

airport and within 2 miles each side of the Ottumwa VOR/DME 129° radial extending from the 6.6-mile radius to 1 mile southeast of the VOR/DME.

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Issued in Kansas City, MO, on April 29, 2003.

**Paul J. Sheridan,**

*Acting Manager, Air Traffic Division, Central Region.*

[FR Doc. 03-11641 Filed 5-8-03; 8:45 am]

BILLING CODE 4910-13-M

## DEPARTMENT OF TRANSPORTATION

### Federal Aviation Administration

#### 14 CFR Part 71

RIN 2120-AA66

**[Docket No. FAA 2003-14368; Airspace Docket No. ASD 02-ASW-4]**

#### Revision of Jet Routes; Baton Rouge, LA

**AGENCY:** Federal Aviation Administration (FAA), DOT.

**ACTION:** Final rule.

**SUMMARY:** This action revises segments of Jet Route 2 (J-2), J-138, and J-590 by realigning the routes to the north over the Baton Rouge, LA, Very High Frequency Omnidirectional Range/Tactical Air Navigation (VORTAC). The FAA is taking this action to enhance the management of the aircraft operations over the Baton Rouge, LA, area.

**EFFECTIVE DATE:** 0901 UTC, July 10, 2003.

**FOR FURTHER INFORMATION CONTACT:** Steve Rohring, Airspace and Rules Division, ATA-400, Office of Air Traffic Airspace Management, Federal Aviation Administration, 800 Independence Avenue, SW., Washington, DC 20591; telephone: (202) 267-8783.

#### SUPPLEMENTARY INFORMATION:

##### Background

On February 19, 2003, the FAA proposed to amend 14 CFR part 71 to revise J-2, J-138 and J-590 (68 FR 7949). The FAA is conducting a comprehensive revision of the Houston terminal airspace area. As part of this effort, the FAA is taking this action to realign certain segments of J-2, J-138, and J-590 over the new Baton Rouge, LA, VORTAC to promote the expeditious movement of aircraft through the Baton Rouge, LA, airspace area. Interested parties were invited to participate in this rulemaking proceeding by submitting written comments on this proposal to the FAA.

No comments were received in response to the proposal.

#### The Rule

This amendment to 14 CFR part 71 revises segments of J-2 and J-138 between the Lake Charles, LA, VORTAC and the Semmes, AL, VORTAC; and J-590 between the Lake Charles, LA, VORTAC and the Greene County, MS, VORTAC, by realigning the routes to the north over the Baton Rouge, LA, VORTAC. This action supports the planned revision of the Houston terminal airspace area.

The FAA has determined that this proposed regulation only involves an established body of technical regulations for which frequent and routine amendments are necessary to keep them operationally current. Therefore, this proposed regulation: (1) Is not a "significant regulatory action" under Executive Order 12866; (2) is not a "significant rule" under Department of Transportation (DOT) Regulatory Policies and Procedures (44 FR 11034, February 26, 1979); and (3) does not warrant preparation of a regulatory evaluation as the anticipated impact is so minimal. Since this is a routine matter that will only affect air traffic procedures and air navigation, it is certified that this rule, when promulgated, will not have a significant economic impact on a substantial number of small entities under the criteria of the Regulatory Flexibility Act.

Jet routes are published in paragraph 2004 of FAA Order 7400.9K dated August 30, 2002, and effective September 16, 2002, which is incorporated by reference in 14 CFR 71.1. The jet routes listed in this document will be published subsequently in the order.

#### List of Subjects in 14 CFR Part 71

Airspace, Incorporation by reference, Navigation (air).

