

DOT-NCD MOA

Facilitating Stakeholder Collaboration Toward a Fully Accessible
Air Transportation System

**Deaf, Hard of Hearing and Deaf-Blind Stakeholder Workgroup
Petition for Rulemaking to Department of Transportation**

PROPOSED REGULATORY LANGUAGE FOR PART 382 AMENDMENTS
CONCERNING ACCOMMODATIONS FOR DEAF, HARD OF HEARING AND
DEAF-BLIND PASSENGERS

**SUBMITTED BY
National Council on Disability
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Deaf, Hard of Hearing and Deaf-Blind (DHHB) Workgroup
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SUMMARY for

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Petition for Rulemaking to the United States Department of Transportation

PROPOSED REGULATORY LANGUAGE FOR PART 382 AMENDMENTS CONCERNING ACCOMMODATIONS FOR DEAF, HARD OF HEARING AND DEAF-BLIND PASSENGERS

SUMMARY OF PETITION DEVELOPMENT

Introduction

The Deaf, Hard of Hearing and Deaf-Blind Workgroup Petition for Rulemaking proposes regulatory language necessary to ensure access for deaf, hard of hearing and deaf-blind air travelers. Unless otherwise stated, all sections are in reference to the Air Carriers Access Act regulation, 14 CFR Part 382, Nondiscrimination on the Basis of Disability in Air Travel. It is intended that upon approval and incorporation to the upcoming revision of Part 382, these amendments also will apply fully to foreign air carriers.

This document is submitted to the US Department of Transportation by the National Council on Disability (NCD). NCD wishes to acknowledge Susan Duncan for her work in the preparation of this document.

Population Affected

According to the Centers for Disease Control and Prevention (CDC) National Center for Health Statistics, hearing loss affects 15% of the U.S. population [U.S. Department of Health and Human Services. *Summary Health Statistics for U.S. Adults: National Health Interview Survey, 2002*. Vital and Health Statistics Series 10:222, DHHS Publication No. (PHS) 2004-1550. July, 2004]. Approximately 16 million “baby boomers” have hearing loss, and that number is expected to increase substantially as that population ages. People who are deaf, hard of hearing and deaf blind are a significant portion of the air traveler population.

People who are deaf, hard of hearing or deaf-blind typically do not receive extensive travel training to familiarize them with airports and air carrier systems. Disability-related support organizations often provide advocacy information related to air travel, but the majority of people who are deaf, hard of hearing or deaf-blind do not belong to such organizations. Most deaf, hard of hearing and deaf-blind passengers simply do not know what level of equivalent service they can expect during air travel. Air travel experience parity can be guaranteed only through regulations that meet the accessibility needs of today’s travelers.

Project Origin

As part of its forum series to address air travel by people with disabilities, the Department of Transportation (DOT) convened a public meeting on January 18, 2000, to discuss accommodations for deaf and hard of hearing passengers under the Air Carrier Access Act. Representatives from the deaf and hard of hearing communities requested that DOT follow up on its earlier efforts to address deaf and hard of hearing accommodation issues in a rulemaking. In response, DOT indicated that collaboration between air carriers, airports and the disability community would facilitate the issuance of an applicable rule. DOT then contracted with the National Council on Disability (NCD) to provide guidance about appropriate rules that would achieve improved access for deaf, hard of hearing and deaf-blind travelers.

DOT-NCD Joint Initiative

NCD established the Deaf, Hard of Hearing and Deaf-Blind Workgroup (DHHB Workgroup) consisting of stakeholders from the deaf, hard of hearing and deaf-blind communities, airlines and airports to identify specific accessibility issues and develop a consensus document proposing changes to the regulatory language of 14 CFR Part 382, Nondiscrimination on the Basis of Disability in Air Travel (Part 382). The accompanying *Proposed Regulatory Language for Part 382 Amendments Concerning Accommodations for Deaf, Hard of Hearing and Deaf-Blind Passengers* (the Petition) is the result of those collaborative efforts to ensure equitable access for air travelers who are deaf, hard of hearing and deaf-blind. Organizations represented in the DHHB Workgroup are:

Disability Groups

American Assn. for the Deaf-Blind (AADB)
Deaf & Hard of Hearing Advocacy Network (DHHCAN)
Equip for Equality
Natl. Assn. of the Deaf (NAD)
National Council on Disability (NCD)
Self Help & Hard of Hearing People (SHHH)

Airline Organizations

Air Carrier Association of America (ACAA)
Air Transport Assn. (ATA)
Airports Council International (ACI-NA)
International Air Transport Association (IATA— US, Switzerland)
National Air Carrier Association (NACA)
Regional Airline Association (RAA)

Airlines

Alaska
American
America West
British Airways

Continental Airlines
Delta Airlines
Hawaiian Airlines
JetBlue
LA Beltway Airlines
Northwest Airlines
Southwest Airlines
United Airlines
US Airways

Airports

Airports Council International, North America (ACI-NA)

Identification of Critical Issues that Impede Air Travel Accessibility

The absence of a longstanding, centralized, widely-used database tracking accessibility complaints prevented a retrospective analysis of formal complaints. The DHHB Workgroup considered and began to develop a survey to capture the opinions of air travelers who were deaf, blind and hard of hearing, but the process was abandoned as time and cost prohibitive. However, the organizations representing the deaf, hard of hearing and deaf-blind communities were able to provide a broad view of the issues through their members' reports. Likewise, airlines and airports were able to contribute their experiences with passengers. Complaints about air travel based on accessibility are generally considered underreported because:

- Most passengers with disabilities are not fully or accurately informed about their rights and responsibilities under Part 382, and thus do not have clear expectations about accessibility. This is reinforced when airports or airlines inconsistently implement accessibility accommodations.
- When accessibility problems occur, most travelers have a limited time to resolve them (e.g., must make a connecting flight). Unresolved complaints are often abandoned in favor of maintaining the travel schedule. Similarly, passengers who are referred to multiple personnel or to personnel who cannot communicate effectively often terminate the complaint process out of fatigue/frustration.
- Most passengers are unaware of how to effectively resolve a complaint in a way that ensures the problem is permanently corrected. Typically, a passenger might complain verbally to an airline or airport employee. If the complaint is not forwarded to the correct personnel or to DOT, there is no guarantee that any action can or will be taken for sustained improvements.

The DHHB Workgroup examined the elements of the air travel experience covered by Part 382, from making a reservation to departing the airport at the destination, to determine and prioritize problems experienced repeatedly by

travelers with hearing impairments. They identified long-term, persistent barriers to accessible air travel in these key categories:

1. **Inaccessibility of audio-visual displays.** Passengers cannot access the information on uncaptioned televisions and audio-visual displays in airports and on planes. When captioning is provided, various formats are used and some of those are inaccessible to people with vision impairments (e.g., low contrast of text to background, small text size, etc.).
2. **Accountability and enforcement.** Passengers attempting to resolve accessibility problems during travel are often unable to get consistent information whether the airline, airport or contractor is responsible for the issue. Clear and enforceable accountability is necessary for improving accessibility.
3. **Inappropriate requirement to travel with attendant, denial of boarding.** Qualified passengers who are deaf-blind have persistent traveling problems, including denial of boarding, due to inconsistent application of Part 382 by the airlines and lack of sensitivity and communication skills by personnel.
4. **Unable to access information made available to the general public in timely manner.** Passengers who are deaf, hard of hearing and deaf-blind are frequently unaware of the content of audio announcements that are not made available in accessible format at the time the general public is informed. This has resulted in missed flights, misdirected boarding (i.e., boarding wrong plane), lack of awareness of flight changes and delays, exclusion from airline bonus offers for volunteers to change to a later flight, and other inequities of service delivery.
5. **Need for accessible formatting.** When provided only in standard print without additional accommodation, Part 382 [as provided in the current 382.45(d)], safety, and informational and entertainment reading onboard the aircraft (including the airline magazines that provide flight service information and airport maps) are inaccessible to passengers who cannot utilize standard print.
6. **Inability to make in-flight calls.** Passengers unable to use voice telephones cannot use onboard phones.
7. **Awareness and use of appropriate communications options.** Technology advances options for accessible communications for passengers who are deaf, hard of hearing and deaf-blind. Current examples are increasing use of PDAs, text messaging and text pagers. Entities covered under Part 382 should ensure that new technologies are evaluated that can help them communicate more efficiently and effectively with passengers.
8. **Inadequate employee skill level or performance.** Despite self-identification and request for accommodation, passengers often interact with personnel who are unfamiliar with effective communication methods or do not use them, or who don't follow up

with the accommodation. Resulting communication difficulties often lead to delays, frustrations for passengers and personnel, misunderstandings, and inequity in services.

