

Proposed Rules

Federal Register

Vol. 76, No. 224

Monday, November 21, 2011

This section of the FEDERAL REGISTER contains notices to the public of the proposed issuance of rules and regulations. The purpose of these notices is to give interested persons an opportunity to participate in the rule making prior to the adoption of the final rules.

DEPARTMENT OF TRANSPORTATION

Office of the Secretary

14 CFR Part 382

[Docket No. DOT-OST-2011-0177]

RIN No. 2105-AD96

Nondiscrimination on the Basis of Disability in Air Travel: Accessibility of Web Sites and Automated Kiosks at U.S. Airports

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

ACTION: Extension of comment period and clarification of proposed rule.

SUMMARY: This action extends the comment period for a supplemental notice of proposed rulemaking (SNPRM) on the accessibility of Web sites and automated kiosks that was published in the **Federal Register** on September 26, 2011. The Department of Transportation is extending the closing date for interested persons to submit comments on this rulemaking by 45 days from November 25, 2011, to January 9, 2012. This extension is a result of requests from a number of parties for additional time to respond to the SNPRM. The Air Transport Association, the International Air Transport Association, the Air Carrier Association of America, the Regional Airline Association, and the Association of Asia Pacific Airlines all asked to extend the comment period on the proposal by 120 days in order to allow interested parties to fully evaluate the proposed rule, answer the numerous questions in the preamble, and develop constructive comments for the Department's consideration. The Interactive Travel Services Association requested an extension of at least 60 days to gather the information necessary to provide an in-depth, comprehensive response to the SNPRM. An individual with a disability has also asked for an extension, citing difficulties in using the online comment form on the www.regulations.gov Web site. The Department acknowledges that more

time to provide comments may be warranted given the complex nature of the issues and the need to resolve problems encountered by some individuals to date in submitting comments. Nonetheless, we are not persuaded that an additional 120 or even 60 days are needed to respond. In addition to extending the comment period, this action responds to questions posed by the Associations about certain aspects of the SNPRM.

DATES: Comments must be received by January 9, 2012. Comments received after this date will be considered to the extent practicable.

ADDRESSES: Please include the agency name and the docket number DOT-OST-2011-0177 or the Regulatory Identification Number (RIN) (2105-AD96) for this rulemaking at the beginning of your comment. You may file comments using any of the following methods:

(1) *Federal eRulemaking Portal:* Complete and submit the comment form for this rulemaking at <http://www.regulations.gov/#!submitComment;D=DOT-OST-2011-0177-0006>. If you are a person with a disability and cannot access or use the online comment form, please use the alternate comment form to submit your comments, which you can access by clicking the icon for the attachment labeled "Optional Submission Form" available at <http://www.regulations.gov/#!documentDetail;D=DOT-OST-2011-0177-0019>. The form includes complete instructions and may be completed, saved, and sent as an email attachment to regulations.gov_helpdesk@bah.com. You can also use it to submit comments by any of the methods listed below.

(2) *Mail:* Docket Management Facility, U.S. Department of Transportation, 1200 New Jersey Ave. SE., Room W12-140, Washington, DC 20590-0001.

(3) *Hand Delivery or Courier:* West Building Ground Floor, Room W12-140, 1200 New Jersey Ave. SE., between 9 a.m. and 5 p.m. ET, Monday through Friday, except Federal Holidays.

(4) *Fax:* (202) 493-2251.

(5) *Privacy Act:* For comments submitted on www.regulations.gov, please see the Privacy and Use Notice at <http://www.regulations.gov/#!privacyNotice>. All comments received on this SNPRM are posted without change to <http://www.regulations.gov>, including personal information

provided with the comments. Personal information is viewable on www.regulations.gov and individual or organizational submitters can be identified by performing an electronic search in the docket folder. 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>.

