101.95—Sunset provisions for licensees in the 18.30–19.30 GHz band.

101.97—Future licensing in the 18.30–19.30 GHz band.

Subpart C—Technical Standards

Brief Description: Subpart C sets forth technical standards for applications and licenses in the Fixed Microwave Services.

Need: The revised rules establish revised technical standards for the 24 GHz Service, Multiple Address Systems, and Operational Fixed Stations.

Legal Basis: 47 U.S.C. 154 and 303.

Section Number and Title:

101.101—Frequency availability.

101.103—Frequency coordination procedures.

101.105—Interference protection criteria.

101.109—Bandwidth.

101.111—Emission limitations.

101.113—Transmitter power limitations.

101.115—Directional antennas.

101.135—Shared use of radio stations and the offering of private carrier service.

101.139—Authorization of transmitters.

101.141—Microwave modulation.

101.143—Minimum path length requirements.

101.145—Interference to geostationary–satellites.

101.147—Frequency assignments.

Subpart E—Miscellaneous Common Carrier Provisions

Brief Description: Subpart E sets forth miscellaneous provisions applicable to Common Carrier microwave stations.

Need: The revised rules apply requirements relating to discontinuance of service and equal employment opportunities to common carrier operation in the 24 GHz service.

Legal Basis: 47 U.S.C. 154 and 303.

Section Number and Title:

101.305—Discontinuance, reduction or impairment of service.

101.311—Equal employment opportunities.

Subpart G—24 GHz Service and Digital Electronic Message Service

Brief Description: Subpart G sets forth rules for the 24 GHz Service and the Digital Electronic Message Service and provides the provisions implementing Section 309(j) of the Communications Act of 1934, as amended, authorizing the Commission to employ competitive bidding procedures to resolve mutually exclusive applications for initial licenses.

Need: The revised rules establish revised technical and service rules for the 24 GHz Service and implement the Commission's competitive bidding authority under 47 U.S.C. 309(j).

Legal Basis: 47 U.S.C. 151, 154(i), 154(j), 155, 157, 225, 303(r) and 309.

Section Number and Title:

101.501—Eligibility.

101.503—Digital Electronic Message Service Nodal Stations.

101.509—Interference protection criteria.

101.511—Permissible services.

101.521—Spectrum utilization.

101.523—Service areas.

101.525—24 GHz system operations.

101.526—License term.

101.527—Construction requirements for 24 GHz operations.

101.529—Renewal expectancy criteria for 24 GHz licenses.

101.531—[Reserved]

101.533—Regulatory status.

101.535—Geographic partitioning and spectrum aggregation/disaggregation.

101.537—24 GHz band subject to competitive bidding.

101.538—Designated entities.

Subpart J—Local Television Transmission Service

Brief Description: Subpart J sets forth rules for the Local Television Transmission Service.

Need: The revised rules revise the frequency assignments available for the Local Television Transmission Service and revise the requirements applicable to operation of such facilities at temporary fixed locations.

Legal Basis: 47 U.S.C. 154 and 303.

Section Number and Title:

101.803—Frequencies.

101.815—Stations at temporary fixed locations.

Subpart O—Multiple Address Systems

Brief Description: Subpart O sets forth the general provisions, system license requirements, and system requirements for Multiple Address Systems as well as the provisions implementing Section 309(j) of the Communications Act of 1934, as amended, authorizing the Commission to employ competitive bidding procedures to resolve mutually exclusive applications for certain initial licenses.

Need: The Subpart O rules establish service and technical rules applicable to Multiple Address Systems and implement the Commission's competitive bidding authority under 47 U.S.C. 309(j).

Legal Basis: 47 U.S.C. 154, 303 and 309.

Section Number and Title:

101.1301—Scope.

101.1303—Eligibility.

101.1305—Private internal service.

101.1307—Permissible communications.

101.1309—Regulatory status.

101.1311—Initial EA license authorization.

101.1313—License term.

101.1315—Service areas.

101.1317—Competitive bidding procedures for mutually exclusive MAS EA applications.

101.1319—Competitive bidding provisions.

101.1321—License transfers.

101.1323—Spectrum aggregation, disaggregation, and partitioning.

101.1325—Construction requirements.

101.1327—Renewal expectancy for EA licensees.

101.1329—EA Station license, location, modifications.

101.1331—Treatment of incumbents.

101.1333—Interference protection criteria.