9. **Communications at security checkpoints and screening techniques.** Travelers encounter unnecessary delays during airport security screening when personnel do not know how to respond appropriately to a request for a communication accommodation, or when they are unfamiliar with disability-related equipment. NOTE: This was a Part 382 concern prior to airport security responsibility being transferred to the Department of Homeland Security, and has been deleted from the submitted Petition.

Proposal Development Strategies and Methods

DHHB Workgroup members were distributed throughout the US and internationally. Coordinated by the NCD contractor, the workgroup held formal meetings in Washington, DC; held ongoing dialogues via email and telephone; and consulted with DOT for regulatory clarifications and project outcome expectations.

The proposal development process was begun without a specific mandate limiting the final format of the recommendations. In addition to a Petition for Rulemaking, the group debated the merits of providing its recommendations in various formats that included general recommendations, a DOT guidance document, employee training supplements, and Petition for Rulemaking. It became clear that the proposal format could be determined only after a clear underlying principle was established as the basis for the recommendations.

The strong and unanimous opinions of the disability stakeholders were 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
- to ensure that recommendations are effectively implemented by all air carriers and airports, they must have the full force and power of law.

These criteria determined that the recommendations would be submitted in the form of a Proposal for Rulemaking concerning revisions to Part 382, applicable to all airlines and airports obligated under that rule, and enforceable by DOT.

The Workgroup collaborated to craft its recommendations. During that process it was necessary to be responsive to current issues that directly influenced recommendation format and content. Ongoing input from disability constituents about their air travel experiences, emergence of AIR-21 draft regulations, the debut of DOT's consumer hotline for passengers with disabilities, DOT's technical assistance and model training program initiative relating to air travel by people with disabilities, the transition of airport security to the authority of DHS, periodic DOT reporting of air travel related complaints and settlements, and

related activities were all monitored to ensure that final recommendations were consistent with current needs.

After the initial drafting, the Petition underwent four formal reviews, during which stakeholders provided comments that were discussed and used to shape subsequent draft language. NCD conducted a final document review and approval prior to submission to DOT.

Timeline and Seminal Events

- DOT convenes Forum for *Accommodations for Deaf & Hard of Hearing Passengers under the Air Carrier Access Act of 1986*. Representatives of deaf and hard of hearing communities request that DOT follow up on earlier efforts to address deaf and hard of hearing accommodation issues in a rulemaking. (January 18, 2000)
- DOT contracts with NCD to provide guidance about appropriate rules that would improve air travel access for passengers who are deaf, hard of hearing and deaf-blind (September, 2002)
- NCD contracts with Kathleen Blank to manage project (September, 2002)
- NCD assembles DHHB Workgroup with members representing the communities of people who are deaf, hard of hearing and deaf-blind; the air carriers; and the airports (October, 2002)
- First DHHB Workgroup meeting (November 14, 2002)
- Second DHHB Workgroup meeting, Washington DC (February 13, 2003)
- Third DHHB Workgroup meeting, telecon. Draft 1 of Proposed Petition for Rulemaking to DOT reviewed. (September 23, 2003)
- Fourth DHHB Workgroup meeting. NCD contractor Susan Duncan replaces Kathleen Blank. Draft 2 of Petition reviewed. (October 29, 2003)
- DOT sends letter to NCD, NACA, ACA, ATA and RAA reasserting DOT's commitment to address accommodation issues and reiterating its support of a rulemaking. (December 16, 2003)
- Fifth DHHB Workgroup meeting. Disability stakeholders confirm congruence of Petition contents to original Workgroup mission and goals during project period. (February 9, 2004)
- Sixth DHHB Workgroup meeting. Draft 3 of Petition reviewed. (April 28, 2004)
- Draft 4 of Petition finalized, reviewed by NCD (July, 2004)
- DHHB Petition for Rulemaking *Proposed Regulatory Language for Part 382 Amendments Concerning Accommodations for Deaf, Hard of Hearing and Deaf-Blind Passengers* submitted to DOT (July 19, 2004)

Disposition of Deliverable

The Petition contains the final proposed revisions to Part 382 and the rationales for those changes. Following the Petition is a Comments Guide that lists each proposed section separately, followed by the positions taken on that proposal by the disability and air carrier/port stakeholders, with their supporting comments.

The Petition for Rulemaking and its Comments Guide follow.

DOT-NCD MOA

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PROPOSED REGULATORY LANGUAGE FOR PART 382 AMENDMENTS CONCERNING ACCOMMODATIONS FOR DEAF, HARD OF HEARING AND DEAF-BLIND PASSENGERS

INTRODUCTION TO PETITION

This Deaf, Hard of Hearing and Deaf-Blind Workgroup's (DHHB Workgroup) Petition for Rulemaking to Department of Transportation (DOT) proposes regulatory language necessary to ensure access for deaf, hard of hearing and deaf-blind air travelers. Unless otherwise stated, all Petition sections refer to the Air Carriers Access Act regulation, 14 CFR Part 382, Nondiscrimination on the Basis of Disability in Air Travel. It is intended that upon approval and incorporation to the upcoming revision of Part 382, these amendments also will apply fully to foreign air carriers.

Accompanying this Petition are the **SUMMARY** and the **COMMENTS GUIDE** to the Deaf, Hard of Hearing and Deaf-Blind Stakeholder Workgroup Petition for Rulemaking to Department of Transportation *PROPOSED REGULATORY LANGUAGE FOR PART 382 AMENDMENTS CONCERNING ACCOMMODATIONS FOR DEAF, HARD OF HEARING AND DEAF-BLIND PASSENGERS*. The Summary provides the historical background of the Petition's development. The Guide isolates each proposed Petition section, indicates the status of consensus (i.e., "agree" or "disagree") between the DHHB Workgroup members representing the disability community ("Disability Stakeholders") and air carrier/airport stakeholders ("Air Carriers" and when appropriate "Airports"), and lists specific comments that state their opinions supporting their positions.

PETITION for RULEMAKING

I. CHANGE OF TERMS

- The term "hearing impaired" should be replaced throughout the entire regulation with "deaf, hard of hearing and deaf-blind."
- The term "TDD" should be changed to "TTY" throughout all regulations. The terms "teletype device for the deaf" and "telecommunication display device" should be changed to "text telephone" throughout all regulations.

Rationale: The proposed replacement terms are more widely used and recognized than the existing terms.

- 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.

Rationale: The proposed change improves the accessibility of text for all individuals, including those who are deaf and have low vision.

II. CHANGE TO PART 382 REQUIREMENTS

Sec. 382.5 Definitions.

Deaf, hard of hearing and deaf-blind are terms used to describe the entire spectrum of hearing disability, including congenital deafness, acquired deafness, and mild through profound hearing loss, and may or may not occur with vision loss or other types of disabilities.

RATIONALE: This definition is consistent with the most widely accepted language among the disability community.

Sec. 382.23 – Airport facilities.

Replace subparagraphs as follows:

e) The Americans with Disabilities Act Accessibility Guidelines (ADAAGs), including section 10.4 concerning airport facilities, shall be the *general* standard for accessibility under this section with the following modifications [NOTE: This reference might change with the issue of the new ADAAGs due July 2004]:

(1) All televisions and other audio-video displays provided for passenger information or entertainment by and under the control of 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 operation. Such television or other audio video displays maintained in private areas (e.g., club facilities) will be turned on by the carrier upon request. Captioning must be high contrast, such as white letters on a consistent black background.

(2) Those televisions and other audio-video displays for passenger entertainment that do not have captioning capabilities on or after the effective date of this regulation for airport areas controlled by air carriers, shall be replaced with television and other audio-video displays equipped with captioning capability within one hundred eighty (180) days after the effective date of the regulation.

(3) All carriers will come into compliance with ADAAG 10.4.1 within one hundred eighty (180) days after the effective date of the regulation.

