

Transportation of Disabled and Passengers with Reduced Mobility (PRM) - DOT vs. Regulation EC 1107/2006



Overview of Presentation

- Historical Background – The US Approach
- European Perspective
- Flying from US to EU or vice versa
 - General Regulatory Approach
 - Categories of Passengers
 - Assistance at Airport
 - Aircraft Accessibility
 - Acceptance, limitations and refusal of carriage
 - Passengers travelling with Service Animals
 - Passengers travelling with Emotional Support animals
 - Passengers Rights
- Take home message

the main difference between
Europe and USA



Historical Background – the US Approach

U.S. Department of Transportation



14 CFR Part 382

Nondiscrimination on the Basis of Disability in Air Travel

Historical Background – the US Approach

SUBPART A -- GENERAL PROVISIONS

§ 382.1 Purpose.

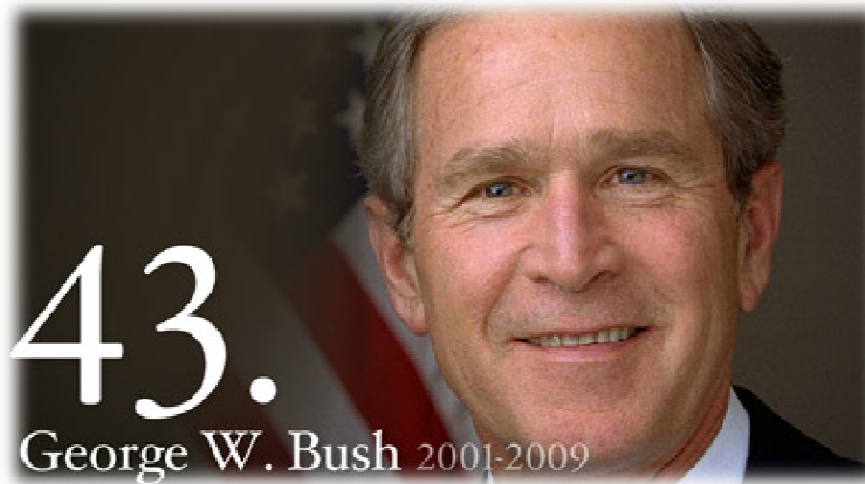
The purpose of this part is to implement the Air Carrier Access Act of 1986 (49 U.S.C. 41705), which provides that no air carrier may discriminate against any otherwise qualified individual with a disability, by reason of such disability, in the provision of air transportation.

Historical Background – Americans with disabilities

Disability is not the experience of a minority of Americans.

Rather, it is an experience that will touch most

Americans at some point during their lives.