#### Adoption of the Amendment

In consideration of the foregoing, the Federal Aviation Administration amends 14 CFR part 71 as follows:

#### **PART 71—DESIGNATION OF CLASS A, CLASS B, CLASS C, CLASS D, AND CLASS E, AIRSPACE AREAS; AIRWAYS; ROUTES; AND REPORTING POINTS**

■ 1. The authority citation for part 71 continues to read as follows:

**Authority:** 49 U.S.C. 106(g), 40103, 40113, 40120; E.O. 10854, 24 FR 9565, 3 CFR, 1959-1963 Comp., p. 389.

#### **§ 71.1 [Amended]**

■ 2. The incorporation by reference in 14 CFR 71.1 of FAA Order 7400.9K, Airspace Designations and Reporting Points, dated August 30, 2002, and effective September 16, 2002, is amended as follows:

#### **Paragraph 2004—Jet Routes**

\* \* \* \* \*

#### **J-2 [Revised]**

From Mission Bay, CA, via Imperial, CA; Bard, AZ; INT of the Bard 089° and Gila Bend, AZ, 261° radials; Gila Bend; Cochise, AZ; El Paso, TX; Fort Stockton, TX; Junction, TX; San Antonio, TX; Humble, TX; Lake Charles, LA; Baton Rouge, LA; Semmes, AL; Crestview, FL; INT of the Crestview 091° and the Seminole, FL, 290° radials; Seminole to Taylor, FL.

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#### **J-138 [Revised]**

From Fort Stockton, TX, via Center Point, TX; San Antonio, TX; Hobby, TX; Lake Charles, LA; Baton Rouge, LA; to Semmes, AL.

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#### **J-590 [Revised]**

From Lake Charles, LA, via Baton Rouge, LA; Greene County, MS; to Montgomery, AL.

\* \* \* \* \*

Issued in Washington, DC, on May 2, 2003.

**Reginald C. Matthews,**

*Manager, Airspace and Rules Division.*

[FR Doc. 03-11637 Filed 5-8-03; 8:45 am]

BILLING CODE 4910-13-P

## DEPARTMENT OF TRANSPORTATION

### Office of the Secretary

#### 14 CFR Part 382

**[Docket No. OST-2003-15072]**

#### **Guidance Concerning Service Animals in Air Transportation**

**AGENCY:** Department of Transportation, Office of the Secretary.

**ACTION:** Notice of policy guidance concerning service animals in air transportation.

**SUMMARY:** This notice publishes a revision to the Department of Transportation's Guidance Concerning Service Animals in Air Transportation, originally published in the **Federal Register** on November 1, 1996. It is the result of the Department's review of a September 19, 2002, submission of suggested improvements to the existing

guidance from representatives of the disability community and the airline industry.

**ADDRESSES:** This guidance document is available on the Department's Web site at <http://airconsumer.ost.dot.gov/> and future updates or revisions will be posted there. Questions regarding this notice may be addressed to the Office of Aviation Enforcement and Proceedings, C-70, 400 7th Street, SW., Washington, DC 20590.

**FOR FURTHER INFORMATION CONTACT:**

Damon P. Whitehead, Office of the General Counsel, Office of Aviation Enforcement and Proceedings, 400 Seventh Street, SW., Washington, DC 20590; (202) 366-1743; fax: (202) 366-7152; E-mail: [damon.whitehead@ost.dot.gov](mailto:damon.whitehead@ost.dot.gov).

**Policy Guidance Concerning Service Animals in Air Transportation**

In 1990, the U.S. Department of Transportation (DOT) promulgated the official regulations implementing the Air Carrier Access Act (ACAA). Those rules are entitled *Nondiscrimination on the Basis of Disability in Air Travel* (14 CFR part 382). Since then the number of people with disabilities traveling by air has grown steadily. This growth has increased the demand for air transportation accessible to all people with disabilities and the importance of understanding DOT's regulations and how to apply them. This document expands on an earlier DOT guidance document published in 1996<sup>1</sup>, which was based on an earlier Americans with Disabilities Act (ADA) service animal guide issued by the Department of Justice (DOJ) in July 1996. The purpose of this document is to aid airline employees and people with disabilities in understanding and applying the ACAA and the provisions of Part 382 with respect to service animals in determining:

- (1) Whether an animal is a service animal and its user a qualified individual with a disability;
- (2) How to accommodate a qualified person with a disability with a service animal in the aircraft cabin; and
- (3) When a service animal legally can be refused carriage in the cabin.

