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**Kevin Nolan,**

*Acting Manager, Operations Support Group,  
Western Service Center.*

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## DEPARTMENT OF TRANSPORTATION

### Office of the Secretary

#### 14 CFR Part 382

[Docket No. DOT-OST-2008-0272 and DOT-OST-2008-0273]

#### Nondiscrimination on the Basis of Disability in Air Travel

**AGENCY:** Department of Transportation, Office of the Secretary.

**ACTION:** Notice of availability of electronic submission.

**SUMMARY:** The Department of Transportation is publishing the following document regarding the provisions on conflict of laws and equivalent alternative determinations contained in the Office of the Secretary (OST) final rule on "Nondiscrimination on the Basis of Disability in Air Travel" (73 FR 27614; May 13, 2008). The document announces the availability of electronic submissions for conflict of law waiver requests and applications for equivalent alternative determinations through the Federal Docket Management System (FDMS). It also provides guidance to U.S. and foreign air carriers on how to submit such requests and applications through FDMS.

**DATES:** This document is effective on September 15, 2008.

**FOR FURTHER INFORMATION CONTACT:**

Blane A. Workie, Chief, Aviation Civil Rights Compliance Branch, Office of the Assistant General Counsel for Aviation Enforcement and Proceedings, Department of Transportation, 1200 New Jersey Avenue, SE., Room W98-310, Washington, DC 20590, (202) 366-9342.

**SUPPLEMENTARY INFORMATION:** On May 13, 2008, the Department of Transportation published a final rule amending its Air Carrier Access Act (ACAA) rules to apply to foreign air carriers and adding new provisions concerning passengers who use medical oxygen and passengers who are deaf or hard-of-hearing. The rule, which applies to U.S. carriers wherever their operations take place and foreign air carriers with respect to their flights that begin or end at a U.S. airport, allows carriers to apply to the Department of Transportation (DOT or Department) for

a waiver from the requirements in the rule if a foreign legal requirement conflicts with a given provision of this rule. A carrier that submits a conflict of law waiver request on or before September 10, 2008, obtains a commitment from DOT not to take enforcement action related to the allegedly conflicting foreign law pending DOT's response to the waiver request.

The rule also permits U.S. and foreign carriers to apply to the Department for a determination on what the final rule calls an "equivalent alternative." A carrier that submits an application for an equivalent alternative determination on or before September 10, 2008, can implement its proposed equivalent alternative unless and until the Department disapproves it. However, a carrier that submits such an application after September 10, 2008, cannot use its proposed equivalent alternative unless and until the Department approves it.

The rule specifies that carriers must send conflict of law waiver requests or applications for equivalent alternative determinations to the Assistant General Counsel for Aviation Enforcement and Proceedings. It provides the following address for paper submissions of such requests/applications: Assistant General Counsel for Aviation Enforcement and Proceedings, C-70, U.S. Department of Transportation, 1200 New Jersey Avenue, SE., Room W96-322, Washington, DC 20590. It does not provide a mechanism for submitting the information electronically. The purpose of this notice is to inform airlines that they have the option of electronically submitting a conflict of law waiver request or an application for an equivalent alternative determination through FDMS as a substitute for paper submission. The Department believes that allowing carriers to submit the requested information through FDMS will make the process more efficient for carriers and will best ensure the timely receipt by the Office of the Assistant General Counsel for Aviation Enforcement and Proceedings (Aviation Enforcement Office) of the waiver requests and applications for equivalent alternative determinations. It should be noted that the filing of waiver requests or applications by mail is still permitted but this notice provides another mechanism for submitting such requests/applications.

#### Manner of Submitting a Conflict of Law Waiver Request and an Application for Equivalent Alternative Determination

##### *Has a Public Docket Been Established?*

DOT has established an official public docket for conflict of law waiver requests under docket identification (ID) number DOT-OST-2008-0272 and for applications for equivalent alternative determinations under docket identification ID DOT-OST-2008-0273. The official public docket will consist of the waiver requests or applications and other information related to those actions (e.g., approval or denial of requests/applications). Although a part of the official docket, the public docket is not intended to include Confidential Business Information (CBI) or other information whose disclosure is restricted by statute. The official public docket is the collection of materials that is available for public viewing.

##### *How Do I Submit a Conflict of Law Waiver Request or an Application for Equivalent Alternative Determination Through the Electronic Public Docket in FDMS?*

You may submit requests/applications electronically through FDMS by taking the following steps:

- Go directly to [www.regulations.gov](http://www.regulations.gov) <<http://www.regulations.gov/>> and use the SEARCH DOCUMENTS field to input your docket number. Click the GO >> command to see your search results.
- Click on the "Send a Comment or Submission" link (the yellow speech bubble should be available) after insuring that you have the correct docket. This can be verified by checking the DOCKET ID information.
- You will now be sent to the PUBLIC COMMENT AND SUBMISSION FORM; here you will fill out submitter information, as well as attach any documents you wish to upload (note: you can have multiple submissions attached, the size limit is 10 megabytes). The only required field on this form is the GENERAL COMMENTS BOX. If uploading attachments you would first click "browse" to find the file you wish to attach, then click "add attachment" to attach the file to your comment.
- After uploading any attachments and filling in the form, you will click the "NEXT STEP" button to go to the REVIEW COMMENT page; here you can double check the information you provided and verify that everything is correct before going to the final step.
- Once you have clicked the SUBMIT button, you will be taken to the COMMENT SUBMITTED page, and given a receipt with a COMMENT TRACKING NUMBER. You will want to

write this down or print the page for your records. This information can be used to track your submission.

