

Kulik Lake Airport and represents the FAA's continuing effort to safely and efficiently use the navigable airspace.

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; AIR TRAFFIC SERVICE ROUTES; AND REPORTING POINTS

■ 1. The authority citation for 14 CFR 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 Federal Aviation Administration Order 7400.9T, *Airspace Designations and Reporting Points*, signed August 27, 2009, and effective September 15, 2009, is amended as follows:

Paragraph 6005 Class E Airspace Extending Upward From 700 Feet or More Above the Surface of the Earth

* * * * *

AAL AK E5 Kulik Lake, AK [Revised]

Kulik Lake Airport, AK
(Lat. 58°58'55" N., long. 155°07'17" W)

That airspace extending upward from 700 feet above the surface within a 4.3-mile radius of the Kulik Lake Airport, AK, and within 4 miles either side of the 278 bearing from the Kulik Lake Airport, extending from the 4.3-mile radius to 7.5 miles west of the Kulik Lake Airport, AK.

Issued in Anchorage, AK, on July 20, 2010.

Anthony M. Wylie,

Manager, Alaska Flight Services Information Area Group.

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DEPARTMENT OF TRANSPORTATION

14 CFR Part 382

[Docket No. DOT–OST–2004–19482; DOT–OST–2005–22298; DOT–OST–2006–23999]

RIN No. 2105–AC97; 2105–AC29; 2105–AD41

Nondiscrimination on the Basis of Disability in Air Travel; Corrections

AGENCY: Office of the Secretary, Department of Transportation.

ACTION: Correcting amendments.

SUMMARY: The Department of Transportation published its amended Air Carrier Access Act (ACAA) rule in the **Federal Register** on Tuesday, May 13, 2008 (73 FR 27614). That rule amended the ACAA rules to apply to foreign air carriers and added new provisions concerning passengers who use medical oxygen and passengers who are deaf or hard-of-hearing. A corrections notice was published on March 18, 2009. This document further corrects editorial errors or omissions and provides clarifications regarding the preamble and regulatory text of the final rule.

DATES: *Effective Date:* These amendments and corrections are effective July 30, 2010.

FOR FURTHER INFORMATION CONTACT:

Clereece Y. Kroha, Trial Attorney, Office of the Assistant General Counsel for Aviation Enforcement and Proceedings, Department of Transportation, 1200 New Jersey Ave., SE., Washington, DC 20590, 202–366–9342 (voice), 202–366–7152 (fax), clereece.kroha@dot.gov (e-mail). TTY users may reach the individual via the Federal Relay Service toll-free at 800–877–8339. Arrangements to receive this notice in an alternative format may also be made by contacting the above named individual.

SUPPLEMENTARY INFORMATION:

I. Background

The Department of Transportation published its amended Air Carrier Access Act rule, Nondiscrimination on the Basis of Disability in Air Travel, 14 CFR Part 382 (Part 382), in the **Federal Register** on May 13, 2008, (73 FR 27614), applying Part 382 to foreign carriers, adding new provisions concerning accommodations for passengers who use medical oxygen and who are deaf or hard-of-hearing, and reorganizing the entire rule. On March 18, 2009, the Department published a correction notice in the **Federal Register** (74 FR 11469), correcting several editorial errors, inconsistencies, and omissions that had been identified. Since the final rule became effective on May 13, 2009, we have identified several additional minor typographical and technical errors in the final rule text as well as the preamble, which this document corrects. We have set forth these corrections below. The corrections to the preamble can also be found on our Web site at <http://airconsumer.ost.dot.gov/>.

II. Summary of Errors to the Final ACAA Rule

A. Errors in the Preamble of the May 13, 2008, Final Rule (73 FR 27164)

On page 27619, in the third column, we intended to state that the carriers may choose to supplement the accessibility service provided by airports *themselves* or hire a contractor to do so. We erroneously used the word “itself” instead of “themselves.” This error is being corrected.

On page 27620, in the first column, we discuss the applicability of the Title II ADA rules to transportation services provided by public entities. A period omitted at the end of that sentence is being added.

On page 27651, in the first column, in the first paragraph, we state that the requirements for information and reservation services apply to foreign carriers only with respect to flights covered by § 382.5. The correct section reference should be § 382.7. A similar typographical error is also being corrected on page 27651, in the second column, in the second paragraph.

