Ensuring Safe Accommodations for Air Travelers with Disabilities Using Wheelchairs: Initial Regulatory Flexibility Analysis
RIN 2105-AF14

Volpe Center and the Office of the General Counsel
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Executive summary

This regulatory flexibility analysis evaluates the effects of a proposed rule by the U.S. Department of Transportation (USDOT) relating to air travel accessibility.

The proposed rule would require carriers to provide hands-on training to their employees and contractors who physically assist passengers with mobility disabilities or handle battery-powered wheelchairs or scooters; would require airlines operating aircraft of 60 seats or greater to expand the implementation of onboard wheelchairs (OBWs) that meet a set of enhanced performance requirements found in the Accessible Lavatories on Single-Aisle Aircraft (RIN 2105-AE89) rule in 14 CFR § 382.65(e);¹ would require carriers to provide individuals with disabilities safe, dignified, and prompt connecting, enplaning, and deplaning assistance; and would provide remedies when carriers mishandle wheelchairs and assistive devices, including making such mishandlings a per se regulatory violation subject to administrative penalties.

The Regulatory Flexibility Act (5 U.S.C. § 601 et seq.) requires an agency to review regulations to assess their impact on small entities. A direct air carrier or foreign air carrier is a small business if it provides air transportation only with small aircraft (i.e., aircraft with up to 60 seats/18,000-pound payload capacity). In 2023, 29 air carriers meeting these criteria reported passengers traffic data to the Bureau of Transportation Statistics.²

Based on the analysis in the preliminary regulatory impact assessment (PRIA), the proposed provisions that might have a significant economic impact on a substantial number of small entities are the training requirements. The other provisions of the rule either do not impose costs or apply only to carriers that operate aircraft with more than 60 seats and are therefore not small businesses. The PRIA estimates that the training requirements of the proposed rule would require 2 additional hours of training per year for personnel performing assistance or performing wheelchair handling (section 382.141), as well as costs related to trainers and materials.

The cost of two additional hours of wages per year per employee is expected to be nonsignificant. The cost of the training increase is just ~0.1% of per-employee labor costs for

¹ https://www.federalregister.gov/documents/2023/08/01/2023-16178/accessible-lavatories-on-single-aisle-aircraft

² Bureau of Transportation Statistics. No date. “Aviation Support Tables: Carrier Decode” https://www.transtats.bts.gov/DL_SelectFields.aspx?gnoyr_VQ=GDH&QO_fu146_anzr=N8vn6v10%20f722146%20gnoyr5. To access the data, download all field names, filter to only show “Carrier_Group_New” code 5, sort by End_Date, and count entries with no End_Date value.
the impacted roles which would be a much smaller percentage of all labor costs and an even
smaller percentage of all operating costs. Accordingly, the Department does not believe that the
proposed rule would have a significant economic impact on a substantial number of small
entities.

One regulatory alternative which would reduce impacts on small businesses due to the
proposed rule is to require enhanced training only for carriers that operate any aircraft with 60
or more seats. The Department has concluded that this alternative does not meet the objectives
of the rulemaking. Employees and contractors of carriers that qualify as small entities should
also be sufficiently trained to ensure that passengers that use wheelchairs, including those that
live in smaller communities of the country, receive safe, prompt, and dignified assistance during
air travel.
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1 Introduction

This regulatory flexibility analysis evaluates the effects of a rule proposed by the U.S. Department of Transportation (USDOT) relating to air travel accessibility. The analysis assesses the effects of the proposed rule on air carriers and their contractors that qualify as small businesses.

The proposed rule would require carriers to provide hands-on training to their employees and contractors who physically assist passengers with mobility disabilities or handle battery-powered wheelchairs or scooters; would require airlines operating aircraft of 60 seats or greater to expand the implementation of onboard wheelchairs (OBWs) that meet a set of enhanced performance requirements found in the Accessible Lavatories on Single-Aisle Aircraft (RIN 2105-AE89) rule in 14 CFR § 382.65(e); would require carriers to provide individuals with disabilities safe, dignified, and prompt connecting, enplaning, and deplaning assistance; and would provide remedies when carriers mishandle wheelchairs and assistive devices, including making such mishandlings a per se regulatory violation subject to administrative penalties.

The Regulatory Flexibility Act of 1980 (RFA), as amended, requires agencies to conduct a separate analysis of the economic impact of rules on small entities. The RFA requires agencies to take small entities’ concerns into account when developing, writing, publicizing, promulgating, and enforcing regulations. To this end, the RFA requires agencies to detail how they have met these concerns by including an initial and later a final regulatory flexibility analysis.

As required by the RFA, this analysis includes:

- A description of the reasons the agency is considering the action
- A succinct statement of the objectives and legal basis of the rule
- A description and estimate of the number of small entities to which the rule will apply (or an explanation of why no such estimate is available)
- A description of the compliance requirements of the rule and their costs
- A description of relevant Federal rules, if any, that may duplicate, overlap, or conflict with the proposed rule
- A description of any significant alternatives to the proposed rule that would accomplish the stated objectives of the rule while minimizing any significant economic impact of the proposed rule on small entities.