(6) *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: Kathleen Blank Riether, Senior Attorney, Office of the Assistant General Counsel for Aviation Enforcement and Proceedings, U.S. Department of Transportation, 1200 New Jersey Ave. SE., Washington, DC 20590, (202) 366-9342 (phone), (202) 366-7152 (fax), kathleen.blankriether@dot.gov. 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 Ave. SE., Washington, DC 20590, (202) 366-9342 (phone), (202) 366-7152 (fax), blane.workie@dot.gov. TTY users may reach the individual via the Federal Relay Service toll-free at (800) 877-8339. You may obtain copies of this notice in an accessible format by contacting the above named individuals.

SUPPLEMENTARY INFORMATION: On September 26, 2011, the Department of Transportation ("Department," also "DOT," "we," or "us") published a supplemental notice of proposed rulemaking in the **Federal Register**. The SNPRM proposed to amend the Department's disability regulation implementing the Air Carrier Access Act (ACAA) rule, 14 CFR part 382 (Part 382), by requiring U.S. and foreign air carriers to ensure that their Web sites and those of their agents are accessible to people with disabilities. The SNPRM further proposed to amend Part 382, as well as the Department's regulation implementing Section 504 of the Rehabilitation Act, 49 CFR part 27 (Part 27), by requiring U.S. airports and U.S. and foreign air carriers to ensure that all new orders for automated kiosks they own, lease, or control at U.S. airports that provide flight-related services and

information to passengers are accessible to people with disabilities. 76 FR 59307 (September 26, 2011). Comments on the matters proposed were to be received by November 25, 2011. On October 7, 2011, the Air Transport Association, the International Air Transport Association, the Air Carrier Association of America, and the Regional Airline Association (hereinafter "Associations") jointly submitted a request to clarify the proposal and to extend the comment period by an additional 120 days. On October 20, 2011, the Association of Asia Pacific Airlines (AAPA) filed a request in support of the Associations' request to extend the comment deadline by 120 days. Eight days later we received another request from the Interactive Travel Services Association (ITSA) for an extension of at least 60 days. Finally, on November 3, 2011, we received a request from member of the disability community to delay the closing of the comment period until issues concerning access to the online comment form could be resolved. In the sections that follow, we respond to the requests and questions of the submitters.

Request for Comment Period Extension

Citing the complexity of the proposed rule and the many questions on which the Department seeks comment, the Associations request a 120-day extension of the SNPRM comment period. They contend that their members will need to develop a significant amount of information to evaluate the feasibility of the proposals and determine the accuracy of the Department's cost assumptions. They assert that additional time is also needed to evaluate the potential impact of all the proposals on their operations and determine the availability of products that would meet the proposed "hybrid" accessibility standard for automated kiosks. By "hybrid" standard, the Associations are referring to the Department's proposal to combine the U.S. Department of Justice's (DOJ) 2010 American with Disabilities Act (ADA) Standards for Accessible Design applicable to automated teller machines (Section 707) and selected provisions from Section 508 of the Rehabilitation Act of 1973 (36 CFR 1194.25) applicable to self-contained closed products. The Associations also expressed concern about the difficulty of gathering information from entities during the holiday season. They note that the current comment deadline is the day after Thanksgiving and that with an extension of 30 days, it would be the day after Christmas. In light of these challenges, the Associations believe that

an additional 120 days is in the public interest to allow all interested parties an opportunity to provide the most meaningful responses to the questions raised by the Department. The AAPA cited their agreement with the Associations' 120-day extension request in the interest of a more thorough analysis and constructive comments on the SNPRM.

ITSA also indicated the need for additional time to determine whether WCAG 2.0 is the appropriate standard for achieving the accessibility goals of the rulemaking, the cost of implementing the standard across the many sites, platforms, and Web pages of ITSA members, and the need to clarify technical matters such as sequencing implementation, measuring and verifying compliance.

The Department concurs that an extension of the comment period is in the public interest but believes that an extension of 120 additional days is not warranted. We have decided to grant a 45-day extension, or until January 9, 2012, for the public to comment on the SNPRM. By granting 45 rather than 120 additional days, we are balancing the stated need for additional time to gather information and consider the proposals with the need to proceed expeditiously with this important rulemaking. We note that with an additional 45 days, interested parties will have a total of 106 days to comment. We believe this is sufficient time for analysis and coordination regarding the proposals. Accordingly, the Department finds that good cause exists to extend the time for comments on the proposed rule from November 25, 2011, to January 9, 2012. We do not anticipate any further extension of the comment period for this rulemaking.