RATIONALE: Provides specific examples covered by Section 504 & ADA to reduce confusion about what is covered.

(f) Contracts or leases between carriers and airport operators concerning the use of airport facilities utilized by the carriers (e.g., escort services, courtesy phones, dedicated concourses, gate areas, etc.) shall set forth the respective responsibilities of the parties to such contract for the provision of accessible facilities and services to individuals with disabilities as required by this part for carriers, and applicable Section 504 and ADA rules of the Department of Transportation and Department of Justice for airport operators.

Sec. 382.35 Attendants.

Replace subparagraphs as follows:

(b)(4) Establishing effective communications 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) is necessary to permit an individual with a disability to travel without an attendant. The responsibility to establish effective communications is shared between carrier personnel and passengers with disabilities. Individuals who need communication accommodations beyond those that do not require self-identification and are routinely provided by the carrier (such as always-on captioning for audio-visual displays) will identify those needs to the airline personnel. [See 382.61 (2)(a)] Airlines are responsible to prevent the requirement of an attendant based on inadequate communications caused by employee nonproficiency.

RATIONALE: Anecdotal reports to national disability organizations indicate that qualified passengers who are deaf-blind have been treated with lack of sensitivity by airline employees, and have been denied air travel due to communication difficulties caused by employee unfamiliarity with communication techniques. This subparagraph revision is to eliminate instances of denied air travel due to employees who do not meet the “trained to proficiency” requirement. See also Sec. 382.45(2)(d), following. The above revision is NOT intended to mean that all employees must have advanced communication skills (such as ASL).

Sec. 382.45 – Passenger information.

Replace subparagraphs as follows:

(c) Each carrier shall ensure that qualified individuals with disabilities, including those with visual and/or hearing disabilities, have timely access to the same information provided to other passengers. "Timely" means simultaneously whenever possible and when simultaneous communication is not readily achievable, priority is given to providing the information as quickly as possible. The information shall be provided in clear, understandable format through a visual, auditory or tactile accommodation that is understandable by the passenger who has a hearing disability.

(1) In the terminal this includes, but is not limited to, information concerning ticketing, flight check-in, flight delays, schedule or aircraft changes, boarding information, connections, gate assignments, checking and claiming of luggage, the volunteer solicitations (e.g., free travel vouchers for voluntary deplaning in case of overbooked flights), individuals being paged by airlines, aircraft changes that affect the travel of person with disabilities, and emergencies (e.g., fire, bomb threat, etc.).

(2) On the aircraft this includes, but is not limited to, information concerning procedures for take-off and landing, flight delays, schedule or aircraft changes, rerouting to different airports, scheduled departure and arrival times, emergencies (e.g., fire, unexpected landing, etc.), boarding information, weather conditions, beverage and menu information, connection gate assignments, and claiming of luggage (to the extent that providing this information is in accordance with current airline practice and does not interfere with the crewmembers safety duties as set forth in FAA regulations).

(d) The training of carrier personnel required by Sec. 382.61 shall include training to proficiency in basic visual, auditory and tactile methods for communicating effectively with passengers who have visual, hearing and other disabilities affecting communication.

Add the following subparagraphs:

(e) The information referred to in (C)(1), (2) 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 will provide other accessible communications formatting when readily achievable to individuals with disabilities who identify themselves as requiring communications accommodations beyond the routinely provided audio and visual formats.

(f) Carriers shall have, at each airport they use, a copy of this part, and shall make it available in accessible formats for review by individuals with disabilities on request.

Rationale: Revised language places the responsibility for accessible services with the air carriers instead of the customer. This is consistent with other civil rights laws. Revised language also clarifies by example the types of communications that are necessary for air travelers, and ensures that flight and other travel information generally made available to passengers is made available in accessible formats fully and simultaneously instead of “after the fact.”

Sec. 382.47 – Accommodations for individuals who are deaf, hard of hearing and deaf-blind.

Replace subparagraph as follows:

(a) Each carrier that provides scheduled air service, or charter service under section 401 of the Federal Aviation Act, and that makes available telephone reservation and information service to the public, shall make available a teletypewriter (TTY) service to enable deaf, hard of hearing and deaf-blind individuals to make reservations and obtain information. The TTY service shall be available during the same hours as the telephone service for the general public. The response time for answering calls and the level of service provided for TTY and non-TTY callers shall be equivalent, including the provision of a queue message if one is provided to the general public. Users of the TTY service shall not be subject to charges exceeding those that apply to other users of the telephone information and reservation service.

RATIONALE: Consumer complaints to disability organizations indicate that many times individuals using TTYs are unable to direct dial in to reservation and information services. Further, response time to TTY messages left at reservation and information services has lagged behind response time to non-TTY phone messages. This revision ensures that TTY callers have equal opportunity to call in, speak with a representative (are queued), and can get a call-back within the timeframes established for non-TTY phone callers.

Add the following subparagraphs:

(c) All videos, DVDs and other audio-visual displays shown in aircraft shall be high-contrast captioned, such as white letters on consistent black background as available in closed captioning, and equipped with video descriptions according to the following time-table:

(1) safety briefings - mandatory sixty (60) days after the effective date of this regulation.

(2) informational videos - mandatory sixty (60) days after the effective date of this regulation.

(3) entertainment videos - mandatory sixty (60) days after the effective date of this regulation.

(d) Captions on the main aircraft monitors for passenger use shall be visible at all times when the monitors are in use. All personal video displays on aircraft shall have closed captioning capability that passengers can turn on without the assistance of a flight attendant.

RATIONALE: Captions are the only way that people who cannot hear or understand voice communication, but who can read, are able to independently access information. This accommodation will be useful not only to people who are deaf, hard of hearing and deaf-blind, but also to individuals with other disabilities (such as learning and cognitive disabilities) who rely on printed communications to ensure comprehension of the communications. Equipment must be capable of showing such captioning, to ensure delivery of the communications.

(e) At least one TTY shall be available whenever air phones are available on an aircraft. Air phones and other in-cabin telecommunications equipment shall also be in compliance with the Hearing Aid Compatibility Act, 47 U.S.C. Section 610, and Section 255 of the Telecommunications Act of 1996.

RATIONALE: Telecommunications equipment must be accessible in order for it to be used independently by the passenger.

Subpart C--REQUIREMENTS CONCERNING SERVICES

Sec. 382.55 Miscellaneous provisions.

Add the following subparagraph:

(d) Carriers shall make available copies of entertainment reading routinely provided in the cabin to passengers in accessible formats, including Braille, audio-tape, and large print.

RATIONALE: Airlines provide entertainment reading for the enjoyment of customers who are able to read standard print. Passengers who are deaf, hard of hearing and deaf-blind should have access to the same services in a format that is accessible to them.

(e) Carriers shall consider new technologies for improving the accessibility of services and benefits as these technologies become available on the market,

and adopt them to the maximum extent feasible and as soon as practicable in accordance with carrier protocols and regulatory compliance.

RATIONALE: Improvements in services and benefits delivery change rapidly, often due to improvements in technology, affordability, and adaptations of existing systems for new applications. Carriers should revise their service and benefits systems to keep up with available accessibility improvements when circumstances permit. Technology improvements often improve not only scope of accessibility, but also the ease with which it can be implemented.

SUBPART D—ADMINISTRATIVE PROVISIONS

SECT. 382.61 Training

Add the following subparagraph:

(a)(2)(a) Airline personnel will be trained to proficiency to recognize requests for communications accommodations and to use the most common methods that are readily achievable for communicating effectively with individuals who are deaf, hard of hearing and deaf-blind. This includes operating equipment necessary for accessible communications (such as turning on captioning of an audio-visual monitor). Proficiency is the knowledge of those communication methods and under what circumstances to use them, and the ability to implement the methods successfully. Examples of communication methods include using a finger to write in block letters on the palm of the individual who is deaf-blind, writing a message in large letters using a broad black marker on white paper, speaking clearly at a volume the person can hear, and having safety briefings and common passenger communications available in Braille and large print.