[FR Doc. 2011–24973 Filed 9–28–11; 8:45 am]

BILLING CODE 6712–01–P

DEPARTMENT OF TRANSPORTATION

Office of the Secretary

49 CFR Part 27

RIN 2105–AD91

[Docket No. DOT–OST–2011–0182]

Nondiscrimination on the Basis of Disability in Programs or Activities Receiving Federal Financial Assistance (U.S. Airports)

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

ACTION: Notice of Proposed Rulemaking (NPRM).

SUMMARY: The Department is proposing to amend its rules implementing section 504 of the Rehabilitation Act of 1973, which requires accessibility in airport terminal facilities that receive Federal financial assistance. The proposed rule includes new provisions related to service animal relief areas and captioning of televisions and audio-visual displays that are similar to new requirements applicable to U.S. and foreign air carriers under the Department's Air Carrier Access (ACAA) regulations, 14 CFR part 382. The NPRM also proposes to reorganize the provision in 49 CFR 27.72 concerning mechanical lifts for enplaning and deplaning passengers with mobility impairments, and to amend this provision so airports are required to work not only with U.S. carriers but also foreign air carriers to

ensure lifts are available where level entry loading bridges are not available. This proposed rule would apply to airport facilities located in the U.S. with 10,000 or more annual enplanements and that receive Federal financial assistance.

DATES: Interested persons are invited to submit comments regarding this proposal. Comments must be received on or before November 28, 2011. Late-filed comments will be considered to the extent practicable.

ADDRESSES: You may file comments identified by docket number DOT–OST–2011–0182 by any of the following methods:

- *Federal eRulemaking Portal:* Go to *http://www.regulations.gov* and follow the online instructions for submitting comments.
- *Mail:* Docket Management Facility, U.S. Department of Transportation, 1200 New Jersey Avenue, SE., West Building Ground Floor, Room W12–140, Washington, DC 20590.
- *Hand Delivery or Courier:* West Building Ground Floor, Room W12–140, Washington, DC 20590, between 9 a.m. and 5 p.m. ET, Monday through Friday, except Federal holidays.
- *Fax:* (202) 493–2251.

Instructions: You must include the agency name and docket number DOT–OST–2011–0182 or the Regulatory Identification Number (RIN) for the rulemaking at the beginning of your comment. All comments received will be posted without change to *http://www.regulations.gov,* including any personal information provided.

Privacy Act: Anyone is able to search the electronic form of all comments received in any of our dockets by the name of the individual submitting the comment (or signing the comment, if submitted on behalf of an association, business, labor union, *etc.*). You may review DOT's complete Privacy Act statement in the **Federal Register** published on April 11, 2000 (65 FR 19477–78), or you may visit *http://DocketsInfo.dot.gov.*

Docket: For access to the docket to read background documents or comments received, go to *http://www.regulations.gov* or to the street address listed above. Follow the online instructions for accessing the docket.

FOR FURTHER INFORMATION CONTACT: Maegan L. Johnson, Trial Attorney, Office of the Assistant General Counsel for Aviation Enforcement and Proceedings, Department of Transportation, 1200 New Jersey Avenue, SE., Room W96–464, Washington, DC 20590, (202) 366–9342. You may also contact Blane A. Workie, Deputy Assistant General Counsel, Office of the Assistant General Counsel for Aviation Enforcement and Proceedings, Department of Transportation, 1200 New Jersey Avenue, SE., Room W96–464, Washington, DC 20590, (202) 366–9342. Arrangements to receive this notice in an alternative format may be made by contacting the above named individuals.

SUPPLEMENTARY INFORMATION:

Background

On November 1, 1996, the U.S. Department of Transportation amended its regulation implementing section 504 of the Rehabilitation Act of 1973 to create a new section 49 CFR 27.72, concerning regulatory requirements for U.S. airports to ensure the availability of lifts to provide level-entry boarding for passengers with disabilities flying on small commuter aircraft. *See* 61 FR 56409. This requirement paralleled the lift provisions applicable to U.S. carriers in the ACAA rule, 14 CFR part 382. On May 13, 2008, the Department of Transportation published a final rule that amended part 382 by making it applicable to foreign air carriers. *See* 73 FR 27614. In addition to making the rule applicable to foreign carriers, the amended part 382 includes provisions that require U.S. and foreign air carriers, in cooperation with airport operators, to provide animal relief areas for service animals that accompany passengers departing, connecting, or arriving at U.S. airports. *See* 14 CFR 382.51(a)(5). Part 382 also requires U.S. and foreign air carriers to enable captioning on all televisions and other audio-visual displays that are capable of displaying captioning and that are located in any portion of the airport terminal to which any passengers have access. *See* 14 CFR 382.51(a)(6). As a result of the 2008 amendment to part 382, the requirements in part 27 do not mirror the requirements applicable to airlines set forth in part 382. In order to harmonize part 27 with the amended part 382, the Department proposes to amend part 27 to add such parallel provisions.