Concerns Regarding Access to Web Site (www.regulations.gov)

Since publication of the SNPRM on September 26, we have been contacted by a disability rights advocate who indicated that individuals with visual impairments have had difficulty submitting comments from the www.regulations.gov Web site. For a variety of reasons, the Web page containing the public comment form is not easily accessed by individuals using screen reader software. We therefore urge those who cannot use the online comment form to submit their comments using one of the alternative submission methods described in the ADDRESSES section above.

Request for Clarification

In addition to requesting the comment period extension, the Associations

posed a number of questions to the Department concerning the applicability and scope of certain provisions of the proposed accessibility requirements for Web sites and automated kiosks. They also sought further information about various documents referenced in the SNPRM preamble. We respond to their questions and requests below.

Issues Concerning the Proposed Web Site Accessibility Requirements

1. Scope of Applicability of Web Site Accessibility Requirements to U.S. Carrier Web Sites

The initial issue raised by the Associations is the scope of the proposed requirements for Web site accessibility as they apply to U.S. carrier Web sites. In their request, they ask DOT to confirm that the proposed Web site accessibility requirements in section 382.43 do not apply to the non-U.S. Web sites of U.S. carriers (e.g., country-specific Web sites maintained by U.S. carriers for the purpose of selling to consumers in countries other than the U.S.). Their concern is that if the proposed requirements do apply to all U.S. carrier Web sites maintained world-wide, it will add tremendously to their compliance burden, have a significant impact on their compliance cost estimates, and offer no benefit to U.S. customers. They note that the proposed rule exempts foreign air carriers from the requirements for their non-U.S. Web sites and assert their belief that the Department intended the same exemption to apply to the non-U.S. Web sites of U.S. carriers.

We do, in fact, intend to apply the same exemption to the non-U.S. Web sites of U.S. carriers. Section 382.43(c) of the SNPRM states: "As a U.S. or foreign carrier that owns or controls a primary Web site that markets air transportation, you must ensure the public-facing Web pages on your Web site are accessible to individuals with disabilities in accordance with this section. As a foreign carrier, only Web pages on your Web site involved in marketing covered air transportation to the general public in the U.S. must be accessible to individuals with disabilities." We inadvertently included the word "foreign" before "carrier" in the second sentence of proposed section 382.43(c). The preliminary regulatory evaluation does not include costs to U.S. carriers associated with making Web sites accessible that are not marketing to U.S. consumers. Our intention in the proposal is and continues to be to exempt both U.S. and foreign carriers' Web sites that market

air transportation to consumers outside the U.S.

We appreciate the Associations' request for clarification on this point and encourage comments from the public on whether the Web site accessibility requirements should apply to U.S. and foreign carriers, as proposed, only with respect to their primary Web sites marketing air transportation to the general public in the U.S., or be expanded to cover all their Web sites regardless of whether they are marketing air transportation mainly to non-U.S. consumers.

2. Clarification of the Terms "Primary," "Main," and "Public-Facing" as They Apply to Web Sites and Web Pages Subject to the Proposed Web Site Accessibility Requirement

The Associations noted that the terms "public-facing Web pages," "primary Web site," and "main Web site," were not defined in the SNPRM and asked for clarification of the terms as used in proposed section 382.43(c) and in the preamble to describe the applicability of the proposed requirements to carrier Web sites. The term "public-facing Web page" as used in the SNPRM means a Web page intended to be accessed and used by the general public, as opposed to Web pages intended for limited access (e.g., by carrier employees, private companies, or entities other than the general public). Any Web page on a carrier's primary commercial Web site that is intended to provide air transportation information or services to consumers is a "public-facing" Web page covered by the proposed accessibility requirements. For carriers that own, lease, or control multiple Web sites that market air transportation and offer related services and information, the Web site that is accessed when the "www.carriername.com" uniform resource locator (URL) is entered to an Internet browser from a standard desktop or laptop computer would be the "primary" or "main" Web site. The terms "main Web site" and "primary Web site" as used in the SNPRM are synonymous.