President George W. Bush
New Freedom Initiative
February 1, 2001

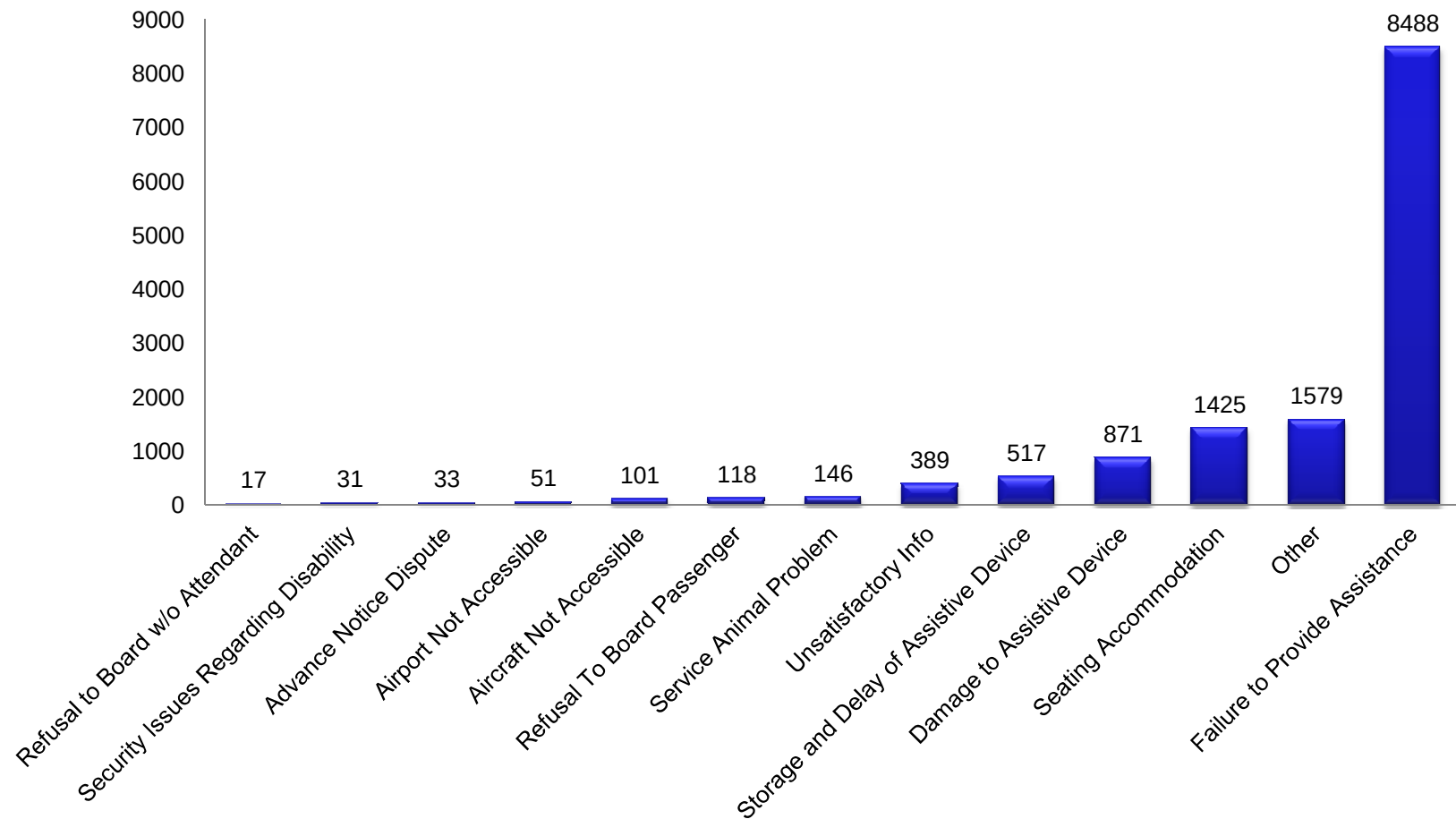
Historical Background – Americans with disabilities



*We are facilitating living
a fuller life,
and air travel is
essential to a full life.*

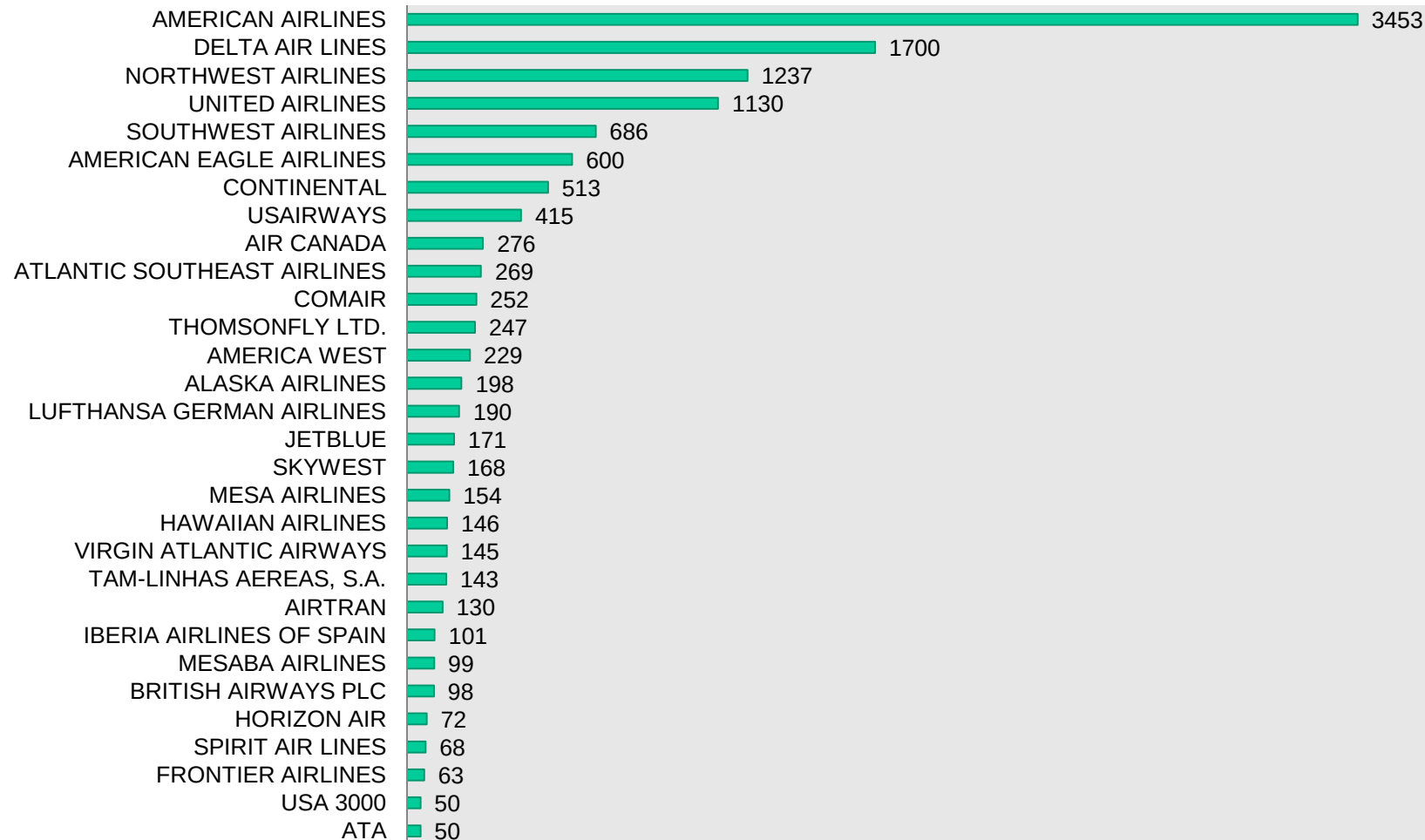
Kate Hunter Zaworski
Director, National Center for Accessible Transportation
Oregon State University