2  Objectives and legal basis of the rule

This rulemaking would amend 14 CFR part 382 to with the objective to enhance the safety and quality of air travel for individuals with disabilities, including those who use wheelchairs.

The legal basis of the rule is provided in the preamble.

3  Affected small entities

At least one provision of the proposed rule would affect air carriers that qualify as small entities. For air carriers, the Department defines small entities based on the standard published in 14 CFR 399.73. An air carrier is a small entity if it provides air transportation exclusively with small aircraft, defined as any aircraft originally designed to have a maximum passenger capacity of 60 seats or less or a maximum payload capacity of 18,000 pounds or less.

In 2023, 29 air carriers meeting these criteria reported passengers traffic data to the Bureau of Transportation Statistics.4

4 Bureau of Transportation Statistics. No date. "Aviation Support Tables: Carrier Decode" https://www.transtats.bts.gov/DL_SelectFields.aspx?gnoyr_VQ=GDH&QO_fu146_anzr=N8vn6v10%20f7221 46%20gnoyr5. To access the data, download all field names, filter to only show “Carrier_Group_New” code 5, sort by End_Date, and count entries with no End_Date value.

4  Regulatory requirements

The proposed rule would require carriers to provide hands-on training to their employees and contractors who physically assist passengers with mobility disabilities or handle battery-powered wheelchairs or scooters; would require airlines operating aircraft of 60 seats or greater to expand the implementation of onboard wheelchairs (OBWs) that meet a set of enhanced performance requirements found in the Accessible Lavatories on Single-Aisle Aircraft (RIN 2105-AE89) rule in 14 CFR § 382.65(e);5 would require carriers to provide individuals with disabilities safe, dignified, and prompt connecting, enplaning, and deplaning assistance; and would provide remedies when carriers mishandle wheelchairs and assistive devices, including making such mishandlings a per se regulatory violation subject to administrative penalties.

5 https://www.federalregister.gov/documents/2023/08/01/2023-16178/accessibile-lavatories-on-singale-aisle-aircraft
5 Potential costs of compliance

5.1 Costs of Training Requirements
The training requirements of the proposed rule would apply to all 29 air carriers that are small businesses. Carriers would be required to develop a program for training that meets the proposed rule requirements. As described in the PRIA, the occupations that could perform transfer assistance include flight attendants, gate agents, and customer service representatives. The PRIA also describes the mix of occupations that would be required to be trained and the hourly labor costs for these occupations as well as the instructor labor costs and the materials costs. The PRIA finds that both types of training will require an additional two hours of labor per affected employee, per year.

Data on the number of employees of small businesses that would be required to take the training are not available. However, based on the PRIA analysis a cost per employee per training over the 20-year analysis period can be computed. Assuming small businesses have roughly the mix of occupations that perform these tasks as do large firms and that the training course size and materials costs are the same, any air carrier, including small businesses, would pay $908 for passenger assistance training per employee and $506 per trainee for wheelchair handling training over the 20-year period of analysis discounted at 7 percent. The undiscounted annual cost per employee would be $98 and $55 undiscounted respectively which represents 0.10% and 0.08% of total compensation per employee.

The cost of the training increase is then approximately one-tenth of one percent increase in per-employee labor costs for the impacted roles which would be a much smaller percentage of all labor costs and an even smaller percentage of all operating costs. Therefore, USDOT does not believe the training provisions would have a significant impact on a substantial number of small entities.

5.2 Other provisions
The other provisions are not expected to have an economic impact. The requirement for airlines to expand the implementation of onboard wheelchairs (OBWs) that meet a set of enhanced performance requirements found in the Accessible Lavatories on Single-Aisle Aircraft (RIN 2105-

6 The NPRM RIA analysis estimates that across the industry as a whole there are roughly 78,000 employees and contractors who perform transfer assistance (target occupations include gate agents, flight attendants and other customer service employees) and roughly 75,000 employees and contractors who perform baggage handling that would need to be trained.
AE89) rule in 14 CFR § 382.65(e) would not apply to small entities as it only applies to airlines operating aircraft of 60 seats or greater.

The requirement that carriers provide individuals with disabilities safe, dignified, and prompt connecting, enplaning, and deplaning assistance, the requirement making wheelchair mishandlings a per se regulatory violation subject to administrative penalties, and the requirement to provide remedies when carriers mishandle wheelchairs and assistive devices would not have cost impacts for any airline regardless of size as described in the PRIA.

Therefore, the other provisions of the rule either apply only to carriers that operate aircraft with more than 60 seats and are therefore not small businesses, or do not impose costs. Accordingly, USDOT does not believe the other provisions of the proposed rule would have a significant impact on a substantial number of small entities.

6 Duplication, overlap, or conflict with other Federal rules

USDOT has determined that the proposed rule does not duplicate, overlap, or conflict with other relevant Federal rules.

7 Regulatory alternatives

A regulatory alternative that would potentially reduce impacts on small businesses is to apply the training requirements to those carriers that operate any aircraft of 60 seats or greater. However, the Department has concluded that this alternative does not meet the objectives of the rulemaking. Employees and contractors of carriers that qualify as small entities should also be sufficiently trained to ensure that passengers that use wheelchairs, including those that live in smaller communities of the country, receive safe, prompt, and dignified assistance during air travel.