3. Conforming Alternate Versions and "Text-Only" Features on a Primary Web Site

The Associations also asked for clarification of the term "conforming alternate version," which they believe is undefined in the SNPRM, and asked whether a text-only feature offered by some carriers on their primary Web sites would be considered an alternate conforming version. They describe the text-only feature as one that is compatible with screen-reader

technology and is activated by a single click on the homepage of the primary Web site, linking the user to a text-only page that conforms to WCAG 2.0 at Level A and AA. They note that the SNPRM asks for public comment on whether the Department "should explicitly prohibit the use of conforming alternate versions except when necessary to provide the information, services, and benefits on a specific Web page or Web site as effectively to individuals with disabilities as to those without disabilities." Anticipating that the Department might adopt such a restriction, they ask whether the Department has the cost-benefit data that would support a requirement to completely redesign a primary Web site when the text-only feature provides Web content at the required level of accessibility.

The term "conforming alternate version," while not defined in the proposed rule text, is described in the SNPRM preamble as a Web page or Web site "that meets the [WCAG 2.0 Level A and AA] success criteria, is up to date, and contains the same information and functionality in the same language [as the non-conforming page on the primary Web site]. A conforming alternate version of a Web page is intended to provide people with disabilities equivalent access to the same content and functionality as a directly accessible Web page under WCAG 2.0." See 76 FR 59307, 59313 (September 26, 2011). While the WCAG 2.0 implementation guidance is clear that conforming alternate versions are not the preferred method of conformance,¹ the Department did not propose to explicitly restrict their use in the proposed rule. We are aware of serious concerns about the emergence of parallel carrier Web sites that may be screen-reader accessible but may not provide all the information and content available on the non-conforming Web site. A review of some text-only versions of carrier Web sites indicates that these versions meet some, but not all, of the four requirements below for a conforming alternate version:

- a. conforms at the designated level (e.g., meets Level A and Level AA success criteria), and
- b. provides all of the same information and functionality in the same human language, and
- c. provides content that is as up-to-date as the non-conforming content, and
- d. can be reached from the non-conforming page via an accessibility-

supported mechanism, or the non-conforming version can only be reached from the conforming version, or the non-conforming version can only be reached from a conforming page that also provides a mechanism to reach the conforming version.

The sites we reviewed met three of the four requirements for conforming alternate versions: the first (text-only content met all the WCAG 2.0 Level A and AA success criteria), the third (the text-only content that was dynamically generated from the non-conforming site content was up-to-date), and the fourth (was available from the non-conforming site via an accessibility-supported mechanism). The main problem we found with these sites was that the text-only site did not always contain the same information and functionality available on the non-conforming site. For example, while it was possible to book a flight on both the non-conforming and text-only Web sites, certain other functions available on the non-conforming site were not available on the text-only site (e.g., ability to prioritize flights listed by price over schedule, ability to indicate that your travel dates are flexible, ability to enter cities as well as airport codes, "live chat" assistance, etc.). At the same time, we found that some pages on the text-only site did provide close to the same information and functionality as their counterpart pages on the non-conforming site. While none of the carrier text-only sites we reviewed qualified as conforming alternate versions, we were nonetheless encouraged by the extent to which the text-only sites mirrored the content of the non-conforming sites.

Unless a carrier's text-only Web content can be reached from the carrier's primary Web site via an accessible link, conforms with WCAG 2.0 success criteria at Level A and AA, provides the same content and functionality, and is promptly updated to reflect changes to content available to its non-disabled customers, it will not meet the required level of accessibility and will not be considered a conforming alternate version. Given the concerns about carriers consistently maintaining the quality of text-only content to meet this stringent standard, we asked for comment on whether existing text-only Web sites meet the WCAG 2.0 success criteria at Level A and AA. In particular, we solicit comments from consumers with disabilities on their experiences in using text-only carrier Web sites and any gaps they are aware of in the available information and functionality on such sites as compared with that on the corresponding non-conforming site.

