



BEFORE THE
OFFICE OF THE SECRETARY
U.S. DEPARTMENT OF TRANSPORTATION
WASHINGTON, DC

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In the Matter of)	Docket Clerk
)	Department of Transportation
)	400 7 th Street, SW.,
NON-DISCRIMINATION ON THE BASIS OF)	Room PL-401
DISABILITY IN AIR TRAVEL-MEDICAL)	Washington, DC 20590
OXYGEN AND PORTABLE RESPIRATION)	
ASSISTIVE DEVICES)	
)	
)	14 CFR Part 382
NOTICE OF PROPOSED RULEMAKING)	OST-2005-22298
_____)	

COMMENTS OF

THE ASSOCIATION OF ASIA PACIFIC AIRLINES

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Dated: 27 January 2006



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The Association of Asia Pacific Airlines (AAPA) files these comments regarding the Notice of Proposed Rulemaking (NPRM) outlining the Department of Transportation (DOT) rules requiring non-discrimination on the basis of disability in air travel to provide greater accommodations in air travel for persons with respiratory disabilities.

I. THE ASSOCIATION OF ASIA PACIFIC AIRLINES

The AAPA is the trade association of 17 major international airlines based in the Asia Pacific region. The Association was founded in 1966 to provide a forum for examining international air transport issues and for developing action plans on matters of mutual concern. Its members include Air New Zealand, All Nippon Airways, Asiana Airlines, Cathay Pacific Airways, China Airlines, Dragonair, EVA Air, Garuda Indonesia, Japan Airlines, Korean Air, Malaysia Airlines, Philippine Airlines, Qantas Airways, Royal Brunei Airlines, Singapore Airlines, Thai Airways International and Vietnam Airlines.



13 AAPA member airlines operate more than 500 flights per week to 13 cities in the United States.

II. INTRODUCTION

The AAPA appreciates the opportunity to comment on the NPRM.

The AAPA and its Member Airlines are recognised leaders in standards of service and are committed to safe transport of all passengers with dignity and respect in a non-discriminatory manner.

The AAPA understands the needs and supports the empathetic carriage of persons with disabilities. AAPA Member Airlines have long established procedures, formulated in accordance with ICAO Recommended Practices as stipulated under Annex 9 (“Facilitation of the Transport of Air Passengers Requiring Special Air Assistance”) to the Chicago Convention. Annex 9 was developed through extensive consultations amongst the international aviation community, taking into account the distinct nature of international flights, such as extended duration of travel and cross-border operations. Such practices have, to date, served the international community well.

AAPA cannot support the NPRM as its approach is flawed and impractical, and would provide numerous operational and safety challenges for international flights operated by our members to the United States. We suggest that unless the DOT fundamentally re-thinks the entire approach with respect to this subject, this proposal should not be taken any further.

III. GENERAL PROVISIONS

The AAPA submits that the provisions set out under the rule and to be applied to foreign carriers are operationally impractical given the range of portable respiration assistive devices available and the numerous aircraft types operated by airlines, and the absence of common certification standards.

A. Proposed Operational and Testing Requirements

Unlike the FAA, the airlines do not possess the expertise to perform the required testing for certification. There would be significant cost implications given the wide, indeed unrestricted, range of portable respiratory assistive devices and models. In the absence of clear and unambiguous certifying criteria from the regulatory authorities, it would be difficult, if not impossible, for airlines to perform such testing. To maintain standardisation in terms of standards and testing methodologies, AAPA proposes that manufacturers of respirators, ventilators, CPAP machines and oxygen concentrators carry out the required testing and demonstration of compliance and submit the resulting dossier for certification to the FAA and/or other international regulator who should be responsible for the certification of such devices and for maintaining a publicly available list of certified devices. An alternative process could involve the airframe manufacturers themselves testing the devices, obtaining FAA certification and providing the appropriate labelling. The AAPA notes that such a process has already been applied successfully to the Air Sep Lifestyle and Inogen One portable concentrator units.

Today, the use of other types of personal electronic devices onboard aircraft is generally not permitted during the take-off, landing and taxiing phases for safety reasons including possible electromagnetic interference (EMI) with aircraft systems. This reflects the difficulty in satisfying legitimate safety concerns and strongly suggests that similar restrictions should, as a minimum, be placed on the use of portable assistive devices.

With respect to the “one time test” approach proposed in the NPRM, it cannot be assumed that all future models and variants of a device will meet the same certification standard as the originally certified equipment. In fact it cannot be assumed that certified equipment will continue to meet the certification requirements unless an approved maintenance schedule is followed. In the event this situation is ignored it will have safety implications.

The proposed rule also appears to assume that in-seat power supply will be readily available to all passengers at all times. It should be noted that the provision of in-seat power and power outlets onboard for passenger use are certainly not mandatory and, if provided at all, is done so as an optional service to passengers without warranty. Variations in voltage between power supplied from aircraft mains and that required by power respirators and other devices may also mean that such devices cannot be operated successfully onboard.

B. Time Limits for Testing and Acceptance of a Device

Given the impracticalities in the approach proposed by the NPRM, we do not believe that a 120 day limit for evaluation would be realistically achievable.

C. Requirements Regarding Use of Respiratory Assistive Devices

The NPRM seeks comments on the need for advance notice to be given by passengers, in the event of a request for medical oxygen by a passenger or for use of a device that would require onboard electrical supply.

Current practice is that advance notice is required to be given to a carrier if there is a request for onboard medical oxygen supply. This is to ensure that carriers have sufficient time to ensure availability of supplies as such restricted items are not automatically in place for every flight.

Advance notice would also be required for a passenger wishing to use his portable respiratory device on board. This is to allow time to ascertain that the device is certified for use on board and we anticipate that this could differ from the period of notice required for the supply of medical oxygen.

With respect to charges, it should be noted that charges made for the supply of medical oxygen only partially offset the cost of providing such services. We see no justification for mandating the provision of these or similar services free of charge.

IV. CONCLUSION

The AAPA submits that the DOT should carefully reconsider the merits and approach of this rulemaking, failing which we do not believe it should be progressed in its current form.

In particular, there is a need for an international approach to ensure regulatory harmonisation to avoid conflicting regulations and potential confusion amongst passengers. The approach of this NPRM presents significant operational and legal obstacles for international carriers which are required to comply with a multiplicity of national and international regulations.

Notwithstanding the issues raised in this submission, the AAPA and its member airlines are committed to treating all passengers with dignity and respect in a non-discriminatory manner, and to enabling as many people as possible to have access to air travel, consistent with safety requirements. We will continue to work towards this shared goal through international cooperation with the aim of developing a more harmonised approach to customer service standards in this and other areas.

Respectfully submitted by



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Director General
Association of Asia Pacific Airlines