Disability-Related Complaints (As reported to the Airlines)



Source: airconsumer.ost.dot.gov/publications/2006ComplaintSummary.doc

Number of Disability-Related Complaints by Carrier (50 or more)



Source: airconsumer.ost.dot.gov/publications/2006ComplaintSummary.doc



European Perspective – European Civil Aviation Conference (ECAC)

ECAC POLICY STATEMENT IN THE FIELD OF CIVIL AVIATION FACILITATION

**ECAC.CEAC DOC No. 30 (PART I)
9th Edition/July 2003**

**As amended by DGCA/122 (Paris, 24-25 November 2004)
and including two additional Annexes (K and L) approved by FAL/32 (October 2005)**

European Perspective – European Civil Aviation Conference (ECAC)

ECAC POLICY STATEMENT IN THE FIELD OF AVIATION FACILITATION

TABLE OF CONTENTS

SECTION 5

FACILITATION OF THE TRANSPORT OF PERSONS WITH REDUCED MOBILITY

5.1	General provisions	5-3
5.2	Passengers needing special assistance.....	5-4
5.3	Information and communication	5-6
5.4	Accessibility of airports	5-7
5.5	Assistance on the ground	5-8
5.6	Fittings of aircraft and assistance on board.....	5-8
5.7	Group travel	5-10



European Perspective – European Civil Aviation Conference (ECAC)

FACILITATION OF THE TRANSPORT OF PERSONS WITH REDUCED MOBILITY ¹

Definition of a person with reduced mobility:

A person with reduced mobility (PRM) is understood to mean any person whose mobility is reduced due to a physical incapacity (sensory or locomotory), an intellectual deficiency, age, illness or any other cause of disability when using transport and whose situation needs special attention and the adaptation to the person's needs of the services made available to all passengers.

This definition was accepted by the eleventh ICAO Division, and inserted in Chapter 1 of Annex 9, tenth edition, under the definition of “Persons with disabilities”.