**Background**

The 1996 DOT guidance document defines a service animal as "any guide dog, signal dog, or other animal individually trained to provide assistance to an individual with a disability. If the animal meets this definition, it is considered a service animal regardless of whether it has been licensed or certified by a state or local government." This document refines DOT's previous definition of service animal<sup>2</sup> by making it clear that animals that assist persons with disabilities by providing emotional support qualify as service animals

and ensuring that, in situations concerning emotional support animals, the authority of airline personnel to require documentation of the individual's disability and the medical necessity of the passenger traveling with the animal is understood.

Today, both the general public and people with disabilities use many different terms to identify animals that can meet the legal definition of "service animal." These range from umbrella terms such as "assistance animal" to specific labels such as "hearing," "signal," "seizure alert," "psychiatric service," "emotional support" animal, etc. that describe how the animal assists a person with a disability.

When Part 382 was promulgated, most service animals were guide or hearing dogs. Since then, a wider variety of animals (e.g., cats, monkeys, etc.) have been individually trained to assist people with disabilities. Service animals also perform a much wider variety of functions than ever before (e.g., alerting a person with epilepsy of imminent seizure onset, pulling a wheelchair, assisting persons with mobility impairments with balance). These developments can make it difficult for airline employees to distinguish service animals from pets, especially when a passenger does not appear to be disabled, or the animal has no obvious indicators that it is a service animal. Passengers may claim that their animals are service animals at times to get around airline policies that restrict the carriage of pets. Clear guidelines are needed to assist airline personnel and people with disabilities in knowing what to expect and what to do when these assessments are made.

Since airlines also are obliged to provide all accommodations in accordance with FAA safety regulations (see section 382.3(d)), educated consumers help assure that airlines provide accommodations consistent with the carriers' safety duties and responsibilities. Educated consumers also assist the airline in providing them the services they want, including accommodations, as quickly and efficiently as possible.

**General Requirements of Part 382**

In a nutshell, the main requirements of Part 382 regarding service animals are:

- Carriers shall permit dogs and other service animals used by persons with disabilities to accompany the persons on a flight. See section 382.55(a)(1-2).
  - Carriers shall accept as evidence that an animal is a service animal identifiers such as identification cards, other written documentation, presence of harnesses, tags or the credible verbal assurances of a qualified individual with a disability using the animal.
  - Carriers shall permit a service animal to accompany a qualified individual with a disability in any seat in which the person sits, unless the animal obstructs an aisle or other area that must remain unobstructed in order to facilitate an emergency evacuation or to comply with FAA regulations.
    - If a service animal cannot be accommodated at the seat location of the qualified individual with a disability whom the animal is accompanying, the carrier shall offer the passenger the opportunity to move with the animal to a seat location in the same

class of service, if present on the aircraft, where the animal can be accommodated, as an alternative to requiring that the animal travel in the cargo hold (see section 382.37(c)).

- Carriers shall not impose charges for providing facilities, equipment, or services that are required by this part to be provided to qualified individuals with a disability (see section 382.57).

**Two Steps for Airline Personnel**

To determine whether an animal is a service animal and should be allowed to accompany its user in the cabin, airline personnel should:

1. Establish whether the animal is a pet or a service animal, and whether the passenger is a qualified individual with a disability; and then
2. Determine if the service animal presents either
  - a "direct threat to the health or safety of others," or
  - a significant threat of disruption to the airline service in the cabin (i.e. a "fundamental alteration" to passenger service). See 382.7(c).

*Service Animals*

How Do I Know It's a Service Animal and Not a Pet?

Remember: In most situations *the key is TRAINING*. Generally, a service animal is individually trained to perform functions to assist the passenger who is a qualified individual with a disability. In a few extremely limited situations, an animal such as a seizure alert animal may be capable of performing functions to assist a qualified person with a disability without individualized training. Also, an animal used for emotional support need not have specific training for that function. Similar to an animal that has been individually trained, the definition of a service animal includes: An animal that has been shown to have the innate ability to assist a person with a disability; or an emotional support animal.

