text Telephone Reservation Line (Proposed § 382.43) Airlines must: •Provide a TTY line with the same wait time as non-TTY callers •Provide a queue for TTY callers (“waiting for next representative”)</p>	<ul style="list-style-type: none">•<u>Eliminate Proposal</u>: airline experience dictates this proposal is unnecessary•Airlines receive few TTY calls•Fewer calls generally means <u>shorter</u> wait times for TTY callers•If TTY callers are put in the same queue as other calls, wait time may actually increase

**Accommodations for Individuals Who
Are Deaf, Hard of Hearing, or Deaf- Blind
10-Year Cumulative Costs (2006 Dollars)**

	DOT Benefit Estimate (Millions)	ATA Benefit Estimate (Millions)	DOT Cost Estimate (Millions)	ATA Cost Estimate (Millions)	DOT Benefit- Cost Ratio	ATA Benefit- Cost Ratio
PA in Terminals (Proposed 382.53)	\$24.55	\$24.55	\$18.08	\$110.99	1.36	0.22
Captioning in Terminals	\$19.64	\$19.64	\$0.29	\$0.29	67.72	67.72
PA in Aircraft (Proposed 382.119)	\$12.27	\$12.27	\$25.97	\$125.02	0.47	0.10
TTY on Planes ¹						
TTY Reservation	\$6.37	\$6.37	\$3.27	\$3.27	1.95	1.95
Captioning on Existing Aircraft ¹						
Captioning on New/Refurbished Aircraft	\$15.52	\$15.52	\$4.65	\$4.65	3.34	3.34
Travel/Training	\$101.39	\$8.16	\$105.18	\$105.18	0.96	0.08
Total	\$179.74	\$86.51	\$157.44	\$349.40	1.14	0.25