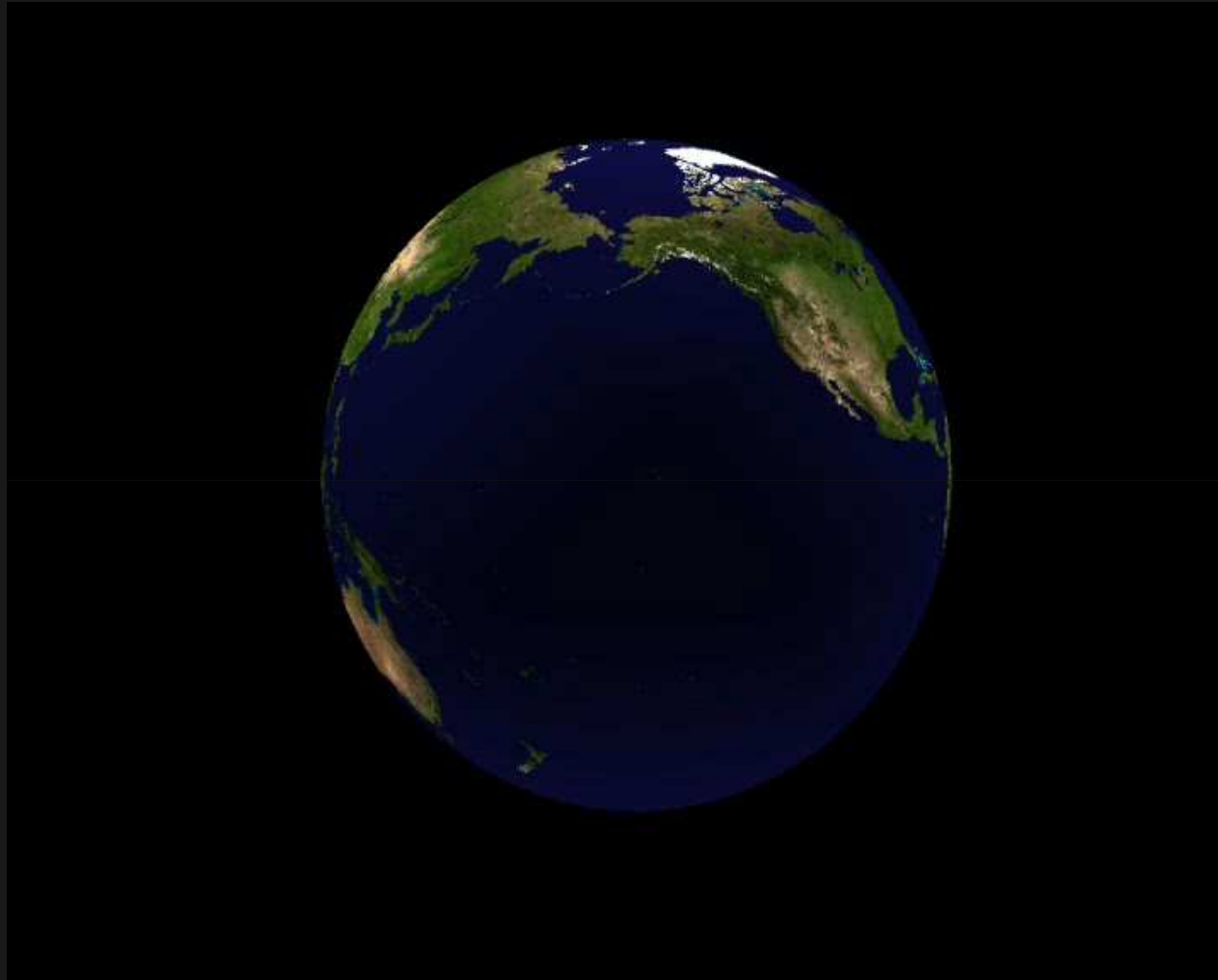
FACILITATION OF THE TRANSPORT OF PERSONS WITH REDUCED MOBILITY ¹

5.2 PASSENGERS NEEDING SPECIAL ASSISTANCE

5.2.1 Identification of passengers needing special assistance

Certain passengers on account of their physical, mental or medical condition require special facilities in relation to airport infrastructure, ground and air transport, and adequate assistance from airlines and airport operators in application of the principle of equal right to unimpeded access for all air transport users.

Flying from US to EU or vice versa – literally around the world ...



General Regulatory Approach

PART 382 	EC 1107 
➤ Subpart A – K is a binding mandate, imposed on all carriers flying to and from the US ➤ Foreign Carriers may apply for a conflict of law waiver if a foreign legal requirement conflicted with Part 382	➤ Doc 30 is a guidance document for organizing provisions of assistance

Impact: Guidance, recommendations, codes of best practice or regulation that authorizes carriers to adopt a certain policy, does not create a conflict cognizable under the conflict of laws waiver provision.

Foreign Carriers must therefore comply with Part 382 !