III. CHANGE TO ANCILLARY REGULATIONS

TITLE 49—TRANSPORTATION

SUBTITLE A--OFFICE OF THE SECRETARY OF TRANSPORTATION

PART 27--NONDISCRIMINATION ON THE BASIS OF DISABILITY IN PROGRAMS AND ACTIVITIES RECEIVING OR BENEFITTING FROM FEDERAL FINANCIAL ASSISTANCE

Subpart B--Program Accessibility Requirements in Specific Operating Administration Programs: Airports, Railroads, and Highways

Sec. 27.71 Airport Facilities.

(e) The Americans with Disabilities Act Accessibility Guidelines (ADAAGs) , including Sec. 10.4 concerning airport facilities, shall be the general standard for accessibility under this section with the following modifications applicable to

airport facilities that do not qualify for New Construction requirements (see ADAAG 10.4) [NOTE: Reference might change with issue of new ADAAGs due July 2004]:

- (1) The number of TTYs at airports shall be provided in accordance with the following:
 - (i) At any bank of public pay telephones, at least ten percent of the telephones, but not less than one telephone, shall be equipped with a TTY.
 - (ii) Where at least one public pay telephone is provided on a floor of a terminal, at least ten percent of the telephones on that floor, but not less than one telephone, shall be equipped with a TTY.
 - (iii) Where at least one public pay telephone is provided in a terminal, at least ten per cent of the telephones in that building, but not less than one telephone, shall be equipped with a TTY.
 - (iv) Where at least one public pay telephone is provided at an airport, at least ten per cent of the telephones at that airport, but not less than one telephone, shall be equipped with a TTY.
 - (v) At every airport, at least one public pay telephone shall be equipped with a Braille TTY.
 - (vi) Displays on all TTYs shall be high contrast and easy to read.

RATIONALE: The current published ADAAGs for existing airport facilities has less specific guidance for phones/TTYs. This revision ensures that TTYs are not only available, but they are available where passengers can locate them reasonably. Displays on TTYs must meet high contrast criteria to be accessible to individuals who have low vision. NOTE: This revision DOES NOT change the provisions of ADAAG 10.4.1 for new construction.

- (2) Public TTY phones should be labeled with a prominent, permanent sign stating "TTY Equipped" and maintained in working order at all times.

RATIONALE: TTY locations must be easily identified to facilitate recognition by a passenger who needs them. Likewise, TTYs must be maintained as operational so they can be utilized.

- (3) All airports will come into compliance with ADAAG Section 10.4.1 subparagraph 6 no later than 60 days, and in accordance with subparagraph (f) of this section.

(f) Contracts or leases between carriers, other vendors and airport operators concerning the use of airport facilities (e.g., escort service, hotel and other vendor courtesy phones, ground transportation service booths, rental car service desks, etc.) shall set forth the respective responsibilities of the parties for the

provision of accessible facilities and services to individuals with disabilities as required by this part, section 504 and other applicable ADA rules of the Department of Transportation and Department of Justice for airport operators and vendors, as well as applicable Air Carrier Access Act rules (14 CFR part 382) for carriers.

RATIONALE: It is the responsibility of the contracting agent to ensure that all facilities and services are compliant with accessibility regulations.

IV. SELECTED REFERENCED PROVISIONS

ADAAG Section 10.4 - Airports.

10.4.1 - New Construction.

(6) Terminal information systems which broadcast information to the general public through a public address system shall provide a means to simultaneously deliver the same or equivalent information to persons who are deaf, hard of hearing, or deaf-blind. Such methods may include, but are not limited to, visual paging systems using video monitors and computer technology. These methods should be easy to read using high-contrast letters and background. For persons with certain types of hearing loss such methods may include, but are not limited to, an assistive listening system complying with 4.33.7. Appendix Note 1, 2.

RATIONALE: A frequent complaint of air travelers who are deaf, hard of hearing, and deaf-blind is that they are unable to hear or understand PA announcements and often miss information that is critical to their travel—gate changes, time changes, boarding announcements, emergency information, etc.. This revision ensures that there is an alternative method to provide such information to these passengers at the same time it is provided to the general passenger population.

V. APPENDIX

1. 10.4.1(6) Information about text accessibility is available from the AADAG and its appendix, from the World Wide Web Consortium (<http://www.w3.org>), from the Dept. of Justice (<http://www.usdoj.gov/crt/508/508home.html> and <http://www.section508.gov/>), the American Council of the Blind (www.acb.org)
2. The Access Board (www.access-board.gov) has published a pamphlet on Assistive Listening Systems which lists demonstration centers across the country where technical assistance can be obtained in selecting and installing appropriate systems. The state of New York has also adopted a detailed technical specification which may be useful.

DOT-NCD MOA

Facilitating Stakeholder Collaboration Toward a Fully Accessible Air Transportation System

COMMENTS GUIDE to

Deaf, Hard of Hearing and Deaf-Blind Stakeholder Workgroup
Petition for Rulemaking to Department of Transportation

PROPOSED REGULATORY LANGUAGE FOR PART 382 AMENDMENTS CONCERNING ACCOMMODATIONS FOR DEAF, HARD OF HEARING AND DEAF-BLIND PASSENGERS

INTRODUCTION

This Comments Guide document (the Guide) accompanies the NCD-DOT MOA sponsored Deaf, Hard of Hearing and Deaf-Blind Workgroup's (DHHP Workgroup) Petition for Rulemaking to Department of Transportation (DOT) *Proposed Regulatory Language for Part 382 Amendments Concerning Accommodations for Deaf, Hard of Hearing and Deaf-Blind Passengers* (the Petition) necessary to ensure access for deaf, hard of hearing and deaf-blind air travelers. Unless otherwise stated, all Petition sections refer to the Air Carriers Access Act regulation, 14 CFR Part 382, Nondiscrimination on the Basis of Disability in Air Travel. It is intended that upon approval and incorporation to the upcoming revision of Part 382, these amendments also will apply fully to foreign air carriers.

This Guide isolates each proposed Petition section, indicates the status of consensus (i.e., "agree" or "disagree") between the DHHB Workgroup members representing the disability community ("Disability Stakeholders") and air carrier/airport stakeholders ("Air Carriers" or when appropriate "Airports"), and lists specific comments supporting their positions.

Unless otherwise noted, the "Air Carriers" refers to DHHB Workgroup air carrier members represented by Air Transport Association (ATA), Regional Airline Association (RAA), National Air Carrier Association (NACA) and Air Carrier Association of America (ACAA).

All Disability Stakeholder "agreement" designations are unanimous for all members of that group. All Air Carrier "agreement" designations are unanimous. Comments offered under "Disagreement" were provided by individual air carrier organizations. Those comments do not necessarily represent unanimous opinions of all air carrier organizations or of all membership within an air carrier organization.

The International Air Transportation Association (IATA) joined the DHHB Workgroup after the Draft Petition was developed and elected to defer comments on individual Petition proposed changes until the publication of DOT's Notices of

Proposed Rulemaking (NPRMs) regarding changes to Part 382 to which foreign carriers will be subject. It did, however, submit the following general comments.

IATA COMMENTS:

- The NPRMs will clarify the potential extra-territorial impact on foreign carriers resulting from the obligation to follow different procedures, use different equipment or adopt different standards to be in compliance with US rules and the regulations of the country of registration of individual foreign carriers.
- A major concern for our Members is to ensure that national regulations, in this as in other areas, are harmonized to the extent possible to avoid any conflict of laws or undue costs.
- The European Commission has announced plans to issue a proposal to regulate the handling of passengers with reduced mobility (PRMs) at airports in the 25 Member States of the European Union.
- We believe that it is important to ensure a high degree of consultation in preparing new legislation to ensure that the airline industry worldwide continues to provide and improve upon the high standards of service provided to persons with disabilities, including the deaf and hard of hearing.
- IATA has recently established an international airline Contact Group in order to inform international airlines of the initiatives taking place so that they will be better able to participate in the international dialogue that is needed to ensure effective rule making.

CHANGE OF TERMS

- The term “hearing impaired” should be replaced throughout the entire regulation with “deaf, hard of hearing and deaf-blind.”
- The term “TDD” should be changed to “TTY” throughout all regulations. The terms “teletype device for the deaf” and “telecommunication display device” should be changed to “text telephone” throughout all regulations.

Rationale: The proposed replacement terms are more widely used and recognized than the existing terms.

Disability Stakeholders: Agree
COMMENTS: none

Air carriers: Agree
COMMENTS: none

- 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.