¹ See "Understanding Conformance" at <http://www.w3.org/TR/UNDERSTANDING-WCAG20/conformance.html#uc-conforming-alt-versions-head>, October 15, 2011.

We also invite public comment on whether the cost of making a carrier's entire Web site directly conformant would be substantially greater (or less) than providing a text-only version of the carrier's Web site that is conformant with WCAG 2.0 standards at Level A and AA and meets the definition of conforming alternate version. What other advantages or disadvantages are there to allowing the use of conforming alternate versions without restriction, or to restricting their use to circumstances in which it is "the only way to provide the content on specific Web pages or Web sites as effectively to individuals with disabilities as to those without disabilities?"

4. Whether the Scope of Carrier Responsibility Under the Proposed Requirement To Ensure That Ticket Agent Web Sites Comply With the Web Site Accessibility Standards Extends to Large Tour Operators and Carrier Alliances

Noting that the term "ticket agent" was used in the preliminary regulatory analysis to collectively refer to travel agents and tour operators,² the Associations also asked the Department to confirm whether the requirement in proposed section 382.43(d) to require carriers to ensure the accessibility of ticket agents' Web sites would include Web sites operated by tour operators. See 76 FR 59307, 59325 (September 26, 2011). The Department defines "ticket agent" in the SNPRM preamble by citing the definition found at 49 U.S.C. 40102(a)(45), as a person other than a carrier that "as a principal or agent sells, offers for sale, negotiates for, or holds itself out as selling, providing, or arranging for air transportation." See 76 FR 59307, 59309 (September 26, 2011). Both travel agents and tour operators engaging in these activities, therefore, are "ticket agents" for purposes of the SNPRM's provisions. Under proposed section 382.43(d), carriers would be responsible to ensure that the Web sites of ticket agents comply with the Web site accessibility requirements when marketing travel packages to the general public in the U.S. that include covered air transportation operated by the carriers. We invite comments from the public on the feasibility of requiring carriers to monitor the Web sites of large tour operators to ensure their compliance with the accessibility requirements.

With respect to the Web sites of carrier alliances, the Department views

such alliances as enterprises jointly owned by the member carriers. A review of several carrier alliance Web sites shows that all provide extensive flight-related information, as well as online tools to assist customers in creating flight itineraries. By providing services to assist consumers in building itineraries and linking them to member Web sites to book specific flights, the alliance Web sites are clearly marketing to consumers. However, since a carrier alliance Web site is not a primary carrier Web site as discussed above, the Department did not include such sites in its proposal or accompanying preliminary cost benefit analysis. We therefore ask for public comment on whether carriers should be required to ensure that the Web sites of any alliances with which they are affiliated comply with the proposed accessibility requirements.

5. The Department's Authority To Regulate Ticket Agent Web Sites Directly Under 49 U.S.C. 41712

Concerning ticket agent Web sites, the Associations sought clarification of the Department's assertion in the SNPRM preamble of its authority to require accessibility of Web sites marketing covered air transportation to the general public in the U.S. under 49 U.S.C. 41712, the statute prohibiting carriers and ticket agents from engaging in unfair and deceptive trade practices. They questioned why, in light of its assertion, the Department proposed to regulate ticket agents indirectly through carriers and asked for clarification of the Department's authority under the statute.