To ensure proper receipt by the Department, identify the appropriate docket ID number in the subject line on the first page of your request or application.

*How Should I Submit Confidential Business Information (CBI) to the Agency?*

You should not submit information that you consider to be CBI through the electronic public docket in FDMS. If you wish to take advantage of the opportunity to electronically submit a conflict of law waiver request or an application for an equivalent alternative determination but a portion of your request or application contains CBI, then you should send by mail to the Aviation Enforcement Office the original document containing CBI and submit a second copy of the original document with the CBI redacted in FDMS. The date that you submit the document to FDMS will be considered the receipt date.

The original document that you mail to the Aviation Enforcement Office should clearly indicate which material you believe contains confidential information. You can do this by marking "confidential" on each page of the original document that you would like to keep confidential and highlighting or underlining the CBI. You will also need to explain why the information is confidential (as a trade secret, other confidential commercial information, or sensitive security information (SSI)). In your explanation, you should provide enough information to enable the Department to determine whether the information provided is protected by law and must be handled separately. Information not marked as CBI will be included in FDMS without prior notice. Also, if you do not provide an explanation of why the information is confidential you risk the Department including it in the public docket. The Department will also place in the public docket those portions of submissions that a carrier may have redacted but that the agency determines are not trade secrets, other confidential commercial information, or SSI. DOT's policy is that waiver requests or applications for equivalent alternative determinations will be made available for public viewing in DOT's electronic public docket (i.e., FDMS) as DOT receives them and without change, unless the request or application contains copyrighted material, CBI, or other

information whose disclosure is restricted by statute.

Dated: September 8, 2008.

**Samuel Podberesky,**

*Assistant General Counsel for Aviation Enforcement and Proceedings, U.S. Department of Transportation.*

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## **PENSION BENEFIT GUARANTY CORPORATION**

### **29 CFR Parts 4022 and 4044**

#### **Benefits Payable in Terminated Single-Employer Plans; Allocation of Assets in Single-Employer Plans; Interest Assumptions for Valuing and Paying Benefits**

**AGENCY:** Pension Benefit Guaranty Corporation.

**ACTION:** Final rule.

**SUMMARY:** The Pension Benefit Guaranty Corporation's regulations on Benefits Payable in Terminated Single-Employer Plans and Allocation of Assets in Single-Employer Plans prescribe interest assumptions for valuing and paying benefits under terminating single-employer plans. This final rule amends the regulations to adopt interest assumptions for plans with valuation dates in October 2008. Interest assumptions are also published on the PBGC's Web site (<http://www.pb.gc.gov>).

**DATES:** Effective October 1, 2008.

**FOR FURTHER INFORMATION CONTACT:**

Catherine B. Klion, Manager, Regulatory and Policy Division, Legislative and Regulatory Department, Pension Benefit Guaranty Corporation, 1200 K Street, NW., Washington, DC 20005, 202-326-4024. (TTY/TDD users may call the Federal relay service toll-free at 1-800-877-8339 and ask to be connected to 202-326-4024.)

**SUPPLEMENTARY INFORMATION:** The PBGC's regulations prescribe actuarial assumptions—including interest assumptions—for valuing and paying plan benefits of terminating single-employer plans covered by title IV of the Employee Retirement Income Security Act of 1974. The interest assumptions are intended to reflect current conditions in the financial and annuity markets.

Three sets of interest assumptions are prescribed: (1) A set for the valuation of benefits for allocation purposes under section 4044 (found in Appendix B to part 4044), (2) a set for the PBGC to use to determine whether a benefit is payable as a lump sum and to determine

lump-sum amounts to be paid by the PBGC (found in Appendix B to part 4022), and (3) a set for private-sector pension practitioners to refer to if they wish to use lump-sum interest rates determined using the PBGC's historical methodology (found in Appendix C to part 4022).

This amendment (1) adds to Appendix B to part 4044 the interest assumptions for valuing benefits for allocation purposes in plans with valuation dates during October 2008, (2) adds to Appendix B to part 4022 the interest assumptions for the PBGC to use for its own lump-sum payments in plans with valuation dates during October 2008, and (3) adds to Appendix C to part 4022 the interest assumptions for private-sector pension practitioners to refer to if they wish to use lump-sum interest rates determined using the PBGC's historical methodology for valuation dates during October 2008.

For valuation of benefits for allocation purposes, the interest assumptions that the PBGC will use (set forth in Appendix B to part 4044) will be 6.18 percent for the first 20 years following the valuation date and 5.25 percent thereafter. These interest assumptions represent a decrease (from those in effect for September 2008) of 0.06 percent for the first 20 years following the valuation date and 0.06 percent for all years thereafter.

The interest assumptions that the PBGC will use for its own lump-sum payments (set forth in Appendix B to part 4022) will be 3.25 percent for the period during which a benefit is in pay status and 4.00 percent during any years preceding the benefit's placement in pay status. These interest assumptions represent a decrease (from those in effect for September 2008) of 0.25 percent in the immediate annuity rate and are otherwise unchanged. For private-sector payments, the interest assumptions (set forth in Appendix C to part 4022) will be the same as those used by the PBGC for determining and paying lump sums (set forth in Appendix B to part 4022).

The PBGC has determined that notice and public comment on this amendment are impracticable and contrary to the public interest. This finding is based on the need to determine and issue new interest assumptions promptly so that the assumptions can reflect current market conditions as accurately as possible.

Because of the need to provide immediate guidance for the valuation and payment of benefits in plans with valuation dates during October 2008, the PBGC finds that good cause exists for making the assumptions set forth in