Rationale: The proposed change improves the accessibility of text for all individuals, including those who are deaf and have low vision.

Disability Stakeholders: Agree

Air carriers: No comment

COMMENTS: none	
CHANGE TO PART 382 REQUIREMENTS	
Sec. 382.5 Definitions.	
<p>Deaf, hard of hearing and deaf-blind are terms used to describe the entire spectrum of hearing disability, including congenital deafness, acquired deafness, and mild through profound hearing loss, and may or may not occur with vision loss or other types of disabilities.</p> <p>RATIONALE: <i>This definition is consistent with the most widely accepted language among the disability community.</i></p>	
<p>Disability Stakeholders: Agree</p> <p>COMMENTS:</p> <ul style="list-style-type: none"> • Definition is based on a functional model. 	<p>Air Carriers: No comment</p>
Sec. 382.23 – Airport facilities.	
<p>e) The Americans with Disabilities Act Accessibility Guidelines (ADAAGs), including section 10.4 concerning airport facilities, shall be the <i>general</i> standard for accessibility under this section with the following modifications [NOTE: This reference might change with the issue of the new ADAAGs due July 2004]:</p> <ol style="list-style-type: none"> (1) All televisions and other audio-video displays provided for passenger information or entertainment by and under the control of 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 operation. Such television or other audio video displays maintained in private areas (e.g., club facilities) will be turned on by the carrier upon request. Captioning must be high contrast, such as white letters on a consistent black background. (2) Those televisions and other audio-video displays for passenger entertainment that do not have captioning capabilities on or after the effective date of this regulation for airport areas controlled by air carriers, shall be replaced with television and other audio-video displays equipped with captioning capability within one hundred eighty (180) days after the effective date of the regulation. (3) All carriers will come into compliance with ADAAG 10.4.1 within one hundred eighty (180) days after the effective date of the regulation. <p>RATIONALE: <i>Provides specific examples covered by Section 504 & ADA to reduce confusion about what is covered.</i></p>	

<p>Disability Stakeholders: Agree</p> <p>COMMENTS:</p> <ul style="list-style-type: none">• Since 1993, Federal law requires televisions with picture tubes 13” or larger built for sale in the US to contain caption decoder chip (i.e., have captioning capability). It seems unlikely that there will need to be many television replacements, since any televisions without the chip will be at least 11 years old.	<p>Air Carriers: Disagree</p> <p>COMMENTS:</p> <p>Revise proposed 382.23(e) as follows:</p> <p>(1) 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. 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 (180) days after the effective date of the regulation.</p> <p>(2) 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. Televisions and other audio-visual displays for passenger entertainment that are newly acquired by carriers on or after the effective date of the regulation shall be equipped with captioning</p>
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	capability.
<p>(f) Contracts or leases between carriers and airport operators concerning the use of airport facilities utilized by the carriers (e.g., escort services, courtesy phones, dedicated concourses, gate areas, etc.) shall set forth the respective responsibilities of the parties to such contract for the provision of accessible facilities and services to individuals with disabilities as required by this part for carriers, and applicable Section 504 and ADA rules of the Department of Transportation and Department of Justice for airport operators.</p>	
<p>Disability Stakeholders: Agree</p> <p>COMMENTS: none</p>	<p>Air Carriers: Agree</p> <p>COMMENTS: ATA: "escort services" is not a facility, so should be deleted from the list.</p>
<p>Sec. 382.35 Attendants.</p>	
<p><i>Replace subparagraphs as follows:</i></p> <p>(b)(4) Establishing effective communications 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) is necessary to permit an individual with a disability to travel without an attendant. The responsibility to establish effective communications is shared between carrier personnel and passengers with disabilities. Individuals who need communication accommodations beyond those that do not require self-identification and are routinely provided by the carrier (such as always-on captioning for audio-visual displays) will identify those needs to the airline personnel. [See 382.61 (2)(a)] Airlines are responsible to prevent the requirement of an attendant based on inadequate communications caused by employee nonproficiency.</p> <p><i>RATIONALE: Anecdotal reports to national disability organizations indicate that qualified passengers who are deaf-blind have been treated with lack of sensitivity by airline employees, and have been denied air travel due to communication difficulties caused by employee unfamiliarity with communication techniques. This subparagraph revision is to eliminate instances of denied air travel due to employees who do not meet the "trained to proficiency" requirement. See also Sec. 382.45(2)(d), following. The above revision is NOT intended to mean that all employees must have advanced communication skills (such as ASL).</i></p>	
<p>Disability Stakeholders: Agree</p> <p>COMMENTS:</p> <ul style="list-style-type: none"> The responsibility to communicate is shared by the airlines and deaf/hard of hearing/deaf blind passengers. Air carrier personnel need to do their 	<p>Air Carriers: Disagree</p> <p>COMMENTS:</p> <p><i>Replace subparagraphs as follows:</i></p> <p>(b)(4) A person who has both severe</p>

<p>part, should not be allowed to make an excuse that they “tried to communicate” when they really didn’t try or didn’t know methods to use.</p> <ul style="list-style-type: none"> • Airlines need to know that deaf-blind have the right to travel without an attendant if both they and the passenger can communicate. • Current 382.35(b)(4) provides the only reference specific to deaf-blind individuals to test whether the person’s particular disability poses a safety risk. The ongoing problem for passengers who are deaf-blind is that airline personnel understand from the reg. that people who are deaf-blind might pose a safety threat and can be assigned an attendant. No guidance is given for minimum communication skills that personnel must possess, so personnel who do not have or choose not to use the skills are able to require an attendant or deny boarding because effective communication has not been established. This penalizes the passenger for the employee’s behavior and is irrelevant to whether the passenger poses a safety risk. The test must be whether effective communications can be reasonably established, not whether a particular employee can perform his or her job functions. The final sentence is necessary to eliminate the possibility that an airline employee can deliberately not communicate effectively in order to assign an attendant to or exclude a passenger who is deaf-blind. The other tests for determining whether a passenger poses a safety risk will still apply if an individual who is deaf-blind meets the criteria described in them. Recommendations for requirements for applicable employee training for communication skills are provided in 382.61(a)(2)(a). 	<p>hearing and severe vision impairments, if the person cannot establish some means of communication with carrier personnel, 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). [Move training to Sec. 382.61] Airline personnel will be trained to proficiency to recognize and communicate with passengers who are deaf, hard of hearing and deaf-blind. Communication difficulties caused by airline personnel nonproficiency in this type of communication will not be a valid reason to require a passenger to be accompanied by an attendant.</p> <ul style="list-style-type: none"> • The final sentence could still require a carrier to permit a passenger to fly unaccompanied by an attendant, even if the carrier cannot communicate safety briefings and directions to the passenger. The carriers cannot support such a result as it could compromise the safety of all passengers. • Current Sec. 382.35 (c) provides an immediate remedy to the situation in which the carrier is unable to communicate with a deaf, deaf-blind or hard of hearing passenger by requiring a carrier to transport an attendant for such passenger at no charge when the carrier and passenger disagree as to whether communication exists. • 382.35(b) is a list of persons with whom an attendant must travel as a condition of providing air transportation. The proposed first sentence does not conform to that structure, so we suggest that the first sentence remain unchanged from the existing regulation.
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	<ul style="list-style-type: none">• This provision still would require airline personnel to unilaterally identify passengers who need communication accommodations, but whose disabilities are not readily apparent. Only self-identification would be a reliable, objective way to establish when a passenger requires a communications accommodation.
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Sec. 382.45 – Passenger information.

Replace subparagraphs as follows:

(c) Each carrier shall ensure that qualified individuals with disabilities, including those with visual and/or hearing disabilities, have timely access to the same information provided to other passengers. “Timely” means simultaneously whenever possible and when simultaneous communication is not readily achievable, priority is given to providing the information as quickly as possible. The information shall be provided in clear, understandable format through a visual, auditory or tactile accommodation that is understandable by the passenger who has a hearing disability.