The proposed rule would also update outdated terminology and references that currently exist in 49 CFR part 27. The proposed rule would change the word ''handicapped,'' and similar variations of that word that appear throughout part 27, to ''people first'' language (*e.g.,* ''individuals with disabilities'') consistent with practice under the Americans with Disabilities Act. Additionally, the proposed rule would delete the obsolete reference to the Uniform Federal Accessibility Standards in 49 CFR 27.3(b) and change the language ''appendix A to part 37 of this title'' to ''appendices B and D of 36 CFR part 1191, as modified by appendix A to part 37 of this title.''

Service Animal Relief Areas

The 2008 amendment to part 382 requires U.S. and foreign air carriers to work with airport operators to provide service animal relief areas at U.S. airports. Part 27 does not include a provision that mirrors this requirement. As such, the Department proposes to amend part 27 by inserting a provision that would require airport operators to work with carriers to establish relief areas for service animals that accompany passengers with disabilities departing, connecting, or arriving at U.S. airports.

Part 382 does not provide specific directives regarding the design, number, or location of service animal relief areas an airport should have; it simply requires carriers to provide service animal relief areas in cooperation with the airports and in consultation with service animal training organizations concerning the design of service animal relief areas. However, in a Frequently Asked Questions document issued by the Department's Aviation Enforcement Office on May 13, 2009, examples of factors airlines and airports should consider in designating and constructing areas for service animal relief at U.S. airports are provided.[1] Factors to consider in establishing relief areas include the size and surface material of the area, maintenance, and distance to relief area which could vary based on the size and configuration of the airport. The Department seeks comment about whether it should adopt requirements regarding the design of service animal relief areas and what, if any, provisions the rule should include concerning the dimensions, materials used, and maintenance for relief areas.

We are tentatively proposing a minimum of one service animal relief area for each terminal in an airport. The Department is aware that requiring only one service animal relief area for each terminal in an airport may result in individuals with disabilities missing flights when trying to reach service animal relief areas located outside the sterile area of an airport, especially in

[1] The Transportation Security Administration (TSA) worked with the Department to develop guidelines identifying key security concerns and concepts that should be factored into the planning and design of airport facilities, including service animal relief areas. *See* ''Recommended Security Guidelines for Airport Planning, Design and Construction,'' revised May 2011, available at *http://www.tsa.gov/assets/pdf/airport_security_design_guidelines.pdf.*

larger airports. For this reason, and despite our tentative recommendation of one relief area for each terminal in an airport, the Department seeks comment on what would be an appropriate number of service animal relief areas in an airport. In addition to seeking public comment on how many service animal relief areas should be required at an airport or a terminal, the Department would like to know how that number should be determined. For example, should the number be determined by the size or configuration of the airport (*e.g.,* the number, location and design of terminals and concourses) and/or the amount of time it would take for an individual with a disability to reach a service animal relief area from any gate within the airport? Or should DOT establish a performance requirement that a passenger arriving at any gate with his or her service animal be able to reach a relief area in 10, 20 or some other number of minutes?

The Department also seeks comment on the placement of service animal relief areas, particularly whether service animal relief areas should be located inside or outside the sterile [2] area of an airport. It could be important to have relief areas both inside and outside the sterile area of an airport to ensure that individuals with service animals have access to such areas when traveling. For example, an individual traveling with a service animal could arrive at Gate C3 and have an hour to make a connection to a flight at Gate G17. If the individual must leave the sterile area to find a service animal relief area, travel to and from that area, and then go back through security screening, the individual could have difficulty in making the connecting flight. At the same time, we understand that some airports have expressed security and logistical concerns about the placement of service animal relief areas inside the sterile area of an airport. The Department also recognizes that the Transportation Security Administration (TSA) in May 2011 revised its guidelines ''Recommended Security Guidelines for Airport Planning, Design and Construction,'' to make clear that airports may provide Service Animal Relief Areas in sterile areas of the airport, or may provide escorted access to non-designated outdoor areas for the purpose of service animal relief. The Department also recognizes that coordination with the TSA via each airport's site-specific Airport Security Program would need to occur if service animal relief areas are to be placed inside the sterile area. Consequently, the Department seeks comment on where airport service animal relief areas should be located to ensure that the time and distance to access the service animal relief areas do not create barriers for passengers with disabilities.