These five steps can help one determine whether an animal is a service animal or a pet:

1. *Obtain credible verbal assurances:* Ask the passenger: "Is this your pet?" If the passenger responds that the animal is a service animal and not a pet, but uncertainty remains about the animal, appropriate follow-up questions would include:
  - "What tasks or functions does your animal perform for you?" or
  - "What has it been trained to do for you?"
  - "Would you describe how the animal performs this task (or function) for you?"
    - As noted earlier, functions include, but are not limited to:
      - A. Helping blind or visually impaired people to safely negotiate their surroundings;
      - B. Alerting deaf and hard-of-hearing persons to sounds;
      - C. Helping people with mobility impairments to open and close doors, retrieve objects, transfer from one seat to another, maintain balance; or
      - D. Alert or respond to a disability-related need or emergency (e.g., seizure, extreme social anxiety or panic attack).

<sup>1</sup> 61 FR 56409, 56420 (Nov. 1, 1996).

<sup>2</sup> See Glossary for definition of this and other terms.

• Note that to be a service animal that can properly travel in the cabin, the animal need not necessarily perform a function for the passenger during the flight. For example, some dogs are trained to help pull a passenger's wheelchair or carry items that the passenger cannot readily carry while using his or her wheelchair. It would not be appropriate to deny transportation in the cabin to such a dog.

• If a passenger cannot provide credible assurances that an animal has been individually trained or is able to perform some task or function to assist the passenger with his or her disability, the animal might not be a service animal. In this case, the airline personnel may require documentation (see Documentation below).

• There may be cases in which a passenger with a disability has personally trained an animal to perform a specific function (e.g., seizure alert). Such an animal may not have been trained through a formal training program (e.g., a "school" for service animals). If the passenger can provide a reasonable explanation of how the animal was trained or how it performs the function for which it is being used, this can constitute a "credible verbal assurance" that the animal has been trained to perform a function for the passenger.

2. *Look for physical indicators on the animal:* Some service animals wear harnesses, vests, capes or backpacks. Markings on these items or on the animal's tags may identify it as a service animal. It should be noted, however, that the absence of such equipment does not necessarily mean the animal is not a service animal.

3. *Request documentation for service animals other than emotional support animals:* The law allows airline personnel to ask for documentation as a means of verifying that the animal is a service animal, but DOT urges carriers not to require documentation as a condition for permitting an individual to travel with his or her service animal in the cabin unless a passenger's verbal assurance is not credible. In that case, the airline may require documentation as a condition for allowing the animal to travel in the cabin. The purpose of documentation is to substantiate the passenger's disability-related need for the animal's accompaniment, which the airline may require as a condition to permit the animal to travel in the cabin. Examples of documentation include a letter from a licensed professional treating the passenger's condition (e.g., physician, mental health professional, vocational case manager, etc.).

4. *Require documentation for emotional support animals:* With respect to an animal used for emotional support (which need not have specific training for that function), airline personnel may require current documentation (i.e., not more than one year old) on letterhead from a mental health professional stating (1) that the passenger has a mental health-related disability; (2) that having the animal accompany the passenger is necessary to the passenger's mental health or treatment or to assist the passenger (with his or her disability); and (3) that the individual providing the assessment of the passenger is a licensed mental health

professional and the passenger is under his or her professional care. Airline personnel may require this documentation as a condition of permitting the animal to accompany the passenger in the cabin. The purpose of this provision is to prevent abuse by passengers that do not have a medical need for an emotional support animal and to ensure that passengers who have a legitimate need for emotional support animals are permitted to travel with their service animals on the aircraft. Airlines are not permitted to require the documentation to specify the type of mental health disability, e.g., panic attacks.

5. *Observe behavior of animals:* Service animals are trained to behave properly in public settings. For example, a properly trained guide dog will remain at its owner's feet. It does not run freely around an aircraft or an airport gate area, bark or growl repeatedly at other persons on the aircraft, bite or jump on people, or urinate or defecate in the cabin or gate area. An animal that engages in such disruptive behavior shows that it has not been successfully trained to function as a service animal in public settings. Therefore, airlines are not required to treat it as a service animal, even if the animal performs an assistive function for a passenger with a disability or is necessary for a passenger's emotional well-being.

What About Service Animals in Training?