On page 27654, in the first column, where we discuss the issue of whether a carrier should allow a passenger with a disability to make brief stops to obtain food and a beverage when assisting in his/her transfer to the connecting gate, we are correcting two editorial errors by deleting the word “would” from one sentence and the word “should” from another sentence.

On page 27665, in the first column, we discuss the cost incurred by small foreign carriers related to obtaining boarding equipment. An incomplete sentence is being corrected. Thus, the language that appeared as “mall carrier use the same airport, however, a sharing arrangement may be more effective” will read: “For small carriers using the same airport, however, a sharing arrangement may be more effective.”

On the same page, following the paragraph discussed above, another typographical error is being corrected by deleting an unnecessary “a” from the next sentence.

B. Errors in the Regulatory Text of May 13, 2008, Final Rule

In § 382.7(f), we state that §§ 382.17 through 382.157 generally do not apply to an indirect carrier except insofar as § 382.11(b) applies to such a carrier. By doing so, we inadvertently omitted the first sentence in this subsection that would have explained that the general nondiscrimination provisions contained in §§ 382.1 through 382.15 do apply to indirect carriers. We are adding a sentence in § 382.7(f) to make this clear.

In addition, we are rephrasing the language in § 382.11(b) to clarify the circumstances where an indirect carrier must comply with §§ 382.17 through 382.157. That is that the indirect carrier must comply with these sections when it is providing facilities or services (such as checking in passengers and baggage, or providing boarding and deplaning assistance) that would have otherwise been provided by a direct carrier.

In § 382.23(d), we state the conditions under which a carrier may require a passenger with a medical certificate to undergo additional medical review by the carrier. Furthermore, we state that if the result of the review demonstrates that the passenger may not be able to complete the flight without extraordinary medical assistance or the passenger would impose a direct threat to the health or safety of other persons on the flight, the carrier “may take an action otherwise prohibited under § 382.23(a) of this part.” In this last sentence, we intended to state that the carrier may take an action otherwise prohibited under § 382.21(a). Therefore, this sentence is being corrected accordingly. In addition, we are capitalizing the first letter in the word “part” in the phrase “of this part” so that its form is consistent with the phrase as it is used elsewhere in the rule.

In § 382.27(a), we state that “except as provided in * * * and §§ 382.133(c)(3) and 382.133(d)(3), as a carrier you must not require a passenger with a disability to provide advance notice in order to obtain services or accommodations required by this Part.” We intended to provide that when a passenger with a disability plans to use a respiratory assistive device onboard, as detailed under § 382.133, the carrier is permitted to require that the passenger provide up to 48 hours’ advance notice. However, we inadvertently referenced the wrong subsections of § 382.133. Neither § 382.133(c)(3) nor § 382.133(d)(3) is relevant to the notice issue in question. Therefore, we are correcting § 382.27(a) to reference the appropriate provisions in § 382.133, which are §§ 382.133(c)(4) and (5) and 382.133(d)(5) and (6).

In § 382.51(b), we are capitalizing the first letter in the word “part” in the phrase “in this part” so that its form is consistent with the phrase as it is used elsewhere in the rule.

In § 382.111(e), we state that “[a]ssistance in stowing and retrieving carry-on items, including mobility aids and other assistive devices stowed in the cabin (see also § 382.91(c))” must be provided. Section 382.91(c) relates to the carriers’ responsibility to escort passengers with service animals to the service animal relief area and is not

relevant to the substance of § 382.111(e). This typographical error is being corrected by changing “382.91(c)” to “382.91(d)”.

In § 382.111(f), we state that a carrier must provide “[e]ffective communication with passengers who have vision impairments and/or who are deaf or hard-of-hearing, so that these passengers have timely access to information the carrier provides to other passengers * * *.” Two mistakes are being corrected by this amendment. First, the use of the term “and/or” in § 382.111(f) can be read to require a carrier to provide deaf-blind passengers onboard the aircraft prompt access to information on such things as weather, on-board services, flight delays and connecting gates at the next airport. Contrary to this construction, we state in the preamble of the rule, on page 27642, that because communications with deaf-blind passengers regarding constantly-changing information requires highly specialized training for the carrier staff, we have determined that it is inappropriate at this time to require carriers to provide all the information covered in § 382.119 to deaf-blind passengers, including flight delays, weather conditions at the flight’s destination, and boarding information, similar to the types of information referred to under § 382.111(f). This inconsistency was due to an editorial error which we are correcting by changing the term “and/or” in § 382.111(f) to “or”. Thus, § 382.111(f) applies only to passengers with a visual or a hearing disability, but not to deaf-blind passengers.