The Department considers marketing air transportation on a Web site that effectively excludes a class of consumers solely due to their disabilities to be unlawful discrimination that is also an unfair trade practice. In the SNPRM, we ask for comment on whether the Department should apply the proposed Web site accessibility requirements to ticket agents directly. We note that the Department of Justice (DOJ) announced in an advance notice of proposed rulemaking that it is considering whether to revise its Americans with Disabilities Act (ADA) regulations in the future to include Web site accessibility standards. See 75 FR 43460 (July 26, 2010). Anticipating that ticket agent Web sites may also be covered under DOJ's future amended ADA regulation, we ask whether DOT should wait for DOJ to move forward with its rulemaking before issuing our own rules to require accessibility of ticket agent Web sites. We solicit feedback on these

questions to assist us in determining a course of action that would best serve the public interest. Today a great many Web sites selling air transportation, particularly ticket agent Web sites, are not accessible or are only partially accessible to people with disabilities. The Department believes that all stakeholders would greatly benefit as the number of accessible Web sites marketing and selling air transportation to the general public in the U.S. increases across the air travel industry. We are aware that there are pros and cons to our proposal to require carriers to work with their ticket agents to create incentives to achieve this objective. We again invite all stakeholders to share the pros and cons from their perspectives of this approach.

6. Ongoing Costs To Maintain an Accessible Web Site

The final issue the Associations raise regarding the proposed Web site accessibility requirements concerns the ongoing cost of maintaining Web site accessibility. They observe that the Department asserts that the estimated cost of ensuring full compliance of a primary Web site is \$2.0 million annually for U.S. and foreign carriers and \$2.6 million annually for ticket agents, but also states on the same page that there is a lack of quantitative data on the cost of maintaining Web site accessibility. See 76 FR 59315. They asked that the Department clarify whether it was able to quantify ongoing recurring costs to maintain an accessible Web site, and if so, identify the source of the estimated costs, and place any supporting documentation in the docket.

The statement above indicating an absence of quantitative data on the ongoing costs of maintaining Web site accessibility appeared in the SNPRM and in the preliminary regulatory analysis³ due to editing oversights and should have been omitted from both documents. Table 24 of the preliminary regulatory analysis shows how the ongoing annual cost of maintaining Web site accessibility was estimated. The maintenance costs per carrier or agent are assumed to be the sum of the costs associated with the following fixed and variable cost elements: site evaluation and conformance checking costs (fixed), site layout and style sheet revision costs (fixed), and per-page maintenance costs (variable). This formula was used to compute costs for the "Largest" Web site category in Table 24. Per-page maintenance costs were inadvertently omitted from the formula used to

² Preliminary Regulatory Analysis, ACAA SNPRM Accessible Kiosks and Web Sites, 1, September 7, 2011 [Docket No. DOT-OST-2011-0177-0002].

³ *Id.* at 58.

compute costs for the other three size categories (Large, Small, and Smallest). Because per page maintenance costs are so small, the impact on the overall estimates shown at the bottom of Table 24 is minimal. For a general discussion of the impact of accessibility on Web site development and maintenance over the long term, see the World Wide Web Consortium (W3C) Web site Accessibility Initiative (WAI) Web site.⁴

Issues Concerning the Proposed Accessibility Requirements for Automated Kiosks at U.S. Airports

1. Retrofitting of Automated Kiosks To Meet Accessibility Requirements

The Associations also asked the Department to clarify whether it is proposing a retrofit requirement for automated kiosks at U.S. airports, and if so, what would be the compliance time period. They note that the proposed rule text explicitly states that carriers would not be required to retrofit existing kiosks, while the preamble states that the Department is considering some form of retrofitting. They state that clarification of this point is important because retrofitting would have a significant impact on estimating the technical feasibility and cost impact of compliance for both carriers and airports (for shared-use automated kiosks).

The Department has not proposed to require retrofitting of automated kiosks but is considering this option because of concern that only requiring accessibility of new kiosks ordered after the rule's effective date could substantially delay the availability of accessible kiosks at many airport locations. The Department wants to ensure the availability of at least some accessible kiosks at every airport location within a reasonable time after the rule goes into effect. We therefore are asking for information about the technical feasibility and cost impact of retrofitting some number of kiosks before the end of their life cycle (e.g., one kiosk at each airport location). We invite comment on whether retrofitting any number of existing kiosks is feasible and if so, whether there should be a requirement for limited retrofitting, in addition to requiring that all new kiosks ordered be accessible.