- (1) In the terminal this includes, but is not limited to, information concerning ticketing, flight check-in, flight delays, schedule or aircraft changes, boarding information, connections, gate assignments, checking and claiming of luggage, the volunteer solicitations (e.g., free travel vouchers for voluntary deplaning in case of overbooked flights), individuals being paged by airlines, aircraft changes that affect the travel of person with disabilities, and emergencies (e.g., fire, bomb threat, etc.).
- (2) On the aircraft this includes, but is not limited to, information concerning procedures for take-off and landing, flight delays, schedule or aircraft changes, rerouting to different airports, scheduled departure and arrival times, emergencies (e.g., fire, unexpected landing, etc.), boarding information, weather conditions, beverage and menu information, connection gate assignments, and claiming of luggage (to the extent that providing this information is in accordance with current airline practice and does not interfere with the crewmembers safety duties as set forth in FAA regulations).

(d) The training of carrier personnel required by Sec. 382.61 shall include training to proficiency in basic visual, auditory and tactile methods for communicating effectively with passengers who have visual, hearing and other disabilities affecting communication.

Add the following subparagraphs:

(e) The information referred to in (C)(1), (2) 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 will provide other accessible communications formatting when readily achievable to individuals with disabilities who identify themselves as requiring communications accommodations beyond the routinely provided audio and visual formats.

(f) Carriers shall have, at each airport they use, a copy of this part, and shall make it available in accessible formats for review by individuals with disabilities on request.

Rationale: Revised language places the responsibility for accessible services with the air carriers instead of the customer. This is consistent with other civil rights laws. Revised language also clarifies by example the types of communications that are necessary for air travelers, and ensures that flight and other travel information generally made available to passengers is made available in accessible formats fully and simultaneously instead of “after the fact.”

Disability Stakeholders: Agree

COMMENTS:

- 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: Disagree

COMMENTS:

- Definition of timely is unnecessary. The requirement to provide timely access is already included in the regulatory text, and the common understanding of timely is adequate.
- We suggest that the second sentence of 382.45(c) be revised to provide that the information shall be provided in a clear, understandable format through one of the following methods: personal presentation by a carrier representative, visual displays, written formats, or other auditory or tactile accommodations.
- Without offering any specific alternative language, the carriers believe that information related to safety briefing requirements and emergency situations is the only essential information verbally transmitted to other passengers; therefore, carriers should only be

<p>Response to Air Carriers' comments (see opposite):</p> <ul style="list-style-type: none"> • 382.45(c) Re: "timely". Although a term already used in the existing reg., many passengers miss critical communications because announcements have not been provided in accessible format, or in time for them to benefit from the information. "Timely" is apparently interpreted differently by different carriers and relying on "common understanding" will not, as demonstrated, guarantee uniform delivery of information. The requirement for and definition of "timely" must remain to provide consistent interpretation of the term avoid delayed transmission of information. • Proposal to substitute language limiting accessible formats to "one of the following" overlooks the need to assess the individual passenger's needs. Although qualified by "understandable format", it is not specified to whom the format is understandable (could be the carrier personnel). • The current language of Part 382.45(c) clarifies the information that carriers must provide to passengers with disabilities including those with hearing and vision disabilities, and does not limit that requirement to "essential information verbally transmitted to other passengers" or to "safety briefing requirements and emergency situations". • "Volunteer solicitations...flights" should be retained because it is an example of an announcement typically made in the gate area. Regardless of whether this offer is made in other ways, when it is made available to all passengers, it must be made in an accessible format to individuals with disabilities and in a manner that allows those individuals to have equal opportunity to respond in order to benefit from a time and quantity limited 	<p>required to provide this essential information to individuals with disabilities on the aircraft.</p> <ul style="list-style-type: none"> • In the terminal this includes, but is not limited to, information concerning ticketing, flight check-in, flight delays, schedule or aircraft changes, boarding information, connections, gate assignments, checking of luggage the volunteer solicitations (e.g., free travel vouchers for voluntary deplaning in case of overbooked flights) individuals being paged, and emergencies (e.g., fire, bomb threat, etc.). • (c) The current regulatory language in subsection (c) is the only essential information carriers should be required to provide to individuals with disabilities in the terminal. E.g., "volunteer solicitations...flights" should be deleted because this information is not routinely provided to all passengers in the same manner or at the same time. • "individuals being paged" should be deleted because passenger paging typically is an airport function. <p>"(2) On the aircraft this includes but is not limited to information concerning procedures for take-off and landing, flight delays, schedule or aircraft changes, rerouting to different airports, scheduled departure and arrival times, emergencies (e.g., fire, unexpected landing, etc.), boarding information, weather conditions, beverage and menu information, connection gate assignments, and claiming of luggage (to the extent that providing this information is in accordance with</p>
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<p>offer.</p> <ul style="list-style-type: none"> • The “training of personnel” clause amplifies for airlines and passengers that it is incumbent upon airline personnel to be prepared to provide accessible goods and services. Because each airline develops its own employee training curriculum, it is impossible to know whether or how an employee is trained in a particular area. This clause must be included to remove the excuse that communication accommodations were not provided because the employee “didn’t know how”. • 382.45(e) According to the CDC’s Summary Health Statistics for US Adults: National Health Interview Survey 2001 (January, 2004), approx. 17% of US adults have some hearing loss. This is a significant portion of the population. Airlines should assume that at any time their passengers will include people who are deaf, hard of hearing and deaf blind. Providing passenger information routinely in audio and visual formats when practicable will allow airlines to communicate more effectively and efficiently with their customers. In addition, such improvements will likely be viewed as improvements and utilized by the general population, comparable to ramps, accessible doors and toilet stalls, etc. • (f) The requirement is for Part 382 to be available in accessible formats at each airport. This doesn’t necessarily mean at each gate, or check in, but does provide that passengers in airports can access the text of Part 382. Referring on-site requests to the DOT hotline or website. Could each airline have a few copies of each of the mostly used formats (such as large print, audio, Braille) at each airport? Then, if accessible format is requested, the CRO could deliver it to the location where the passenger is making the request. 	<p>current airline practice and does not interfere with the crewmembers’ safety duties as set forth in FAA regulations.) safety briefing requirements and emergency situations.”Carriers believe that information related to safety briefing requirements and emergency situations are the only essential information verbally transmitted to other passengers that carriers should be required to provide to individuals with disabilities on the aircraft.</p> <ul style="list-style-type: none"> • Omit all proposed (d). <p>(e) Information should be made available automatically and without requirement or expectation that a carrier be informed of the need for communication accommodations.</p> <ul style="list-style-type: none"> • Carriers cannot support this provision [proposed 382.45(e)]. If a passenger’s visual or hearing disability is not readily apparent, there must be a way for carrier personnel to know that the passenger is in need of communication accommodations. • 382.45(e) Carriers cannot support this provision. Providing this information in both audio and visual format at all times to all passengers would be cost-prohibitive and impracticable. Further, providing this information in other accessible formats even if an individual identifies himself is cost-prohibitive and impracticable. <p>(f) Carriers shall have, at each airport they use, a copy of this part, and shall make it available in accessible formats for review by individuals with disabilities on request.</p> <ul style="list-style-type: none"> • Carriers cannot support the
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	<p>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, hard of hearing and deaf-blind community on this.</p>
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Sec. 382.47 – Accommodations for individuals who are deaf, hard of hearing and deaf-blind.

(a) Each carrier that provides scheduled air service, or charter service under section 401 of the Federal Aviation Act, and that makes available telephone reservation and information service to the public, shall make available a teletypewriter (TTY) service to enable deaf, hard of hearing and deaf-blind individuals to make reservations and obtain information. The TTY service shall be available during the same hours as the telephone service for the general public. The response time for answering calls and the level of service provided for TTY and non-TTY callers shall be equivalent, including the provision of a queue message if one is provided to the general public. Users of the TTY service shall not be subject to charges exceeding those that apply to other users of the telephone information and reservation service.

RATIONALE: Consumer complaints to disability organizations indicate that many times individuals using TTYS are unable to direct dial in to reservation and information services. Further, response time to TTY messages left at reservation and information services has lagged behind response time to non-TTY phone messages. This revision ensures that TTY callers have equal opportunity to call in, speak with a representative (are queued), and can get a call-back within the timeframes established for non-TTY phone callers.