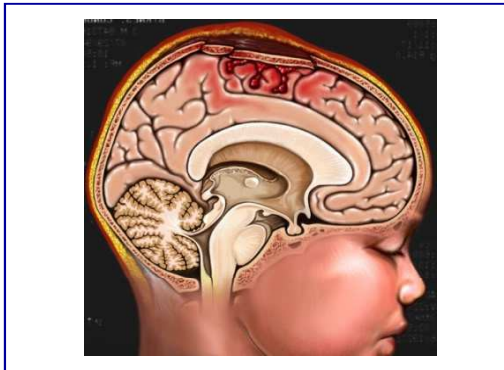
Categories of Passengers

Physical Disabilities



Wheelchairs, visual and hearing impairments

Intellectual Disabilities



Mental retardation, learning disabilities

Medical Cases



Stretcher, medical oxygen,

Categories of Passengers

PART 382 	EC 1107 
Categories of passengers covered under Part 382 are any individual who has a permanent or temporary physical or mental impairment ➤ Physical impairments, disorders or conditions: Visual, speech, hearing impairments, anatomical loss, musculoskeletal, cosmetic disfigurement, cardiovascular, diabetes, drug addiction and alcoholism, epilepsy, cancer, digestive, etc. ➤ Mental or psychological disorders Mental retardation, emotional or mental illness, learning disabilities ➤ Passengers using medical oxygen or respiratory assistive devices	Categories of passengers covered under EC 1107 are any person whose mobility when using transport is reduced due to: ➤ any physical disability (sensory or locomotor, permanent or temporary) Visual, speech, hearing, impairments Passengers requiring a wheelchair to and from the aircraft, ➤ intellectual disability or impairment As part 382

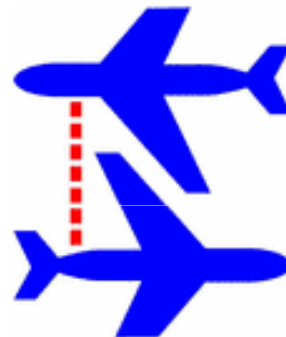
Assistance at Airports

Enplaning/Deplaning



Lifts, ramps, wheelchairs

Connecting



Transit, reaching connecting flight

Assistance



To lavatory, gate-checked or carry-on bags, assistance dog

Assistance at Airports

Services within Airports

PART 382 	EC 1107 
Carriers must ensure that the provided services (enplaning/deplaning/transiting) within the airport meets Part 382	Airports are responsible to provide services within the airport

Impact: Carriers may be held responsible if any European Airport does not meet the requirement of Part 382. The carrier must supplement such services.

Assistance at Airports

Advanced notice

PART 382 	EC 1107 
Carriers cannot generally require passengers with a disability to provide advanced notice (only for specific services)	Passengers should notify carriers at least 48 hours before

Impact: European Airports may face major difficulties assisting a significant number of disabled passengers arriving, departing or transiting at the same time without advanced notice.

Aircraft Accessibility

Armrests



Aisle moveable armrest

Lavatories



Wheelchair accessible lavatories

Stowage



Wheelchair stowage space, onboard aisle chair

Aircraft Accessibility Requirements

PART 382 	EC 1107 
Applies to aircraft ordered after 13 May 2009 ➤ Moveable armrests (30 passengers aircraft) ➤ Accessible lavatories (double aisle aircraft) ➤ Wheelchair stowage (100 passenger aircraft) ➤ On-board aisles chair (60 passenger aircraft no matter of the age of aircraft) passengers should provide 48 hours' notice	Not covered under EC 1107: Guidance under Doc. 30 for aircraft coming newly into service or major refurbishment

Impact: Foreign Airlines flying to and from the US must comply with the regulation if the aircraft was ordered after 13 May 2009

Acceptance, limitation, refusal of carriage

Medical Certificate

MEDICAL CERTIFICATE

THIS IS TO CERTIFY THAT ON
I EXAMINED
WHO IN MY OPINION IS * SUFFERING FROM A PERSONAL ILLNESS
WHO STATES THAT THEY WERE
OR
AND WILL BE * UNFIT FOR WORK/SCHOOL
AND WAS *
FROM INCLUSIVE
OTHER COMMENTS (if necessary)
DOCTOR'S NAME
AND ADDRESS
PLEASE PRINT OR STAMP IN
RACGP HEALTH RECORD © 2004 * DELETE AS NECESSARY