2. Automated Ticket Scanners for Rebooking Flights

The Associations also wanted clarification about the types of self-

service kiosks at U.S. airports that would be covered by the proposed accessibility requirements. Acknowledging that the Department did intend to cover check-in kiosks, they asked for confirmation that the Department did not intend to include automated ticket scanners available behind the security checkpoint to enable customers to independently rebook their flights during irregular operations.

Automated ticket scanners appear to fall within the scope of automated kiosks the Department intended to cover. In the SNPRM, we proposed to define "*automated airport kiosk*" as "a self-service transaction machine that a carrier owns, leases, or controls and makes available at a U.S. airport to enable customers to independently obtain *flight-related services*" [emphasis added].⁵ We also proposed to define "*flight-related services*" as "functions related to air travel including, but not limited to, ticket purchase, *rebooking cancelled flights*, seat selection, and obtaining boarding passes or bag tags" [emphasis added]. The proposed accessibility requirements would extend to any carrier-owned or shared-use airport self-service transaction machine that enables customers to rebook their flights. We invite public comment on whether there are compelling reasons not to require such machines to be accessible, whether accessible models currently exist or are under development, and any available cost information on such models.

Requests for Supporting Documentation

The Associations asked that a number of documents cited in the SNPRM and preliminary regulatory analysis be placed in the docket. Some of these documents are publicly available as indicated below. Other information was obtained in oral interviews and no documentation is available.

1. Telecommunications and Electronic and Information Technology Advisory Committee Report to the Access Board: Refreshed Accessibility Standards and Guidelines in Telecommunications and Electronic and Information Technology (April 2008).

This document is available at <http://access-board.gov/sec508/refresh/report/>.

2. The source of the estimate that "building accessibility into new Web pages today is estimated to add only about 3–6 percent to the cost."

This information was obtained from comments posted by Marco Maerten, an independent Web technologies

consultant, on behalf of Accessibility Associates, LLC, in response to the Department of Justice's Advance Notice of Proposed Rulemaking entitled "Nondiscrimination on the Basis of Disability: Accessibility of Web Information and Services of State and Local Government Entities and Public Accommodations." [RIN 1190-AA61, Docket 110, available at DOJ-CRT-2010-0005-0311 on www.regulations.gov. "In my experience, incorporating Web accessibility from the outset with qualified personnel can add 3–6% or less to technical development costs for smaller projects of 50–300 pages. There are significant economies of scale such that larger sites could benefit from even significantly lower costs."

3. Any documentation that supports the following statement appearing in the SNPRM: "Information obtained from kiosks vendors indicates that the bulk of the incremental costs associated with making kiosk hardware, middleware, and software applications accessible are fixed, therefore they do not vary appreciably with the number of units sold." 76 FR 59321.

This statement was obtained in oral interviews with two major kiosk manufacturers on 6/29/11 (IBM) and on 7/12/11 and 8/10/11 (NCR). No documentation was provided.

4. The document "Countering the economic threat to sustainable accessibility" by Lewis, D., Suen, S.L., Federling, D. (2010).

This document is available at <http://www.sortclearinghouse.info/cgi/viewcontent.cgi?article=1612&context=research>.

5. The preliminary regulatory analysis cites a TRACE analysis of the modifications that would be required to produce an accessible kiosk.

The analysis is available at http://trace.wisc.edu/docs/kiosk_req/minimum.htm.

Issued this sixteenth day of November 2011, in Washington, DC under authority assigned to me by 14 CFR 385.17(c).

Neil R. Eisner,

Assistant General Counsel, Office of Regulation and Enforcement, U.S. Department of Transportation.

[FR Doc. 2011–30002 Filed 11–18–11; 8:45 am]

BILLING CODE 4910-9X-P

⁴ W3C Web site Accessibility Initiative, "Reduce Site Development and Maintenance Time," available at <http://www.w3.org/WAI/bcase/tech.html#maint>, October 15, 2011.

⁵ 76 FR 59325.