

**UNITED STATES OF AMERICA
DEPARTMENT OF TRANSPORTATION
OFFICE OF THE SECRETARY
WASHINGTON, DC**

**ADDITIONAL GUIDANCE ON THE APPLICATION OF
PREBOARDING REQUIREMENTS FOR AIR
TRAVELERS WITH DISABILITIES**

NOTICE

Since the final rule amending the Department’s Air Carrier Access Act regulation (14 CFR Part 382) took effect on May 13, 2009, a number of carrier representatives have contacted the Office of Aviation and Enforcement Proceedings (Enforcement Office) to ask for a clarification or interpretation regarding what specifically is meant by preboarding under 14 CFR 382.93,¹ and whether carriers are required by section 382.93 to make general announcements in the gate area about preboarding. The resulting clarifications and interpretations have been disseminated through informal conversations or emails between DOT staff and individual carrier representatives. The Enforcement Office believes that these informal conversations and email exchanges over time may have resulted in some misunderstandings regarding the requirements of section 382.93. The Enforcement Office is issuing this notice to correct any such misunderstandings, and to ensure that carriers are correctly and consistently applying those requirements.

In the revised final rule published on May 13, 2008, the Department expanded the preboarding requirement to cover not only people who need a specific seat assignment or who need to stow their personal folding wheelchairs, but also to cover passengers that “need additional time or assistance to board, stow accessibility equipment, or be seated.” For a passenger to be entitled to preboarding, that passenger must self-identify at the gate as being a person with a disability that needs to preboard for one of the above-listed reasons. In the section-by-section analysis of the preamble to the final rule, the Department noted that the obligation to preboard passengers with disabilities “exists regardless of the carriers’ preboarding policies for other persons (e.g., families with small children).”

With the advent of different preboarding policies based on a variety of factors, including but not limited to classes of service, frequent flyer levels, and advanced purchase of priority boarding, the Enforcement Office has received numerous questions concerning when in the boarding process carriers are required by section 382.93 to allow for preboarding of passengers with disabilities in light of carrier boarding policies for other individuals. It is the Enforcement Office’s view that section 382.93 requires carriers to board passengers with disabilities who self-identify at the gate as needing to preboard for one of the listed reasons to board the plane before all other passengers, including first class passengers, elite-level passengers, members of the military, passengers with small children, etc. The purpose of section 382.93 is to afford

¹ 14 CFR 382.93 states, “As a carrier, you must offer preboarding to passengers with a disability who self-identify at the gate as needing additional time or assistance to board, stow accessibility equipment, or be seated.”

passengers with disabilities who are entitled to preboard enough time and space to board, stow their accessibility equipment, or be seated safely. While the Enforcement Office recognizes that there may be procedures where separate boarding for first class and/or business class passengers may be accomplished at the same time as coach passengers with disabilities if multiple jet bridges are used for boarding, any preboarding system that deviates from the requirement that passengers with disabilities are boarded first must be approved by the Enforcement Office through the established equivalent alternative procedures outlined in 14 CFR 382.10. If boarding of first and business class passengers is accomplished using a separate dedicated jet bridge, such passengers who are disabled must be provided preboarding in accordance with the rule.

Additionally, in regards to whether section 382.93 requires carriers to make preboarding announcements, the Department stated in the comments and responses section of the preamble to the 2008 final rule that it is not requiring a general announcement of the opportunity to preboard in the boarding the area. However, if a carrier makes a preboarding announcement in the gate area for other types or classes of passengers, then we would strongly encourage that carrier to also make an announcement to inform persons with disabilities of the opportunity to preboard. In the Enforcement Office's view, by making a preboarding announcement, the carrier would ensure that a passenger with a disability who self-identifies as needing preboarding is actually given that opportunity thereby avoiding potential enforcement action against the carrier. An additional benefit to making a preboarding announcement would be to allow a passenger who fails to self-identify the opportunity to preboard if an announcement is made, decreasing the likelihood of such a passenger filing a preboarding complaint. The Enforcement Office also notes that if a carrier does choose to make preboarding announcements, the carrier should ensure that passengers with disabilities who do take advantage of the offer to preboard are given enough time to board safely.

The Enforcement Office will allow carriers 90 days from the issuance date of this notice to revise their preboarding policies to be in line with this notice, if necessary, prior to instituting enforcement action in this area. Questions regarding this notice may be addressed to the Office of Aviation Enforcement and Proceedings (C-70), 1200 New Jersey Avenue, S.E., Washington, D.C. 20590.

By:

Samuel Podberesky
***Assistant General Counsel for
Aviation Enforcement and Proceedings***

Dated: May 29, 2013

An electronic version of this document is available at <http://www.dot.gov/airconsumer>