Disability Stakeholders: Agree

COMMENTS:

- Message queuing is typical for voice callers but has not been implemented in all

Air Carriers: Agree with use of TTY; need more information about queuing

<p>airlines for TTY users. Queuing allows systems to handle multiple callers and allows callers the opportunity to hold for connection to the desired airline department or service. TTYs that are not queued permit only one caller at a time to either speak with an airline representative (if the TTY line is staffed) or leave a message for a call-back. When the line is in use, subsequent TTY callers receive only a busy signal and cannot connect to the airline to leave a message. This creates communications delays for people who use TTYs. Customers who use TTYs also do not benefit from any recorded information that is played to voice callers.</p> <ul style="list-style-type: none"> • Other businesses have successfully implemented queue models for TTYs. • It's important that reservation agents know how to make and receive relay calls, and not be penalized in their performance evaluations for longer-than-average time spent on voice relay calls (relay calls often take longer than voice to voice calls). • Innovations in on-line reservations can help people access reservations from computers, PDAs, pagers and other electronic devices. 	<p>COMMENTS:</p> <p>The following suggestions are proposed jointly by ATA, RAA and ACAA, but do not represent member consensus and are provided only as suggestions for further discussion. Sec. 382.47 - Accommodations for <i>individuals who are deaf, hard of hearing, and deaf-blind.</i></p> <ul style="list-style-type: none"> • Carriers have no objection to substituting "TTY" for "TDD" [in 382.47(a)] if there is no difference in systems/equipment. • Carriers need further guidance on concerns about message queues.
<p>Add the following subparagraphs:</p> <p>(c) All videos, DVDs and other audio-visual displays shown in aircraft shall be high-contrast captioned , such as white letters on consistent black background as available in closed captioning, and equipped with video descriptions according to the following time-table:</p> <p>(1) safety briefings - mandatory <u>sixty (60) days after the effective date of this regulation.</u></p> <p>(2) informational videos - mandatory <u>sixty (60) days after the effective date of this regulation.</u></p> <p>(3) entertainment videos - mandatory <u>sixty (60) days after the effective date of this regulation.</u></p>	
<p>Disability Stakeholders: Agree COMMENTS:</p> <ul style="list-style-type: none"> • Response to air carriers' comments: 	<p>Air Carriers: Disagree COMMENTS:</p> <p>(1) safety briefings – by sixty (60)</p>

<p>382.47(b) does not include effective date for compliance. Date should remain here.</p> <ul style="list-style-type: none"> • Need for captioning for informational and entertainment videos is the same as the need for any information or entertainment audio-visuals provided to be accessible. • Claims that captioning for videos/DVDs is problematic for airlines is difficult to understand since they provide multilanguage captioned videos/DVDs on international flights. 	<p>days_____.</p> <p>(2) informational videos - by sixty (60) days_____.</p> <p>(3) entertainment videos - by sixty (60) days_____.</p> <ul style="list-style-type: none"> • Safety briefings are adequately discussed in current 382.47(b), so this subsection unnecessary. • “Informational videos” and (3) “entertainment videos” raise a number of significant and problematic issues that will need to be discussed at length.
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(d) Captions on the main aircraft monitors for passenger use shall be visible at all times when the monitors are in use. All personal video displays on aircraft shall have closed captioning capability that passengers can turn on without the assistance of a flight attendant.

RATIONALE: Captions are the only way that people who cannot hear or understand voice communication, but who can read, are able to independently access information. This accommodation will be useful not only to people who are deaf, hard of hearing and deaf-blind, but also to individuals with other disabilities (such as learning and cognitive disabilities) who rely on printed communications to ensure comprehension of the communications. Equipment must be capable of showing such captioning, to ensure delivery of the communications.

Disability Stakeholders: Agree
COMMENTS: none

Air Carriers: Suggest that these matters be taken up later because the proposals raise significant and problematic issues that require lengthy discussion.

(e) At least one TTY shall be available whenever air phones are available on an aircraft. Air phones and other in-cabin telecommunications equipment shall also be in compliance with the Hearing Aid Compatibility Act, 47 U.S.C. Section 610, and Section 255 of the Telecommunications Act of 1996.

RATIONALE: Telecommunications equipment must be accessible in order for it to be used independently by the passenger.

Disability Stakeholders: Agree

Air Carriers: Disagree

<p>COMMENTS: none</p> <ul style="list-style-type: none"> As with individuals without hearing disabilities, not all passengers who are deaf, hard of hearing or deaf-blind have personal communication devices. When air phones are provided to customers, accessible equivalents must be provided for individuals unable to utilize standard voice telephones routinely available. 	<p>COMMENTS:</p> <p>(e) At least one TTY and one Braille TTY shall be available whenever air phones are available on an aircraft. Air phones and other in-cabin telecommunications equipment shall also be in compliance with the Hearing Aid Compatibility Act, 47 U.S.C. Section 610, and Section 255 of the Telecommunications Act of 1996.</p> <ul style="list-style-type: none"> Carriers cannot support proposal; cost prohibitive.
<p>Subpart C--Requirements for Services Sec. 382.55 Miscellaneous provisions.</p>	
<p><i>Add the following subparagraph:</i></p> <p>(d) Carriers shall make available copies of entertainment reading routinely provided in the cabin to passengers in accessible formats, including Braille, audio-tape, and large print.</p> <p>RATIONALE: Airlines provide entertainment reading for the enjoyment of customers who are able to read standard print. Passengers who are deaf, hard of hearing and deaf-blind should have access to the same services in a format that is accessible to them.</p>	
<p>Disability Stakeholders: Agree COMMENTS: none</p>	<p>Air Carriers: Disagree COMMENTS: Cannot support the proposed requirement.</p> <ul style="list-style-type: none"> Cost to provide such entertainment reading in these three formats would be prohibitive Any such requirement raises numerous operational and implementation issues relating to storage and weight limitations on aircraft, quantities to be made available on a particular flight, and required inventories.
<p>(e) Carriers shall consider new technologies for improving the accessibility of services and benefits as these technologies become available on the market, and adopt them</p>	

to the maximum extent feasible and as soon as practicable in accordance with carrier protocols and regulatory compliance.

RATIONALE: Improvements in services and benefits delivery change rapidly, often due to improvements in technology, affordability, and adaptations of existing systems for new applications. Carriers should revise their service and benefits systems to keep up with available accessibility improvements when circumstances permit. Technology improvements often improve not only scope of accessibility, but also the ease with which it can be implemented.

Disability Stakeholders: Agree

COMMENTS:

- In an effort to avoid being prescriptive regarding the type of accommodation each airline must implement, this provision is included to require airlines to keep abreast of technologies that may help them communicate more effectively, efficiently and perhaps more cost-effectively with passengers who require accessible formats.

Air carriers: Disagree

COMMENTS:

(e) Carriers shall consider new technologies for improving the accessibility of services and benefits as these technologies become available on the market, ~~and adopt them to the maximum extent feasible and as soon as practicable in accordance with carrier protocols and regulatory compliance.~~

- Carriers are willing to consider new technologies for improving accessibility based on many complex factors including safety concerns, benefits, operational needs, efficiencies, long term planning concerns, and other related issues.
- Suggest that “and adopt them to the maximum extent feasible and as soon as practicable in accordance with carrier protocols and regulatory compliance” be deleted.

SUBPART D—ADMINISTRATIVE PROVISIONS

SECT. 382.61 Training

Add the following subparagraph:

(a)(2)(a) Airline personnel will be trained to proficiency to recognize requests for communications accommodations and to use the most common methods that are readily achievable for communicating effectively with individuals who are deaf, hard of hearing and deaf-blind. This includes operating equipment necessary for accessible

communications (such as turning on captioning of an audio-visual monitor). Proficiency is the knowledge of those communication methods and under what circumstances to use them, and the ability to implement the methods successfully. Examples of communication methods include using a finger to write in block letters on the palm of the individual who is deaf-blind, writing a message in large letters using a broad black marker on white paper, speaking clearly at a volume the person can hear, and having safety briefings and common passenger communications available in Braille and large print.

RATIONALE: There are several common, readily achievable methods to establish effective communications with individuals who are deaf-blind.