Finally, the Department has been made aware that some individuals with disabilities, especially, but not only, individuals who are blind or visually impaired, are experiencing difficulty in locating service animal relief areas at certain airports. Under part 382, passengers who request that a carrier provide them with assistance to an animal relief area should be advised by the carrier of the location of the animal relief area. Additionally, if requested, it would be the responsibility of the carrier to accompany a passenger traveling with a service animal to and from the animal relief area. Nevertheless, we seek comment on whether the rule should include a provision requiring airports to specify the location of service animal relief areas on airport Web sites, maps and/or diagrams of the airport, including whether the relief area is located inside or outside a sterile area. We also seek comment on whether airports should be required to provide signage to assist individuals with disabilities in locating service animal relief areas.

To the extent that the Department issues a final rule with requirements for airports to establish service animal relief areas that are more detailed than the requirements for U.S. and foreign airports that exist in part 382, the Department believes that it is beneficial to have the same requirements apply to U.S. and Foreign airlines. As such, we are soliciting comment on whether any requirement that applies to U.S. airports should also be applied to U.S. and foreign carriers. For example, if the Department creates a requirement that airports must establish service animal relief areas inside the sterile area of an airport, should such a requirement apply to U.S. and foreign air carriers in part 382?

We propose that any final rule that we adopt regarding establishing service animal relief areas take effect 120 days after its publication in the **Federal Register**. We believe this would allow sufficient time for airports to comply with this requirement, particularly since U.S. and foreign airlines are already working with airports to establish and maintain service animal relief areas. We invite comments on whether 120 days is the appropriate interval.

Information for Passengers

As a result of the 2008 amendment of part 382, U.S. and foreign air carriers are required to enable captioning [3] on televisions and other audio-visual displays under their control in terminals to which passengers have access. Currently part 27 does not have a corresponding requirement for U.S. airports. The Department proposes to amend part 27 by inserting a provision that would require airport operators at U.S. airports to enable high-contrast captioning on certain televisions and audio-visual displays in U.S. airports.

Most televisions currently in use at U.S. airports have captioning capabilities because all televisions with screens 13″ or larger in size, made or sold in the U.S. since July 1, 1993, are required by Federal law to have captioning capabilities. Because of this, DOT believes that requiring airports to enable the captioning feature should not be costly or otherwise onerous. We believe compliance with this section is a matter of providing the training necessary to turn on the captioning feature of a television or other audio-visual display. Such training does not appear to require a lengthy amount of time or in-depth instruction. Given the straightforward nature of the implementation involved, the Department believes that the proposed thirty-day implementation period is adequate. DOT seeks comment on any reasons that a longer time frame may be necessary.

Part 27 also does not contain a requirement for airports to provide the same information to deaf or hard of hearing individuals in airports that they provide to other members of the public. It is important that persons with a hearing loss or who are deaf do not miss important information available to others at an airport through the public address system. The Department seeks comment on whether it should require U.S. airports to display messages and pages broadcast over public address systems on video monitors. We also seek comment on whether we should amend 14 CFR part 382 to apply such a requirement to U.S. and foreign air carriers with respect to terminal facilities that a carrier owns, leases or controls. Is visual display of information announced over the public address

[2] The sterile area is the area between the TSA passenger screening checkpoint and the aircraft boarding gates. *See* 49 CFR 1540.5.

