



**UNITED STATES OF AMERICA  
DEPARTMENT OF TRANSPORTATION  
OFFICE OF THE SECRETARY  
WASHINGTON, D.C.**

Issued by the Department of Transportation  
on the **28<sup>th</sup>** day of **May, 2003**

**Application of**

**Mohave County Airport Authority, Inc,  
Allegiant Air, and Sun Country Airlines.**

**Emergency Exemption from  
the Requirements of 49 CFR 27.72(d)(2) and  
14 CFR 382.40a**

**Docket OST-2002-14172**

**Served May 29, 2003**

**Order Dismissing as Moot Exemption Requests**

This matter is before the Department of Transportation (“DOT”) on a request for exemption from the mechanical lift requirement of 49 CFR 27.72 filed by the Laughlin Bullhead Airport (“Laughlin Bullhead”), which is operated by the Mohave County Airport Authority, Inc. (“MCAA”). Additionally, the air carriers servicing the airport – Allegiant Air and Sun Country Airlines – have filed in support of the petition and request similar exemptions from 14 CFR 382.40a. As discussed below, the petitions are dismissed as moot.

***Background***

According to its petition, MCAA is a private, not-for-profit organization having the responsibility of remaining operationally solvent without funds from outside governmental entities. Because of this, MCAA asserts that it depends completely on grant funds to purchase equipment. Thus, to purchase a mechanical lift for Laughlin Bullhead Airport by December 4, 2002, as required by 49 CFR 27.72, MCAA requested federal funds in early 2002. According to MCAA, the United States Congress did not provide for the requested funds until late September 2002, and MCAA did not receive the executed paperwork until mid-October 2002. MCAA asserts that delayed review of the bid package by the Federal Aviation Administration, and review of the bid documents by MCAA's attorney and accountant, further postponed acquisition of a mechanical lift. After obtaining the proper documents, MCAA began soliciting bids for a mechanical lift in January 2003.

As a result of the circumstances described above, MCAA filed a request for relief from the mechanical lift requirement of 49 CFR 27.72 at its Laughlin Bullhead Airport. Because of questions from DOT as to whether it had a mechanical lift available to assist in enplaning or

deplaning disabled passengers, Sun Country Airlines ("Sun Country") filed a petition on January 3, 2003, supporting the petition filed by MCAA and requesting an exemption from 14 CFR 382.40a, which requires carriers to have mechanical lifts in place by December 4, 2002. Allegiant Air ("Allegiant") filed a similar petition on January 9, 2003.

Since the filing of these requests, the Laughlin Bullhead Airport has acquired a mechanical lift to enplane and deplane passengers with disabilities. In this regard, on April 7, 2003, MCAA filed a document stating: "[O]n March 28, 2003, [the MCAA] received and are [sic] in possession of a Disabled Passenger Boarding Device for use at the Laughlin/Bullhead International Airport in compliance with the guidelines of the Federal Aviation Administration." *See* OST-2002-14172-5.

### **Decision**

As the operator of Laughlin Bullhead Airport, MCAA is subject to the requirements of 49 CFR Part 27, which prohibits discrimination against individuals with disabilities by recipients of federal funds under section 504 of the Rehabilitation Act of 1973 (29 U.S.C. § 794). Pursuant to 49 CFR 27.72, MCAA was responsible for providing a mechanical lift at its Laughlin Bullhead Airport by December 4, 2002, to assist in the embarkation of disabled passengers at its airport which lacks a level-entry loading bridge or mobile lounge. As the carriers servicing Laughlin Bullhead Airport, Sun Country and Allegiant must abide by the mandate of 14 CFR 382.40a, which imposes the same requirements on carriers as those imposed on airports by section 27.72. Although they did not meet the December 4, 2002, deadline, MCAA, Sun Country, and Allegiant came into compliance on March 28, 2003, when the Laughlin Bullhead Airport received a mechanical lift for use in enplaning and deplaning passengers with disabilities. As such, the requests for exemption from the mechanical lift requirement of sections 27.72 and 382.40a are now moot.<sup>1</sup>

**ACCORDINGLY**, acting under the authority of 49 CFR 5.13,

1. The Mohave County Airport Authority's request for exemption from 49 CFR 27.72, which required the availability of a mechanical lift to assist disabled passengers at Laughlin Bullhead Airport by December 4, 2002, is dismissed as moot;
2. Sun Country Airlines' and Allegiant Air's requests for exemption from the mandate of 14 CFR 382.40a that they have a mechanical lift in place to assist in boarding disabled passengers at the Laughlin Bullhead Airport by December 4, 2002, are dismissed as moot; and
3. A copy of this order will be served on Mohave County Airport Authority, Inc., Sun Country Airlines Inc., and Allegiant Air.

---

<sup>1</sup> The issue of delay in obtaining the required lift is referred to the Office of the Assistant General Counsel for Aviation Enforcement and Proceedings for review as to whether enforcement action is appropriate.

The action in this order is effective when taken and the filing of a petition for review shall not alter its effectiveness.

By:

**NORMAN Y. MINETA**  
**SECRETARY**

(SEAL)

*An electronic version of this document is available on the World Wide Web at:*  
<http://dms.dot.gov>