Part 382 requires airlines to allow service animals to accompany their handlers<sup>3</sup> in the cabin of the aircraft, but airlines are not required otherwise to carry animals of any kind either in the cabin or in the cargo hold. Airlines are free to adopt any policy they choose regarding the carriage of pets and other animals provided that they comply with other applicable requirements (e.g., the Animal Welfare Act). Although "service animals in training" are not pets, the ACAA does not include them, because "in training" status indicates that they do not yet meet the legal definition of service animal. However, like pet policies, airline policies regarding service animals in training vary. Some airlines permit qualified trainers to bring service animals in training aboard an aircraft for training purposes. Trainers of service animals should consult with airlines, and become familiar with their policies.

What About a Service Animal That Is Not Accompanying a Qualified Individual With a Disability?

When a service animal is not accompanying a passenger with a disability, the airline's general policies on the carriage of animals usually apply. Airline personnel should know their company's policies on pets, service animals in training, and the carriage of animals generally. Individuals planning to travel with a service animal other than their own should inquire about the applicable policies in advance.

<sup>3</sup> Service animal users typically refer to the person who accompanies the animal as the "handler."

#### *Qualified Individuals With Disabilities<sup>4</sup>*

How Do I Know if a Passenger Is a Qualified Individual With a Disability Who Is Entitled To Bring a Service Animal in the Cabin of the Aircraft if the Disability Is Not Readily Apparent?

• Ask the passenger about his or her disability as it relates to the need for a service animal. Once the passenger identifies the animal as a service animal, you may ask, "How does your animal assist you with your disability?" Avoid the question "What is your disability?" as this implies you are asking for a medical label or the cause of the disability, which is intrusive and inconsistent with the intent of the ACAA. Remember, Part 382 is intended to facilitate travel by people with disabilities by requiring airlines to accommodate them on an individual basis.

• Ask the passenger whether he or she has documentation as a means of verifying the medical necessity of the passenger traveling with the animal. Keep in mind that you can ask but cannot require documentation as proof of service animal status UNLESS (1) a passenger's verbal assurance is not credible and the airline personnel cannot in good faith determine whether the animal is a service animal without documentation, or (2) a passenger indicates that the animal is to be used as an emotional support animal.

• Using the questions and other factors above, you must decide whether it is reasonable to believe that the passenger is a qualified individual with a disability, and the animal is a service animal.

#### *Denying a Service Animal Carriage in the Cabin*

What Do I Do if I Believe That Carriage of the Animal in the Cabin of the Aircraft Would Inconvenience Non-Disabled Passengers?

Part 382 requires airlines to permit qualified individuals with a disability to be accompanied by their service animals in the cabin, as long as the animals do not (1) pose a direct threat to the health or safety of others (e.g., animal displays threatening behaviors by growling, snarling, lunging at, or attempting to bite other persons on the aircraft) or (2) cause a significant disruption in cabin service (i.e., a "fundamental alteration" to passenger service). Inconvenience of other passengers is not sufficient grounds to deny a service animal carriage in the cabin; as indicated later in this document, however, airlines are not required to ask other passengers to relinquish space that they would normally use in order to accommodate a service animal (e.g., space under the seat in front of the non-disabled passenger).

What Do I Do if I Believe That a Passenger's Assertions About Having a Disability or a Service Animal Are Not Credible?

• Ask if the passenger has documentation that satisfies the requirements for determining that the animal is a service animal (see discussion of "Documentation" above).

• If the passenger has no documents, then explain to the passenger that the animal

<sup>4</sup> See Glossary.

cannot be carried in the cabin, because it does not meet the criteria for service animals. Explain your airline's policy on pets (*i.e.*, will or will not accept for carriage in the cabin or cargo hold), and what procedures to follow.

- If the passenger does not accept your explanation, avoid getting into an argument. Ask the passenger to wait while you contact your airline's *complaint resolution official (CRO)*. Part 382 requires all airlines to have a CRO available at each airport they serve during all hours of operation. The CRO may be made available by telephone. The CRO is a resource for resolving difficulties related to disability accommodation.

- Consult with the CRO immediately, if possible. The CRO normally has the authority to make the final decision regarding carriage of service animals. In the rare instance that a service animal would raise a concern regarding flight safety, the CRO may consult with the pilot-in-command. If the pilot-in-command makes a decision to restrict the animal from the cabin or the flight for safety reasons, the CRO cannot countermand the pilot's decision. This does not preclude the Department from taking subsequent enforcement action, however, if it is determined that the pilot's decision was inconsistent with part 382.