[3] High-contrast captioning is defined in 14 CFR 382.3 as ''captioning that is at least as easy to read as white letters on a consistent black background.'' As explained in the preamble to part 382, defining ''high-contrast captioning'' in such a way not only ensures that captioning will be effective but also allows carriers to use existing or future technologies to achieve captioning that are as effective as white on black or more so.

system the best means to disseminate airport-related announcements to passengers with hearing impairments? Should the Department establish a performance standard for providing information to individuals with hearing impairments rather than require airports to use a particular medium (*e.g.,* video monitors, wireless pagers, erasable boards)? Also, we ask interested persons to comment on whether the Department should simply require that airports provide the text of the announcements made over the public address system promptly or should instead require that there be simultaneous visual transmission of the information. We also seek comment on whether all announcements made through the public address system should be displayed in a manner that is accessible to deaf and hard-of-hearing travelers, or only those announcements that are essential, *e.g.,* that pertain to emergencies (fire, bomb threat *etc.*), flight information (gate assignments, delays or cancellations), or individuals being paged. Finally, the Department seeks comment on how much time airports would need to establish a system for displaying announcements and pages broadcast over public address system as well as the cost for establishing such a system.

Boarding Lifts for Aircraft

Approximately 10 years ago, 49 CFR 27.72 was amended to mirror a provision in part 382 that required U.S. air carriers to enter into agreements with airport operators to ensure that lifts are available for enplaning and deplaning passengers with disabilities. As noted above, part 382 was extended to foreign air carriers in 2008. Currently 49 CFR 27.72 does not require U.S. airports to work with foreign carriers to ensure that lifts are available; the language in 49 CFR 27.72 covers only arrangements with U.S. carriers. The proposed rule would impose on U.S. airports the same requirements with respect to foreign carriers that 49 CFR 27.72 currently imposes on them with respect to U.S. carriers. The proposed rule would require airport operators to negotiate in good faith with foreign air carriers to provide, operate and maintain lifts for boarding and deplaning where level-entry loading bridges are not available. Under this proposal, the airport operators would be required to sign, no later than 90 days after publication of the final rule in the **Federal Register**, a written agreement with each foreign air carrier serving that airport that allocates responsibility for providing, operating and maintaining the lifts. We are proposing that the agreement provide that all actions necessary to ensure accessible boarding and deplaning for passengers with disabilities be completed no later than 120 days after the final rule's publication in the **Federal Register**.

Also, the proposed rule would restructure the current lift requirements found in 49 CFR 27.72. When the rule was first written, 49 CFR 27.72 applied to aircraft with a seating capacity of 19 through 30 passengers. This provision was amended in May 3, 2001, to also apply to aircraft with a seating capacity of 31 or more passengers. Because of the implementation timelines specified in the 2001 amendment, 49 CFR 27.72 includes two separate provisions outlining boarding assistance requirements for individuals with disabilities, section 27.72(c) and section 27.72(d). As an editorial matter the proposed rule would eliminate this distinction and make the rule applicable to lifts for boarding any aircraft with a seating capacity of 19 or more passengers that are not boarded via a level-entry loading bridge.

Regulatory Analyses and Notices

A. Executive Orders 13563 and 12866 and DOT Regulatory Policies and Procedures

Executive Orders 13563 and 12866 direct agencies to assess all costs and benefits of available regulatory alternatives and, if regulation is necessary, to select regulatory approaches that maximize net benefits (including potential economic, environmental, public health and safety effects, distributive impacts, and equity). Executive Order 13563 emphasizes the importance of quantifying both costs and benefits, of reducing costs, of harmonizing rules, and of promoting flexibility. This action has been determined to be significant under Executive Order 12866 and the Department of Transportation Regulatory Policies and Procedures because of its considerable interest to the disability community and the aviation industry. However DOT does not believe at this time that this action meets the criteria under the Executive Order for an economically significant rule.

This action is the result of several important regulatory changes made to 14 CFR part 382, the rule implementing the ACAA. The extension to U.S. airports of the current lift provision in 49 CFR part 27, which requires airports to work not only with U.S. but also with foreign air carriers to ensure the availability of lifts, will be of interest to the aviation industry and the public. The Department has attempted to propose this extension in as equitable a manner as possible by applying to U.S. airports the same regulatory provisions that apply to U.S. and foreign air carriers. As noted above, the provisions of the proposed rule apply only to U.S. airports with 10,000 or more annual enplanements and that receive Federal financial assistance.