We also state in the preamble of the rule, on pages 27640–41, after reviewing all the comments regarding the use of the term “prompt” versus “timely” with respect to wheelchair service, we decided to retain the “prompt” standard as we believe “prompt” is a clearer description of the actual standard than “timely”. Throughout the relevant provisions in the text of the rule, “prompt” is used instead of “timely.” For instance, in § 382.53(a)(1), we require that a carrier must ensure that passengers with a disability who identify themselves as persons needing visual or hearing assistance have *prompt* access to the same information provided to other passengers at each gate. In § 382.119(a), we impose on carriers a similar standard for ensuring that passengers with those disabilities receive *prompt* access to the same information provided to other passengers onboard the aircraft. We inadvertently used the term “timely” in § 382.111(f), which renders the provision in this subsection inconsistent

with our stated intention and the other provisions in the rule. Therefore, the term “timely” in § 382.111(f) is being changed to “prompt.”

In the rule as published in the **Federal Register** on May 13, 2008, §§ 382.151, 382.153, and 382.155 refer to “a carrier providing scheduled service or a carrier providing nonscheduled service using aircraft with 19 or more passenger seats * * *.” The words “scheduled” and “nonscheduled” do not add to the meaning of these sentences as the phrase “using aircraft with 19 or more passenger seats” applies to both scheduled and nonscheduled services. Consequently, we are striking the distinction between scheduled and nonscheduled service so that these provisions simply refer to “* * * a carrier providing service using aircraft with 19 or more passenger seats * * *.”

In § 382.151(c)(1), we state that when a passenger raises a disability-related complaint or concern, the carrier personnel must “immediately inform the passenger of the right to contact a CRO and then contact a CRO on the passenger’s behalf or provide the passenger a means (e.g., a phone, a phone card plus the location and/or phone number of the CRO available at the airport).” In order to make the sentence complete, the phrase “to do so” is added after the phrase “provide the passenger a means.”

III. Rulemaking Procedures

Pursuant to section 553(b) of the Administrative Procedure Act (APA) (5 U.S.C. 553(b)), the Department can waive prior notice and opportunity for public comment on this action if it finds that notice and comment procedures are impracticable, unnecessary, or contrary to the public interest, and incorporates a statement of the finding and the reasons therefore in the notice. The revisions contained in this notice correct typographical and technical errors, omissions, and unclear language in the final rule. These corrections are necessary to ensure the clarity and accuracy of the final rule. Since all are minor and non-substantive, public comments on these revisions are unnecessary. Therefore, we find good cause to waive notice and comment procedures.

IV. Correction of Errors

In the preamble of the final rule published on Tuesday, May 13, 2008, 73 FR 27614, the following corrections are made:

A. Corrections to the Preamble

1. On page 27619, in the third column, in the 11th line, replace the

word “itself” with the word “themselves”.

2. On page 27620, in the first column, in the 42nd line, add a period followed by two spaces between “airport”) and “DOT’s”.

3. On page 27651, in the first column, in the 11th line, replace “382.5” with “382.7.”

4. On the same page, in the second column, in the 27th line, replace “382.5” with “382.7.”

5. On page 27654, in the first column, in the 29th and the 30th lines, delete the first word “would” from the phrase “if doing so would not result” so it reads “if doing so would result”.

6. On the same page in the same column, in the 34th line, delete the word “should” from the phrase “service would should allow” so it reads “service would allow”.

7. On page 27665, in the first column, in the 35th and the 36th lines, revise the phrase “mall carrier use the same airport” so it reads “Small carriers using the same airport. * * *”

8. On the same page, in the same column, in the 50th line, delete the word “a” that was between the words “the” and “present” so the phrase reads “the present value”.

B. Corrections to the Final Rule

List of Subjects in 14 CFR Part 382

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

■ Accordingly, 14 CFR Part 382 is corrected by making the following correcting amendments:

PART 382—NONDISCRIMINATION ON THE BASIS OF DISABILITY IN AIR TRAVEL; STOWAGE OF WHEELCHAIRS, OTHER MOBILITY AIDS, AND OTHER ASSISTIVE DEVICES

■ 1. The authority citation for Part 382 continues to read as follows:

Authority: 49 U.S.C. 41705.

