



May 27, 2022

Ms. Blane Workie
Assistant General Counsel, Office of Aviation Enforcement and Proceedings
U.S. Department of Transportation
1200 New Jersey Ave, SE
Washington, DC 20590

Submitted via www.regulations.gov

**Re: Office of the Secretary, Department of Transportation, Notice of Proposed Rulemaking:
Accessible Lavatories on Single-Aisle Aircraft: Part 2
Docket No. DOT-OST-2021-0137**

Dear Ms. Workie:

On behalf of our nearly 38 million members and all older Americans nationwide, AARP appreciates the Department of Transportation's attention to the important issue of accessible lavatories on single-aisle aircraft. Individuals with mobility impairments, many of whom are older adults, need access to safe and convenient transportation options, including air travel. Unfortunately, the lack of accessible lavatories on single-aisle aircraft presents a significant barrier to air travel for millions of people.

As the Notice of Proposed Rulemaking (NPRM) notes, over 25 million Americans have mobility issues that may affect their ability to access air travel without accommodation. As the population of older adults increases in the coming decades, that number is likely to increase. Today, travelers who use wheelchairs or other mobility devices are extremely unlikely to encounter an accessible lavatory on a domestic flight. According to a 2020 report by the Government Accountability Office, only 4.5 percent of single-aisle aircraft operated by eight major U.S. airlines have lavatories that are accessible to individuals with mobility impairments.¹ Surveys of individuals with disabilities have revealed that the lack of accessible lavatories on aircraft has led them to take actions such as dehydrating themselves before flying, which can have negative health consequences, or to avoid flying altogether. Accessible lavatories benefit other members of the travelling public as well, such as parents with babies or young children and individuals recovering from an injury or illness who need assistance.

¹ "Aviation Consumer Protection: Few U.S. Aircraft Have Lavatories Designed to Accommodate Passengers with Reduced Mobility," GAO-20-258, Government Accountability Office, January 2020, available at: <https://www.gao.gov/assets/gao-20-258.pdf>.

This inequitable situation has been recognized for more than three decades. Regulations adopted in 1990 required accessible lavatories on twin-aisle aircraft. Although considered at the time, the same requirement was not applied to single-aisle aircraft, in part because such aircraft were used primarily for shorter duration flights. That situation has changed: single-aisle aircraft now operate on the vast majority of domestic flights. It is long past time to apply this requirement to single-aisle aircraft and ensure that travelers with disabilities are afforded the opportunity to use aircraft lavatories in a safe and dignified manner.

AARP is pleased that U.S.DOT is proposing to require accessible lavatories on single-aisle aircraft with more than 125 seats. However, we object to the proposed timeframe for compliance. The NPRM requires accessible lavatories to be available on aircraft that are ordered 18 years after the effective date of the final regulation or delivered 20 years after that date.

As the NPRM notes, using reasonable assumptions for aircraft replacement schedules and the timeframes proposed in the draft rule, it could take as long as 45 years for all single-aisle aircraft to have an accessible lavatory. If a final rule is issued in 2022, travelers with disabilities could still find themselves on an airplane without an accessible lavatory until 2067 – more than 80 years after the passage of the Air Carrier Access Act of 1986, which was intended to end discrimination in air travel for passengers with disabilities.

There is no need for this extensive timeframe. There are options available today for accessible lavatories on single-aisle aircraft. Given this fact, a much shorter phase-in period is appropriate. (Though the facts of the twin-aisle aircraft situation may have been different, we note that according to the NPRM, the accessible lavatory requirement for those aircraft went into effect just weeks after that regulation was published in March 1990.) Shortening the phase-in period for this rule would not only help to ensure that the needs of passengers with disabilities are addressed, it could also spur aircraft manufacturers to design new lavatory options that would address airlines' concerns about loss of seating or galley space more quickly. For these reasons, AARP strongly encourages U.S.DOT to shorten the timeframe for compliance with the rule so that the health and well-being of passengers with disabilities can be protected as quickly as possible.

During the phase in period, U.S.DOT should require carriers to provide at least some flights with accessible lavatories to each destination they serve, so that individuals with disabilities have the choice to travel by air. To help ensure greater availability, U.S.DOT should help negotiate agreements between carriers to transfer passengers to accessible aircraft when an accessible flight is not available or is cancelled for maintenance or weather reasons, and should help airlines coordinate schedules to better ensure maximum access over the course of the day. Such agreements will help mitigate the denial of access during any phase-in period.

In addition to shortening the timeframe for compliance with this requirement and mitigating the lack of access during the phase-in period, U.S.DOT should address two additional issues: training and consumer information. With regard to training, it is essential that the rule recognize the important role that flight attendants play in the on-board experience of passengers with mobility impairments. While flight attendants do receive training in assisting these passengers, gaps remain. Passengers have reported encountering flight attendants who were unaware of how

to operate the on-board wheelchair (OBW), or even whether there was an OBW available on the aircraft at all. As accessible lavatories become more widely available and more individuals with mobility impairments begin flying, training standards should be updated so that flight attendants are aware of new accessibility features and can appropriately assist passengers in using them. Similarly, baggage handlers must be better trained in how to lift and stow electric wheelchairs to avoid damaging them.

Because the transition to accessible lavatories on single-aisle aircraft will take some time even if the timeframe for compliance is accelerated, U.S.DOT should also take steps to ensure that consumer information regarding accessible lavatories is improved. Today, it is difficult for travelers to obtain reliable information about the accessibility features available on the specific aircraft that will be used for their flight, preventing them from making informed decisions about their travel plans. U.S.DOT should develop standards for customer communication that would enable consumers to know at the time of purchase whether accessible lavatories will be available on their flight, inform consumers of any change in aircraft that would affect the accessibility of the lavatories, and allow consumers to change or cancel flights without penalty if an accessible lavatory is no longer going to be available. This type of information will be essential to travelers in the transition period before accessible lavatories become standard on larger single-aisle aircraft, and even after, as some flights will continue to be operated on smaller aircraft that lack accessible facilities.

AARP appreciates the Department's attention to this important issue. We look forward to continuing to work with you on policies and standards to improve access to air travel for older adults and people with disabilities. If you have any questions, please contact Debra Alvarez in Government Affairs at (202) 434-4814.

Sincerely,

A handwritten signature in black ink, appearing to read "David Certner", with a long horizontal flourish extending to the right.

David Certner
Legislative Counsel and Legislative Policy Director
Government Affairs