The rule is not expected to require the purchase of additional lifts, since the approximately 216 affected U.S. airports (*i.e.,* those that are served by foreign flag carriers and that have 10,000 or more enplanements) will already have lifts available by agreement between the airports and U.S. carriers as a result of the existing version of part 27. These airports may have already agreed with foreign carriers, such as certain Canadian, Mexican, or Caribbean carriers that use smaller aircraft that board from the tarmac, to provide this service; most other foreign carriers use larger aircraft that normally board via loading bridges. The effect of the rule would then be only to mandate what has already been done voluntarily. Existing agreements between carriers and airports, however, may need to be adjusted to broaden the availability of the lifts. Nonetheless, the Department seeks comment on whether the rule would require U.S. airports to purchase additional lifts, and if so how many, and what the cost of a typical lift is.

A particularly important element of the proposed rule is the addition of a new provision that requires U.S. airport operators, in cooperation with U.S. and foreign air carriers, to provide service animal relief areas. The proposed rule contemplates a minimum of one relief area for each terminal within an airport; however, the Department is aware that requiring only one service animal relief area for each terminal in an airport may be inadequate as it may result in individuals with disabilities missing flights when trying to reach service animal relief areas located outside the sterile area of an airport, especially in larger airports. Nonetheless, given the widely divergent plans of airports, we are only able to make a plausible assumption about the number of terminals that exist in a given airport based on the size of the airport. Using information provided by the FAA, which categorizes the size of the 368 airports within the United States, we postulate that the 29 large-hub airports contain approximately 7 terminals, the 36 medium-hub airports contain approximately 5 terminals, the 72 small-hub airports contain approximately 3 terminals, and the 231 non-hub airports contain approximately 1 terminal. As

such, we estimate that 830 terminals will exist in the 368 airports in the United States. We estimate that the initial cost for such an area would be approximately $5,000 per terminal, with low- and high-cost alternatives ranging from $1,000 to $10,000. We postulate a likely annual maintenance cost of $1,000 per terminal with a range from $500 to $2,000. The Department seeks comments on these estimates.

Also, the Department believes that most airport video monitors have captioning capability, and turning on the captioning is likely to have minimal costs.

B. Executive Order 13132 (Federalism)

This Notice of Proposed Rulemaking has been analyzed in accordance with the principles and criteria contained in Executive Order 13132 (''Federalism''). This notice does not propose any regulation that has substantial direct effects on the States, the relationship between the national government and the States, or the distribution of power and responsibilities among the various levels of government. It does not propose any regulation that imposes substantial direct compliance costs on States and local governments. Therefore, the consultation and funding requirements of Executive Order 13132 do not apply.

C. Executive Order 13084

This Notice of Proposed Rulemaking has been analyzed in accordance with the principles and criteria contained in Executive Order 13084 (''Consultation and Coordination with Indian Tribal Governments''). The funding and consultation requirements of Executive Order 13084 do not apply because this notice does not significantly or uniquely affect the communities of the Indian Tribal governments and does not impose substantial direct compliance costs.

D. Regulatory Flexibility Act

Pursuant to the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.,* as amended by the Small Business Regulatory Enforcement Fairness Act (SBREFA) of 1996), whenever an agency is required to publish a notice of rulemaking for any proposed or final rule, it must prepare and make available for public comment a regulatory flexibility analysis that describes the effect of the rule on small entities (*i.e.,* small businesses, small organizations, and small governmental jurisdictions). No regulatory flexibility analysis is required if the head of an agency certifies that the rule will not have a significant economic impact on a substantial number of small entities. The SBREFA amended the Regulatory Flexibility Act to require Federal agencies to provide a statement of the factual basis for certifying that a rule will not have a significant economic impact on a substantial number of small entities.

The Department certifies that this rule, if adopted, would not have a significant economic impact on a substantial number of small entities. The Small Business Administration (SBA) size standards define privately owned airports as small businesses if their annual revenues do not exceed $7 million. Publicly owned airports are categorized as small entities if they are owned by jurisdictions with fewer than 50,000 inhabitants. This rule applies to airports with 10,000 or more annual enplanements, which are primary airports that have more commercial-service traffic and account for 96% of U.S. enplanements per annum. Out of the 368 airports with more than 10,000 enplanements that are potentially affected by the proposed rule, we estimate that approximately 50 to 55 are defined as small entities.

The Department believes that the economic impact will not be significant to these 55 airports because the overall annual costs associated with the rule are not great. The only provision of this rule that we believe may impose measurable costs on airports is the requirement that at least one service animal relief area be made available at each U.S. airport terminal. The estimated total costs for constructing and maintaining relief areas at these airports, assuming that each of these 55 airport would only need one relief area, would range from a low of about $600 to a high of about $3,000, with an expected value of about $1,500. On the basis of this examination, the Department certifies that this rule will not have a significant economic impact on a substantial number of small entities. A copy of the Regulatory Flexibility Analysis will be placed in docket.