- If a passenger makes a complaint to a CRO about a past decision not to accept an animal as a service animal, then the CRO must provide a written statement to the passenger within 10 days explaining the reason(s) for that determination. If carrier personnel other than the CRO make the final decision, a written explanation is not required; however, because denying carriage of a legitimate service animal is a potential civil rights violation, it is recommended that carrier personnel explain to the passenger the reason the animal will not be accepted as a service animal. A recommended practice may include sending passengers whose animals are not accepted as service animals a letter within ten business days explaining the basis for such a decision.

*In considering whether a service animal should be excluded from the cabin, keep these things in mind:*

- Certain unusual service animals pose unavoidable safety and/or public health concerns and airlines are not required to transport them. Snakes, other reptiles, ferrets, rodents, and spiders certainly fall within this category of animals.

- In all other circumstances, each situation must be considered individually. Do not make assumptions about how a particular unusual animal is likely to behave based on past experience with other animals. You may inquire, however, about whether a particular animal has been trained to behave properly in a public setting.

- Before deciding to exclude the animal, you should consider and try available means of mitigating the problem (*e.g.*, muzzling a dog that barks frequently, allowing the passenger a reasonable amount of time under the circumstances to correct the disruptive behavior, offering the passenger a different seat where the animal won't block the aisle.)

If it is determined that the animal should not accompany the disabled passenger in the

cabin at this time, offer the passenger alternative accommodations in accordance with part 382 and company policy (*e.g.*, accept the animal for carriage in the cargo hold).

**What About Unusual Service Animals?**

- As indicated above, certain unusual service animals, pose unavoidable safety and/or public health concerns and airlines are not required to transport them. Snakes, other reptiles, ferrets, rodents, and spiders certainly fall within this category of animals. The release of such an animal in the aircraft cabin could result in a direct threat to the health or safety of passengers and crewmembers. For these reasons, airlines are not required to transport these types of service animals in the cabin, and carriage in the cargo hold will be in accordance with company policies on the carriage of animals generally.

- Other unusual animals such as miniature horses, pigs and monkeys should be evaluated on a case-by-case basis. Factors to consider are the animal's size, weight, state and foreign country restrictions, and whether or not the animal would pose a direct threat to the health or safety of others, or cause a fundamental alteration (significant disruption) in the cabin service. If none of these factors apply, the animal may accompany the passenger in the cabin. In most other situations, the animal should be carried in the cargo hold in accordance with company policy.

*Miscellaneous Questions*

**What About the Passenger Who Has Two or More Service Animals?**

- A single passenger legitimately may have two or more service animals. In these circumstances, you should make every reasonable effort to accommodate them in the cabin in accordance with part 382 and company policies on seating. This might include permitting the passenger to purchase a second seat so that the animals can be accommodated in accordance with FAA safety regulations. You may offer the passenger a seat on a later flight if the passenger and animals cannot be accommodated together at a single passenger seat. Airlines may not charge passengers for accommodations that are required by part 382, including transporting service animals in the cargo compartment. If carriage in the cargo compartment is unavoidable, notify the destination station to return the service animal(s) to the passenger at the gate as soon as possible, or to assist the passenger as necessary to retrieve them in the appropriate location.

**What if the Service Animal Is Too Large to Fit Under the Seat in Front of the Customer?**

- If the service animal does not fit in the assigned location, you should relocate the passenger and the service animal to some other place in the cabin in the same class of service where the animal will fit under the seat in front of the passenger and not create an obstruction, such as the bulkhead. If no single seat in the cabin will accommodate the animal and passenger without causing an obstruction, you may offer the option of purchasing a second seat, traveling on a later

flight or having the service animal travel in the cargo hold. As indicated above, airlines may not charge passengers with disabilities for services required by part 382, including transporting their oversized service animals in the cargo compartment.