Medical clearance,
fitness to fly certificate

Communicable disease



SARS, Influenza A,
Meningitis,

Portable Oxygen



Electronic Respiratory
Assistive Device

Acceptance, limitation, refusal of carriage

Medical Certificate

PART 382 	EC 1107 
Carriers cannot generally require passengers to have a medical certificate or to undergo pre-flight medical clearance. Unless for: ➤ Stretcher ➤ Oxygen required during flight ➤ Cannot safely complete the flight ➤ Communicable disease posing a direct threat	Passengers with medical conditions are not covered under EC 1107. Medical certificate or medical clearance may be requested if: ➤ fitness to travel is in doubt ➤ contagious disease ➤ potential hazard of diversion ➤ operation

Impact: European Carriers flying to/from the US or check-in agents requesting a medical certificate if passenger fitness to travel is in doubt may violate Part 382

Acceptance, limitation, refusal of carriage

Communicable Disease

PART 382 	EC 1107 
Passengers may be refused transportation <u>only</u> for communicable diseases that pose a direct threat. The condition must be both readily transmitted and have serious health consequences: ➤ SARS	Air Carrier may request a “fitness to fly” certificate or refuse transportation ➤ chicken pox ➤ H1N1

Impact: European Carriers flying to/from the US refusing a passenger with Influenza A (H1N1) may violate Part 382

Acceptance, limitation, refusal of carriage

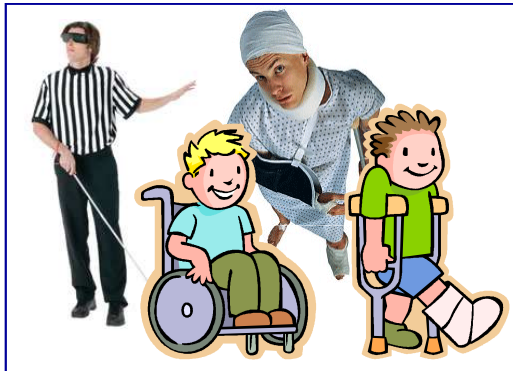
Medical Portable Electronic devices

PART 382 	EC 1107 
Label from the manufacturer that FAA requirements are met: ➤ tested and meeting RTCA requirements ➤ capable of being stowed ➤ required number of batteries	Not covered under EC 1107. Assuming the device is classified as dangerous goods, EU-OPS states that carriers must not transport the devices unless approved to do so.

Impact: Complete new regulation, 11 devices are labelled as meeting FAA requirements. Additional approval required to meet EU-OPS

Acceptance, limitation, refusal of carriage

Limitation



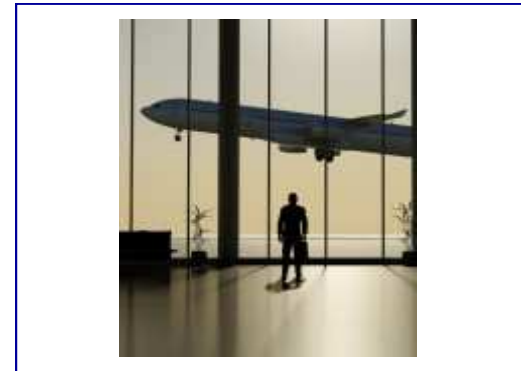
Limitation on numbers or categories

Safety Assistant



Escorts, Care Assistant,

Refusal



Denied Boarding

Acceptance, limitation, refusal of carriage

Limit on Numbers or Categories

PART 382 	EC 1107 
Air carrier must not limit the number of passengers with a disability who travel on a flight	EU-OPS recommends that the numbers of passenger with reduced mobility should not exceed the number of passengers able to assist in an emergency evacuation

Impact: A conflict of law waiver is not accepted as EU-OPS does only recommend limiting numbers.

Acceptance, limitation, refusal of carriage

Safety Assistant

PART 382		EC 1107	
Air Carrier may require a passenger with disabilities travel with another person only for safety reasons. If a Safety Assistant is imposed contrary to the passengers self assessment, the Safety Assistant travels for free.		Air Carrier may require that a passenger with reduced mobility or a passenger with disabilities travel with another person who provides the required assistance.	