E. Paperwork Reduction Act

This proposed rule adopts new and revised information collection requirements subject to the Paperwork Reduction Act (PRA). The Department will publish a separate notice in the **Federal Register** inviting OMB, the general public, and other Federal agencies to comment on the new and revised information collection requirements contained in this document. As prescribed by the PRA, the requirements will not go into effect until OMB has approved them and the Department has published a notice announcing the effective date of the information collection requirements.

F. Unfunded Mandates Reform Act

The Department has determined that the requirements of Title II of the Unfunded Mandates Reform Act of 1995 do not apply to this notice.

Issued this 21st day of September 2011 in Washington, DC.

Ray LaHood,

Secretary of Transportation.

List of Subjects in 49 CFR Part 27

Airports, Civil rights, Individuals with disabilities, Reporting and recordkeeping requirements.

For the reasons set forth in the preamble, the Department of Transportation proposes to amend 49 CFR part 27 as follows:

1. The authority citation for part 27 continues to read as follows:

Authority: Sec. 504 of the Rehabilitation Act of 1973, as amended (29 U.S.C. 794); sec. 16 (a) and (d) of the Federal Transit Act of 1964, as amended (49 U.S.C. 5310 (a) and (f); sec. 165 (b) of the Federal-Aid Highway Act of 1973, as amended (23 U.S.C. 142 nt.).

2. In § 27.3, amend paragraph (b) to read as follows:

(b) Design, construction, or alteration of buildings or other fixed facilities by public entities subject to part 37 of this title shall be in conformance with appendices B and D of 36 CFR part 1191, as modified by appendix A to part 37 of this title. All other entities subject to section 504 shall design, construct, or alter buildings, or other fixed facilities, in conformance with appendices B and D of 36 CFR part 1191, as modified by appendix A to part 37 of this title.

3. In § 27.71, add paragraph (h) and (i) to read as follows:

(h) *Service animal relief areas.* Each airport with 10,000 or more annual enplanements shall consult with service animal training organization(s) and cooperate with airlines that own, lease, or control terminal facilities at that airport to provide at least one animal relief area in each airport terminal for service animals that accompany passengers departing, connecting, or arriving at the airport. To the extent that airports have established animal relief areas prior to the effective date of this subsection and have not consulted with service animal training organization(s), airports shall consult with service animal training organization(s) regarding the sufficiency of all existing animal relief areas.

(i) *High-contrast captioning (captioning that is at least as easy to read as white letters on a consistent background) on television and audio-visual displays.* This subsection applies to airports with 10,000 or more annual enplanements.

(1) Airport operators must enable high-contrast captioning at all times on all televisions and other audio-visual displays that are capable of displaying captions and

that are located in any gate area, ticketing area, first-class or other passenger lounge provided by a U.S. or foreign carrier, or any common area of the terminal, excluding shops and/or restaurants, to which any passengers have access.

(2) With respect to any televisions or other audio-visual displays located in any gate area, ticketing area, first-class or other passenger lounge provided by a U.S. or foreign carrier, or any common area of the terminal, excluding shops and/or restaurants, to which any passengers have access, that provide passengers with safety briefings, information, or entertainment that do not have high-contrast captioning capability, an airport operator must replace these devices with equipment that does have such capability whenever such equipment is replaced in the normal course of operations and/or whenever areas of the terminal in which such equipment is located undergo substantial renovation or expansion.

(3) If an airport acquires new televisions or other audio-visual displays for passenger safety briefings, information, or entertainment on or after [insert effective date of the final rule], such equipment must have high-contrast captioning capability.

4. Amend § 27.72 to read as follows:

§ 27.72 Boarding assistance for aircraft.

(a) This section applies to airports with 10,000 or more annual enplanements.

(b) Airports shall, in cooperation with carriers serving the airports, provide boarding assistance to individuals with disabilities using mechanical lifts, ramps, or other devices that do not require employees to lift or carry passengers up stairs. This section applies to all aircraft with a passenger capacity of 19 or more passenger seats, except as provided in paragraph (e) of this section. Paragraph (c) of this section applies to U.S. carriers and paragraph (d) of this section applies to foreign carriers.