**Should Passengers Provide Advance Notice to the Airline Concerning Multiple or Large Service Animals?**

In most cases, airlines may not insist on advance notice or health certificates for service animals under the ACAA regulations. However, it is very useful for passengers to contact the airline well in advance if one or more of their service animals may need to be transported in the cargo compartment. The passenger will need to understand airline policies and should find out what type of documents the carrier would need to ensure the safe passage of the service animal in the cargo compartment and any restrictions for cargo travel that might apply (*e.g.*, temperature conditions that limit live animal transport).

**What if an Airline Employee or Another Passenger on Board Is Allergic or Has an Adverse Reaction to a Passenger's Service Animal?**

Passengers who state they have allergies or other animal aversions should be located as far away from the service animal as practicable. Whether or not an individual's allergies or animal aversions are disabilities (an issue this Guidance does not address), each individual's needs should be addressed to the fullest extent possible under the circumstances and in accordance with the requirements of part 382 and company policy.

*Accommodating Passengers With Service Animals in the Cabin*

**How Can Airline Personnel Help Ensure That Passengers With Service Animals Are Assigned and Obtain Appropriate Seats on the Aircraft?**

- Let passengers know the airline's policy about seat assignments for people with disabilities. For instance: (1) Should the passenger request pre-boarding at the gate? or (2) should the passenger request an advance seat assignment (a priority seat such as a bulkhead seat or aisle seat) up to 24 hours before departure? or (3) should the passenger request an advance seat assignment at the gate on the day of departure? When assigning priority seats, ask the passenger what location best fits his/her needs.

- Passengers generally know what kinds of seats best suit their service animals. In certain circumstances, passengers with service animals must either be provided their pre-requested priority seats, or if their requested seat location cannot be made available, they must be assigned to other available priority seats of their choice in the same cabin class. Part 382.38 requires airlines to provide a bulkhead seat or a seat other than a bulkhead seat at the request of an individual traveling with a service animal.

- Passengers should comply with airline recommendations or requirements regarding when they should arrive at the gate before a flight. This may vary from airport to airport and airline to airline. Not all airlines

announce pre-boarding for passengers with special needs, although it may be available. If you wish to request pre-boarding, tell the agent at the gate.

- Unless pre-boarding is not part of your carrier's business operation, a timely request for pre-boarding by a passenger with a disability should be honored (382.38 (d)).

- Part 382 does not require carriers to make modifications that would constitute an undue burden or would fundamentally alter their programs (382.7 (c)). Therefore, the following are *not* required in providing accommodations for users of service animals and are examples of what might realistically be viewed as creating an undue burden:

- Asking another passenger to give up the space in front of his or her seat to accommodate a service animal;
- Denying transportation to any individual on a flight in order to provide an accommodation to a passenger with a service animal;
- Furnishing more than one seat per ticket; and
- Providing a seat in a class of service other than the one the passenger has purchased.

#### Are Airline Personnel Responsible for the Care and Feeding of Service Animals?

Airline personnel are not required to provide care, food, or special facilities for service animals. The care and supervision of a service animal is solely the responsibility of the passenger with a disability whom the animal is accompanying.

#### May an Air Carrier Charge a Maintenance or Cleaning Fee to Passengers Who Travel With Service Animals?

Part 382 prohibits air carriers from imposing special charges for accommodations required by the regulation, such as carriage of a service animal. However, an air carrier may charge passengers with a disability if a service animal causes damage, as long as it is its regular practice to charge non-disabled passengers for similar kinds of damage. For example, it could charge a passenger with a disability for the cost of repairing or cleaning a seat damaged by a service animal, assuming that it is its policy to charge when a non-disabled passenger or his or her pet causes similar damage.

#### Advice for Passengers With Service Animals

- Ask about the airline's policy on advance seat assignments for people with disabilities. For instance: (1) Should a passenger request pre-boarding at the gate? or (2) should a passenger request an advance seat assignment (a priority seat such as a bulkhead seat or aisle seat) up to 24 hours before departure? or (3) should a passenger request an advance seat assignment at the gate on the day of departure?

- Although airlines are not permitted to automatically require documentation for service animals other than emotional support animals, if you think it would help you explain the need for a service animal, you may want to carry documentation from your physician or other licensed professional confirming your need for the service animal. Passengers with unusual service animals also may want to carry documentation confirming

that their animal has been trained to perform a function or task for them.