Impact: Air Carriers flying to and from the US may have to offload full paying passengers to accommodate Safety Assistants

Acceptance, limitation, refusal of carriage

Refusal of Carriage

PART 382 	EC 1107 
Air carrier must not refuse transportation to a passenger with a disability on the basis of his or her disability	Air Carriers may refuse transportation to meet applicable safety requirements established by ↗ International law ↗ Community or National law ↗ Size of the aircraft or its doors makes embarkation impossible

Impact: Foreign Carriers flying to/from the US refusing a passenger based on EC 1107 may violate Part 382

Passengers travelling with Service Animals

Service Animal



Hearing Dogs

Service Animal



Guide Dogs

Service Animal



Assistance Dogs

Passengers travelling with Service Animals

Service Animals in the Cabin

PART 382 	EC 1107 
Foreign carriers will not be required to carry any service animals in the cabin except dogs. As evidence that an animal is a service animal, you must accept credible verbal assurances of a individual with a disability or: ➤ identification cards ➤ other written documentation ➤ presence of harnesses, tags	Air Carriers must only carry recognized assistance dogs in the cabin (subject to National Regulation) “Recognized” means: Assistance dogs are accepted by and affiliated to the International Guide Dog Federation. Assistance dogs are trained by an organisation that meets the full membership criteria of Assistance Dogs International (ADI).

Emotional Support Animals (ESAN)



- ✓ No reptiles and rodents allowed on board.
- ✓ Passenger carries the medical advice to be accompanied by an animal for emotional reasons.
- ✓ Certificate must be issued by a physician.
- ✓ ESAN travels in cabin, no need for a harness.

Passenger Rights

Aviation Consumer Protection



[Organization & Functions](#) | [Air Travel Problems/Complaints](#) | [Air Travel Consumer Report](#) | [Rules & Guidelines](#) | [Travel Tips & Publications](#) | [Airline Customer Service Plans](#) | [Service Cessations](#) | [Safety/Security Information](#)

Complaints Alleging Discriminatory Treatment Against Disabled Travelers Under The Air Carrier Access Act and 14 CFR Part 382

C. 41705) prohibits discrimination by U.S. and foreign air carriers on the basis of physical or mental impairment. The ACAA, issued a rule (14 CFR Part 382) in 1990 setting forth the standards of service which must be provided to cover foreign air carriers, which became subject to the ACAA on April 5, 2000.

Travelers with disabilities. The hotline provides general information to consumers about the rights and responsibilities of air travelers with disabilities. It also assists air travelers with time-sensitive disability-related issues that need to be addressed in a timely manner.

If you are subjected to treatment by an airline that violates the requirements of the ACAA or the rule, you can file a complaint with the Department's Aviation Consumer Protection Division. We encourage you to use our [web form](#). If you need more information, please contact us at the following address:

<http://airconsumer.dot.gov/ACAAcomplaint.htm>

National Enforcement Body



Passenger rights

Air - legislation in force since 2005



[Passenger rights - Contact us](#)

European Commissioner responsible for Transport
address ✉ [passengers rights](#)
exercise their rights.

<http://ec.europa.eu/transport/passenger-rights/en.htm>



Complaints

PART 382 	EC 1107 
➤ Carriers must make a Complaint Resolution Official (CRO) available— either in person or via telephone—at each airport the carrier serves, at all times the carrier is operating at the airport. ➤ CROs must have authority to definitively resolve complaints. They must have the power to overrule decisions of other carrier personnel. ➤ The CRO must write the complainant and describe the carrier's corrective action. Air carrier must make a dispositive written response within 30 days of its receipt.	➤ The EU rules oblige Member States to nominate or create “national enforcement bodies”, whose role is to verify that carriers are treating all passengers in accordance with their rights. Passengers who believe they have not been treated correctly should contact the body in the country where the incident took place. ➤ Acknowledgment of receipt within 2 weeks ➤ Case submission to the airline requiring replay within 6 weeks from the date of receipt.

Take home message

AMEs from either side of the Atlantic Ocean may be worried that sometimes it is very hard to distinguish whether a passenger carries a disability or suffers from a disease.

- ✓ Need for supplemental oxygen is a disability in the US.
- ✓ A broken leg is immobilized and therefore a disability according to the DOT.
- ✓ History of severe anaphylactic reaction is a disease and allows clearance.

Take home message

All European airlines were carrying handicapped passengers long before the implementation of the present EU Regulation (1107/2006).

In the early 2000's many countries or organizations published codes of good conduct (or good practice): ECAC Doc 30 is the best example.

Many improvements have been made to the conditions of air transport for these passengers. The Regulation has played an important part in this by imposing binding rules on all carriers.

Yet, paradoxically, these new provisions may be a source of difficulties for our customers in certain circumstances





Thank you very much for your attention!