(c) Each airport operator shall negotiate in good faith with each U.S. carrier serving the airport concerning the acquisition and use of boarding assistance devices to ensure the provision of mechanical lifts, ramps, or other devices for boarding and deplaning where level-entry loading bridges are not available. The airport operator must have a written, signed agreement with each U.S. carrier allocating responsibility for meeting the boarding and deplaning assistance requirements of this subpart between or among the parties. The agreement shall be made available, on request, to representatives of the Department of Transportation.

(1) All airport operators and U.S. carriers involved are jointly and severally responsible for the timely and complete implementation of the agreement.

(2) The agreement shall ensure that all lifts and other accessibility equipment are maintained in proper working condition.

(d) Each airport operator shall negotiate in good faith with each foreign carrier serving the airport concerning the acquisition and use of boarding assistance devices to ensure the provision of mechanical lifts, ramps, or other devices for boarding and deplaning where level-entry loading bridges are not available. The airport operator shall, by no later than December 28, 2011, sign a written agreement with the foreign carrier allocating responsibility for meeting the boarding and deplaning assistance requirements of this subpart between or among the parties. The agreement shall be made available, on request, to representatives of the Department of Transportation.

(1) The agreement shall provide that all actions necessary to ensure accessible boarding and deplaning for passengers with disabilities are completed as soon as practicable, but no later than [insert 120 days after date of publication in **Federal Register** of the final rule].

(2) All airport operators and foreign carriers involved are jointly and severally responsible for the timely and complete implementation of the agreement.

(3) The agreement shall ensure that all lifts and other accessibility equipment are maintained in proper working condition.

(e) Boarding assistance agreements required in paragraphs (c) and (d) are not required to apply to the following situations:

(1) Access to float planes;

(2) Access to the following 19-seat capacity aircraft models: The Fairchild Metro, the Jetstream 31 and 32, the Beech 1900 (C and D models), and the Embraer EMB–120;

(3) Access to any other aircraft model determined by the Department of Transportation to be unsuitable for boarding and deplaning assistance by lift, ramp, or other suitable device. The Department will make such a determination if it concludes that—

(i) No existing boarding and deplaning assistance device on the market will accommodate the aircraft without significant risk of serious damage to the aircraft or injury to passengers or employees, or

(ii) Internal barriers are present in the aircraft that would preclude passengers who use a boarding or aisle chair from reaching a non-exit row seat.

(f) When level-entry boarding and deplaning assistance is not required to be provided under paragraph (e) of this section, or cannot be provided as required by paragraphs (b), (c), and (d) of this section (*e.g.,* because of mechanical problems with a lift), boarding assistance shall be provided by any available means to which the passenger consents. However, hand-carrying (*i.e.,* directly picking up the passenger's body in the arms of one or more carrier personnel to effect a level change the passenger needs to enter or leave the aircraft) must never be used, even if the passenger consents, unless this is the only way of evacuating the individual in the event of an emergency.

(g) In the event that airport personnel are involved in providing boarding assistance, the airport shall ensure that they are trained to proficiency in the use of the boarding assistance equipment used at the airport and appropriate boarding assistance procedures that safeguard the safety and dignity of passengers.

5. In 49 CFR part 27 the word ''nonhandicapped'' is revised to read ''nondisabled'' wherever it occurs. The term ''handicapped person''' is revised to read ''individual with a disability''' wherever it occurs. The term ''handicapped persons'' is revised to read ''individuals with a disability'' wherever it occurs. The term ''qualified handicapped person'' is revised to read ''qualified individual with a disability'' wherever it occurs. The term ''qualified handicapped persons'' is revised to read ''qualified individuals with a disability.'' Wherever the word ''handicapped'' is used without being followed by the words ''person'' or ''persons,'' it is revised to read ''disabled'' wherever it occurs.

[FR Doc. 2011–24849 Filed 9–28–11; 8:45 am]

BILLING CODE 4910–9X–P

DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

50 CFR Part 17

[Docket No. FWS–R5–ES–2011–0067; 92210–0–0008–B2]

Endangered and Threatened Wildlife and Plants; 90-Day Finding on a Petition To List the American Eel as Threatened

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Notice of petition finding and initiation of status review.

SUMMARY: We, the U.S. Fish and Wildlife Service (Service), announce a 90-day finding on a petition to list the American eel (*Anguilla rostrata*) as threatened under the Endangered