- If you need a specific seat assignment for yourself and your service animal, make your reservation as far in advance as you can, and identify your need at that time.

- You may have to be flexible if your assigned seat unexpectedly turns out to be in an emergency exit row. When an aircraft is changed at the last minute, seating may be reassigned automatically. Automatic systems generally do not recognize special needs, and may make inappropriate seat assignments. In that case, you may be required by FAA regulations to move to another seat.

- Arrive at the gate when instructed by the airline, typically at least one hour before departure, and ask the gate agent for pre-boarding—if that is your desire.

- Remember that your assigned seat may be reassigned if you fail to check in on time; airlines typically release seat assignments not claimed 30 minutes before scheduled departure. In addition, if you fail to check in on time you may not be able to take advantage of the airline's pre-board offer.

- If you have a very large service animal or multiple animals that might need to be transported in the cargo compartment, contact the airline well in advance of your travel date. In most cases, airlines cannot insist on advance notice or health certificates for service animals under the ACAA regulations. However, it is very useful for passengers to contact the airline well in advance if one or more of their service animals may need to be transported in the cargo compartment. The passenger will need to understand airline policies and should find out what type of documents the carrier would need to ensure the safe passage of the service animal in the cargo compartment and any restrictions for cargo travel that might apply (e.g., temperature conditions that limit live animal transport).

- If you are having difficulty receiving an appropriate accommodation, ask the airline employee to contact the airline's *complaint resolution official (CRO)*. Part 382 requires all airlines to have a CRO available during all hours of operation. The CRO is a resource for resolving difficulties related to disability accommodations.

- Another resource for resolving issues related to disability accommodations is the U.S. Department of Transportation's aviation consumer disability hotline. The toll-free number is 1-800-778-4838 (voice) and 1-800-455-9880 (TTY).

#### Glossary

##### *Direct Threat to the Health or Safety of Others*

A significant risk to the health or safety of others that cannot be eliminated by a modification of policies, practices, or procedures, or by the provision of auxiliary aids or services.

##### *Fundamental Alteration*

A modification that substantially alters the basic nature or purpose of a program, service, product or activity.

##### *Individual With a Disability*

"Any individual who has a physical or mental impairment that, on a permanent or

temporary basis, substantially limits one or more major life activities, has a record of such an impairment, or is regarded as having such an impairment." (Section 382.5).

#### *Qualified Individual With a Disability*

Any individual with a disability who:

(1) "Takes those actions necessary to avail himself or herself of facilities or services offered by an air carrier to the general public with respect to accompanying or meeting a traveler, use of ground transportation, using terminal facilities, or obtaining information about schedules, fares or policies";

(2) "Offers, or makes a good faith attempt to offer, to purchase or otherwise validly to obtain \* \* \* a ticket" "for air transportation on an air carrier"; or

(3) "Purchases or possesses a valid ticket for air transportation on an air carrier and presents himself or herself at the airport for the purpose of traveling on the flight for which the ticket has been purchased or obtained; and meets reasonable, nondiscriminatory contract of carriage requirements applicable to all passengers." (Section 382.5).

#### *Service Animal*

Any animal that is individually trained or able to provide assistance to a qualified person with a disability; or any animal shown by documentation to be necessary for the emotional well being of a passenger.

#### Sources

See: 14 CFR 382.5, 14 CFR 382.37(a) and (c), 14 CFR 382.38 (a)(3), (b), (d) & (h)-(j), 14 CFR 382.55(a)(1)-(3), 14 CFR 382.57, "Guidance Concerning Service Animals in Air Transportation," (61 FR 56420-56422, (November 1, 1996)), "Commonly Asked Questions About Service Animals in Places of Business" (Department of Justice, July 1996), and "ADA Business Brief: Service Animals" (Department of Justice, April 2002).

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## DEPARTMENT OF COMMERCE

### Office of the Secretary

#### 15 CFR Part 0

[Docket No.: 010926237-3101-02]

RIN 0690-AA32

### Employee Responsibilities and Conduct; Removal of Obsolete Regulations

**AGENCY:** Office of the General Counsel, Department of Commerce.

**ACTION:** Final rule.