■ 2. In § 382.7, revise paragraph (f) to read as the follows:

§ 382.7 To whom do the provisions of this Part apply?

* * * * *

(f) If you are an indirect carrier, §§ 382.1 through 382.15 of this Part apply to you. §§ 382.17 through 382.157 of this Part do not apply to you except insofar as provided by § 382.11(b).

* * * * *

■ 3. In § 382.11, revise paragraph (b) to read as the follows:

§ 382.11 What is the general nondiscrimination requirement of this Part?

* * * * *

(b) As an indirect carrier, you must comply with §§ 382.17 through 382.157 of this Part when providing facilities or services to passengers that would have otherwise been provided by a direct air carrier.

■ 4. In § 382.23, revise the last sentence of paragraph (d) to read as the follows:

§ 382.23 May carriers require a passenger with a disability to provide a medical certificate?

* * * * *

(d) * * * If the results of this medical review demonstrate that the passenger, notwithstanding the medical certificate, is likely to be unable to complete the flight without requiring extraordinary medical assistance (e.g., the passenger has apparent significant difficulty in breathing, appears to be in substantial pain, etc.) or would pose a direct threat to the health or safety of other persons on the flight, you may take an action otherwise prohibited under § 382.21(a) of this Part.

■ 5. In § 382.27, revise paragraph (a) to read as the follows:

§ 382.27 May a carrier require a passenger with a disability to provide advance notice in order to obtain certain specific services in connection with a flight?

(a) Except as provided in paragraph (b) of this section and §§ 382.133(c)(4) and (5) and 382.133 (d)(5) and (6), as a carrier you must not require a passenger with a disability to provide advance notice in order to obtain services or accommodations required by this Part.

* * * * *

§ 382.51 [Amended]

■ 6. In § 382.51, amend the last sentence of paragraph (b) by replacing the word “part” with “Part”.

■ 7. In § 382.111, revise the first sentence of paragraph (e) and revise paragraph (f) to read as the follows:

§ 382.111 What services must carriers provide to passengers with a disability on board the aircraft?

* * * * *

(e) Assistance in stowing and retrieving carry-on items, including mobility aids and other assistive devices stowed in the cabin (see also 382.91(d)).

(f) Effective communication with passengers who have vision impairments or who are deaf or hard-of-hearing, so that these passengers have prompt access to information the carrier provides to other passengers (e.g. weather, on-board services, flight

delays, connecting gates at the next airport).

■ 8. In § 382.151, revise paragraph (a) and amend paragraph (c)(1) by adding the phrase “to do so” after the phrase “provide the passenger a means” to read as follows:

§ 382.151 What are the requirements for providing Complaints Resolution Officials?

(a) As a carrier providing service using aircraft with 19 or more passenger seats, you must designate one or more CROs.

* * * * *

■ 9. In § 382.153, revise the introductory text to read as the follows:

§ 382.153 What actions do CROs take on complaints?

When a complaint is made directly to a CRO for a carrier providing service using aircraft with 19 or more passenger seats, the CRO must promptly take dispositive action as follows:

* * * * *

■ 10. In § 382.155, revise paragraph (a) by eliminating the reference to scheduled and nonscheduled services so the pertinent language reads as follows:

§ 382.155 How must carriers respond to written complaints?

(a) As a carrier providing service using aircraft with 19 or more passenger seats, you must respond to written complaints received by any means (e.g., letter, fax, e-mail, electronic instant message) concerning matters covered buy this Part.

* * * * *

Issued on July 21, 2010 at Washington, DC, under authority delegated in 49 CFR 1.57(j).

Robert S. Rivkin,

General Counsel.

[FR Doc. 2010-18531 Filed 7-29-10; 8:45 am]

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DEPARTMENT OF COMMERCE

Bureau of Industry and Security

15 CFR Parts 732, 736, 740, and 748

[Docket No. 080215200-91321-01]

RIN 0694-AE27

Foreign Direct Products of U.S. Technology

AGENCY: Bureau of Industry and Security, Commerce.

ACTION: Final rule.

SUMMARY: The Bureau of Industry and Security (BIS) clarifies the scope of the