

Unlike commenters from the airline industry, disability community organizations do not appear to be troubled by the idea that the rule requires carriers to report on a passenger's specific disability. In fact, the Epilepsy Foundation remarked that an additional category should be created for people with epilepsy or seizure disorder. The Epilepsy Foundation explained that it is concerned that the existing categories would mask the problems experienced by individuals with epilepsy or seizure disorders when flying. Under the proposed categories of impairments, people with epilepsy or neurological disorders other than paraplegia or quadriplegia would be lumped together with the wide array of other conditions not specifically listed under the category, "other."

There were also a number of comments requesting that modifications be made to the proposed categorization system within which to classify service problems. The EPVA and PVA recommend that the category defined as "problem with storage/damage/delay relating to assistive devices" be separated into two categories, "damage to assistive devices" and "storage and delay of assistive devices." PVA explains that damage to mobility equipment is a widespread problem that merits its own category. Similarly, the Epilepsy Foundation recommends that the category titled "refuse to board" be separated into two categories, refuse to board because no medical certificate and refuse to board because of epilepsy or seizure-related concern. The Epilepsy Foundation believes that carriers refuse to board people with epilepsy because of a lack of a medical certificate or because the individual has a disability and having two separate categories for the different reasons carriers refuse boarding would make it easier to identify an effective solution.

Comments from the industry differed from comments provided by disability community organizations in that carriers and their representatives recommend the elimination of categories rather than the addition of categories. Swiss and ATA, among others, strongly object to carriers having to report about security issues concerning disability, since the Transportation Security Administration (TSA) is now responsible for screening of passengers and baggage. Carriers also object to having to report about airports not being accessible as the airports are responsible for ensuring that the facilities are accessible. These commenters declare that carriers have little or no control over these types of complaints and it is unreasonable to

charge these complaints against carriers and unfairly taint the airline industry. There were also comments from the industry that the category "assistive devices" either be removed as it is unclear or the Department give examples of the types of complaints that it would classify under this category.

Another issue raised by Swiss and ATA involves the requirement that airlines determine the type of service problem for each disability-related incident in a given contact (e.g., email, letter) and record each of these disability-related problems as separate complaints. Swiss contends that this scheme of recording complaints is complicated and likely to lead to inconsistencies in categorizations. ATA argues that complaints should be coded only once and placed in only one category otherwise the overall number of complaints would be inflated and the value of reporting would be reduced because of inaccuracy.

*DOT Response:* The Department maintains that carriers need to adopt the system that the Department's ACPD uses to categorize complaints that carriers receive alleging inadequate accessibility or discrimination. The ACPD system enables the Department to determine for complaints that it receives directly from passengers the service areas that generate the most complaints and the groups of individuals with disabilities that appear to be experiencing the most problems when flying. By having the airline industry adopt the ACPD complaint categorization system, the data that carriers report would serve as an industry-wide diagnostic and monitoring tool as it would be a mechanism for identifying problem areas in the airline industry and gauging the industry's progress toward accessibility. Further, carriers do not presently have a uniform system of categorizing disability-related complaints and whatever system of categorization that is required by the Department would undoubtedly result in some carriers having to modify their complaint recording system. DOT is also not persuaded by the argument that the entire section on the nature of a passenger's disability should be removed because of the carriers' belief that they would be forced to ask passengers intrusive questions about the nature of their disability. The nature of a passenger's disability will likely be disclosed in the written complaints sent by the passengers. If the passenger does not self-disclose his/her disability, then the carrier would simply classify the disability as "other disability". Inquiries into the nature of passengers' disabilities are not required or

encouraged by this rule. Similarly, the Department finds unconvincing the arguments presented by Virgin and Swiss that categories such as allergies and vision-impaired should be removed, as the carriers believe these categories are not discernable without passenger disclosure. The Department also finds that the 13 categories used by the ACPD to identify the passenger's disability is adequate and that there is no need to expand the number of categories describing the nature of the passenger's disability to include people with epilepsy or seizure disorder as suggested by the Epilepsy Foundation.

With regard to arguments concerning modifications to the categories describing alleged discrimination and service problems, the Department agrees with carriers that, complaints about services that the carrier has no control over need not be reported. However, despite assertions to the contrary, carriers are still involved in security and airport accessibility at terminals they own, lease, or otherwise control. Therefore, the final rule is keeping the categories "security issues concerning disability" and "airport not accessible". Carriers must report complaints involving security and/or accessibility at airports if they have any control over these services. Carriers do not need to report complaints involving security and/or airport accessibility if other entities (e.g., TSA or airport authorities) are responsible.

The Department also agrees with EPVA's and PVA's recommendation to change the proposed category of "assistive devices" into two separate categories, "damage to assistive devices" and "storage and delay of assistive devices." The Department believes this adjustment would be of benefit in determining whether most complaints about assistive devices concern damage to the devices or storage and delay problems. Further, having two separate categories for complaints concerning assistive devices makes it clearer to carriers about the types of complaints that would need to be classified under each category. However, the Department is not adopting the suggestion by the Epilepsy Foundation that the category "refuse to board" be divided into two separate categories. We believe that the term "refuse to board" should remain general because there could be many reasons beyond the two identified by the Epilepsy Foundation for a carrier to deny boarding to a passenger.

The Department has also considered comments from carriers and carrier associations regarding only one complaint being recorded per