

airline employee be captured, recorded and coded for subsequent reporting to DOT. As a result, the definition of a disability-related complaint has been narrowed and carriers are required to record and report only written complaints.

It should be noted though that the Department believes further consideration of a complaint provided in person or over the telephone to Complaint Resolution Officials (CROs), specially trained employees available to passengers with disabilities whenever the carrier is operating flights at an airport, is warranted. The Department may, in a future rulemaking, expand the definition of a disability-related complaint that must be recorded and reported to include oral complaints to a CRO. The Department intends to solicit specific comments on this issue from the public in an upcoming Notice of Proposed Rulemaking (NPRM) that will propose to amend part 382 and extend its applicability to foreign air carriers. In this upcoming NPRM, the Department expects to ask about the benefit and/or detriment of broadening the definition of a disability-related complaint that must be recorded and reported to include oral complaints made to a CRO whenever a carrier is operating. At present, only U.S. carriers are required to have a CRO available in person or by telephone. This rulemaking has not changed the obligation of a U.S. carrier to provide a CRO whenever the carrier is operating and to ensure that its CRO provides a written response to a passenger's oral or written complaint of alleged violations of part 382.

With respect to the carriers' and industry associations' arguments that the types of complaints covered by the final rule should be limited to complaints deemed by the carrier to be reasonable, complaints that the carrier is not able to resolve satisfactorily, complaints that relate to a service required under part 382, complaints that address a disability-related issue as the primary issue and/or complaints that are not received as a result of the carrier soliciting comments, the Department is also not persuaded. The Department is required to report annually to Congress on all complaints received by carriers alleging discrimination on the basis of disability not just those disability complaints that the carrier deems to be valid or to constitute a potential violation of the Department's rule on air travel by passengers with disabilities. Limiting the definition of complaints as suggested by carriers and industry associations would result in the under-reporting of disability complaints in DOT's annual report to Congress.

The Department agrees with industry that a requirement that code-share complaints be reported by the carrier that receives the complaint may result in double reporting since passengers may complain to both ticketing and operating airlines about a problem on a particular flight. The Department also believes that if it requires only the ticketing or operating airline to report the complaint then some complaints would go unreported. As a result, the Department is requiring that the operating airline report disability-related complaints involving the flight itself and services provided on that flight and the ticketing airline report all other complaints, particularly complaints about the reservation system. The Department realizes that there may be situations where it is not clear if a particular complaint involves services provided by the operating carrier or services provided by the ticketing carrier. If there is disagreement between the code-share partners as to which carrier is responsible for reporting a particular complaint, the carrier that receives the complaint must report it. If both the ticketing and operating carrier receive the same complaint and there is no agreement between the two as to which one is ultimately responsible for reporting the complaint, then both carriers must report the complaint. The final rules also requires that, in a code-share situation, the ticketing airline/operating airline must forward to its code share partner disability-related complaints it receives involving services provided by its code share partner. The Department would not be requiring the carrier reporting the complaint to identify its code-share partner, as requested by the disability community organizations, because knowing the identity of the code share partner, while useful, serves a limited public interest especially when weighed against the cost to carriers of providing this additional information.

3. Categories of Data Collected

Proposed Rule: The NPRM proposed that carriers use 13 categories to identify the nature of a passenger's disability and 12 areas to categorize the alleged discrimination or service problems related to disability, a system currently being used by the Department's Aviation Consumer Protect Division (ACPD). The 13 proposed categories within which to classify a passenger's disability are: vision-impaired, hearing-impaired, vision- and hearing-impaired, mentally impaired, communicable disease, allergies (e.g., food allergies, chemical sensitivity), paraplegic,

quadriplegic, other wheelchair, oxygen, stretcher, other assistive device (cane, respirator, etc.), and other disability. The 12 proposed categories within which to classify service problems are: refusal to board, refusal to board without an attendant, security issues concerning disability, aircraft not accessible, airport not accessible, advance-notice dispute, seating accommodation, failure to provide adequate or timely assistance, problem with storage/damage/delay relating to assistive device, service animal problem, unsatisfactory information, and "other." Under the proposed rule, a contact from a passenger may express more than one complaint and a passenger may have more than one disability.

Comments: British Airways noted that its existing complaint categorization system and possibly other carriers' existing categorization systems are different from the one proposed by the Department. British Airways objects to the Department's requirement that the airline industry adopt the ACPD system and suggests that the Department develop a system that better reflects current industry categorizations systems.

Other carriers as well as RAA and ATA are opposed to reporting on a passenger's specific disability or disabilities and argue that the 13 categories used to identify the nature of a passenger's disability should all be removed. According to these commenters, passengers do not always identify their disability and passengers would view questions by carriers about a passenger's disability as intrusive and offensive. Moreover, industry representatives contend that data gathered from reports on the nature of passengers' complaints provide sufficient information for the Department to identify potential areas of concern and meet the requirements of AIR-21.

The Department also received comments from industry advocating the removal of certain categories used to identify the nature of a passenger's disability. Virgin asserts that categories such as "allergies" and "chemical sensitivity" are not appropriate categories as they are open to interpretation and have definitions that change in different territories, while Swiss points out that some categories such as "vision impaired," "hearing impaired," "allergies" and "communicable disease" are not appropriate categories as they are not discernable without passenger disclosure.