Disability Stakeholders: Agree

COMMENTS:

- It is critical for basic communication skills, and the expectation for appropriate use, to be an integral part of training for all employees who interact with the public.
- Personnel must be trained to properly use any communication systems they will use, such as TTYs, voice relay, text messaging and voice to text systems.
- Response to Air Carriers' comments: The proposed language requires an individual to self-identify (i.e., "requests for accommodations") and airline personnel to know not all communication methods but only "the most common methods". This is reasonable given the fact that airline personnel must be able to communicate effectively with all customers.
- Passengers who are deaf, hard of hearing and deaf blind report that their direct requests for communications accommodations (e.g., written versions of audio communications) have not been adequately understood, or ignored, by airline personnel. The intent of the proposed language "to recognize requests for communications" was to provide an enforceable, standard requirement for personnel communications responsibilities.
- Like staying abreast of technologies, carriers can stay abreast of communications methods by consulting

Air Carriers: Disagree

COMMENTS:

- (a)(2)(a) Airline personnel will shall be trained to proficiency to recognize requests for communications accommodations and to use the most common methods that are readily achievable for communicating effectively with respond to requests for communications accommodations from individuals who are deaf, hard of hearing and deaf-blind. This includes operating equipment necessary for accessible communications (such as turning on captioning of an audio-visual monitor). Proficiency is the knowledge of those communication methods and under what circumstances to use them, and the ability to implement the methods successfully. Examples of communication methods include using a finger to write in block letters on the palm of the individual who is deaf-blind, writing a message in large letters using a broad black marker on white paper, speaking clearly at a volume the person can hear, and having safety briefings and common passenger communications available in Braille and large print.
- The carriers already include in

<p>with members of the disability community on a regular basis. This is not different than adapting employee training when it became clear that not all people with mobility impairments used wheelchairs, service animals were not restricted for use by individuals who were blind, all people who are deaf did not use American sign language, etc.</p>	<p>their existing training programs the recognition of requests for communications accommodations, but airline personnel:</p> <ul style="list-style-type: none">◇ Cannot be expected to recognize every need without some assistance from passengers, and◇ Cannot be <u>trained</u> in all communication methods. Such a requirement would be impracticable and cost-prohibitive for the carriers. <ul style="list-style-type: none">• Suggest that the phrase “to recognize requests for communications accommodations” be deleted. That phrase could be interpreted to mean that the carriers must unilaterally determine that a passenger requires a communications accommodation, which we cannot do. The objective of the requirement (to require airline personnel to be trained to communicate with passengers) is unchanged by the exclusion of this language.• The carriers include some, but not all, of the example communication methods in their existing training programs. Carriers could not reasonably train their personnel to be proficient in every method of communication.• Some carriers already make safety cards available in Braille or large print, but would object to being required to provide additional publications in Braille or large print because of the expense.• As a practical matter, carriers would be required to train their
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	<p>personnel in every method of communication since they cannot identify which methods are “the most common.”</p> <ul style="list-style-type: none">• “The most common methods” may not be appropriate, effective or reasonable depending on the circumstances, and they may change over time. Including them in the regulatory language could limit carriers’ flexibility regarding how best to train their personnel to respond to the communications needs of their passengers.• We recommend that all but the first sentence of the proposed 382.61 (a)(2)(a) be deleted, with the remaining sentence to be revised as follows: “Airline personnel shall be trained to respond to requests for communications accommodations from individuals who are deaf, hard of hearing and deaf-blind.”
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III. CHANGE TO ANCILLARY REGULATIONS
TITLE 49--TRANSPORTATION

SUBTITLE A--OFFICE OF THE SECRETARY OF TRANSPORTATION

PART 27--NONDISCRIMINATION ON THE BASIS OF DISABILITY IN PROGRAMS AND ACTIVITIES RECEIVING OR BENEFITTING FROM FEDERAL FINANCIAL ASSISTANCE

Subpart B--Program Accessibility Requirements in Specific Operating Administration Programs: Airports, Railroads, and Highways

Sec. 27.71 Airport facilities.

(e) The Americans with Disabilities Act Accessibility Guidelines (ADAAGs) , including Sec. 10.4 concerning airport facilities, shall be the general standard for accessibility under this section with the following modifications applicable to airport facilities that do not qualify for New Construction requirements (see ADAAG 10.4) [NOTE: Reference might change with new ADAAGs due July 2004]:

(1) The number of TTYs at airports shall be provided in accordance with the following:

(i) At any bank of public pay telephones, at least ten percent of the telephones, but not less than one telephone, shall be equipped with a TTY.

(ii) Where at least one public pay telephone is provided on a floor of a terminal,

at least ten percent of the telephones on that floor, but not less than one telephone, shall be equipped with a TTY.

- (iii) Where at least one public pay telephone is provided in a terminal, at least ten per cent of the telephones in that building, but not less than one telephone, shall be equipped with a TTY.
- (iv) Where at least one public pay telephone is provided at an airport, at least ten per cent of the telephones at that airport, but not less than one telephone, shall be equipped with a TTY.
- (v) At every airport, at least one public pay telephone shall be equipped with a Braille TTY.
- (vi) Displays on all TTYs shall be high contrast and easy to read.

RATIONALE: The current published ADAAGs for existing airport facilities has less specific guidance for phones/TTYs. This revision ensures that TTYs are not only available, but they are available where passengers can locate them reasonably. Displays on TTYs must meet high contrast criteria to be accessible to individuals who have low vision. NOTE: This revision DOES NOT change the provisions of ADAAG 10.4.1 for new construction.

- (2) Public TTY phones should be labeled with a prominent, permanent sign stating “TTY Equipped” and maintained in working order at all times.

RATIONALE: TTY locations must be easily identified to facilitate recognition by a passenger who needs them. Likewise, TTYs must be maintained as operational so they can be utilized.

- (3) All airports will come into compliance with ADAAG Section 10.4.1 subparagraph 6 no later than 60 days, and in accordance with subparagraph (f) of this section.

(f) Contracts or leases between carriers, other vendors and airport operators concerning the use of airport facilities (e.g., escort service, hotel and other vendor courtesy phones, ground transportation service booths, rental car service desks, etc.) shall set forth the respective responsibilities of the parties for the provision of accessible facilities and services to individuals with disabilities as required by this part, section 504 and other applicable ADA rules of the Department of Transportation and Department of Justice for airport operators and vendors, as well as applicable Air Carrier Access Act rules (14 CFR part 382) for carriers.

RATIONALE: It is the responsibility of the contracting agent to ensure that all facilities and services are compliant with accessibility regulations.

Disability stakeholders: Agree
COMMENTS:

Air carriers: no comment
Airports: Disagree

<ul style="list-style-type: none"> It's often difficult to locate a TTY at an airport. 	<p>COMMENTS:</p> <ul style="list-style-type: none"> 27.71(e)(3)—60 days is not enough time to get the various contractors and subs involved to relocate the TTY phones. Haven't yet polled members, but suspect 180 days would be much more reasonable.
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IV. SELECTED REFERENCED PROVISIONS
ADAAG Section 10.4 - Airports.
10.4.1 - New Construction.

(6) Terminal information systems which broadcast information to the general public through a public address system shall provide a means to simultaneously deliver the same or equivalent information to persons who are deaf, hard of hearing, or deaf-blind. Such methods may include, but are not limited to, visual paging systems using video monitors and computer technology. These methods should be easy to read using high-contrast letters and background. For persons with certain types of hearing loss such methods may include, but are not limited to, an assistive listening system complying with 4.33.7. Appendix Note 2, 3.

RATIONALE: A frequent complaint of air travelers who are deaf, hard of hearing, and deaf-blind is that they are unable to hear or understand PA announcements and often miss information that is critical to their travel—gate changes, time changes, boarding announcements, emergency information, etc.. This revision ensures that there is an alternative method to provide such information to these passengers at the same time it is provided to the general passenger population.

Disability Stakeholders: Agree
COMMENTS: none

Air Carriers: no comment

APPENDIX

- 10.4.1(6) Information about text accessibility is available from the AADAG and its appendix, from the World Wide Web Consortium (<http://www.w3.org>), from the Dept. of Justice (<http://www.usdoj.gov/crt/508/508home.html> and <http://www.section508.gov/>), the American Council of the Blind (www.acb.org)
- The Access Board (www.access-board.gov) has published a pamphlet on Assistive Listening Systems which lists demonstration centers across the country where technical assistance can be obtained in selecting and installing appropriate systems. The state of New York has also adopted a detailed technical specification which may be useful.