

Department of Transportation

SUPPORTING STATEMENT

REPORTING REQUIREMENTS FOR DISABILITY-RELATED COMPLAINTS (No Wrong Door Complaint Form)

OMB Control No. 2105-XXXX

11. Circumstances that make collection of information necessary. *Explain the circumstances that make the collection of information necessary. Identify any legal or administrative requirements that necessitate the collection. Attach a copy of the appropriate section of each statute and regulation mandating or authorizing the collection of information.*

The Americans with Disabilities Act (ADA), which applies to both public and private transportation providers, requires, among other things, that the Department of Transportation enforce nondiscrimination and access in transportation. Title II of the Americans with Disabilities Act of 1990 (“ADA”), 42 U.S.C.A. §§ 12131 et seq., protects persons from discrimination on the basis of disability by public entities, including state and local governments. 42 U.S.C.A. § 12131. Congress identified transportation as one of the critical areas in which individuals with disabilities encounter pervasive discrimination and barriers to their full participation in society. 42 U.S.C.A. § 12101(a)(3). Additionally, the DOT is responsible for enforcing nondiscrimination over Federally-conducted programs in cases involving disability-based discrimination under section 504 of the Rehabilitation Act of 1973, 29 U.S.C. 794

U.S. Department of Transportation (DOT) Regulations implement Title II of the ADA for state and local government services at 28 CFR Part 35.101 *et. seq.* DOT Regulations implement Title III of the ADA as well for public transit only at 49 C.F.R. parts 27, 37 and 38. The ADA and DOT implementing regulations require transportation providers to serve people with disabilities on a nondiscriminatory basis and to make their facilities and services accessible to people with disabilities. Under these authorities, individuals may file written complaints with the Department of Transportation when they believe they have been discriminated against. DOT has developed a complaint form for civil rights discrimination complaints. The use of this form will be voluntary; complaints may be submitted via other means such as letter or e-mail.

2. How, by whom, and for what purpose is the information used. *Indicate how, by whom, and for what purpose the information is to be used. Except for a new collection, indicate the actual use the agency has made of the information received from the current collection.*

In order to implement the statutory requirements of the ADA and the Rehabilitation Act of 1973, the Department is required respond to information alleging discrimination by entities based on disability. Under Title II of the Americans with Disabilities Act, an individual who believes that he or she has been subjected to discrimination on the basis of disability may, by himself or herself or by an authorized representative, file a complaint. Any Federal agency that receives a

complaint of discrimination is required to review the complaint to determine whether it has jurisdiction under section 504 of the Rehabilitation Act. If the agency does not have jurisdiction under, it must refer the complaint to the Department of Justice. The Department of Justice then must refer the complaint to the appropriate agency. This system also serves as a basis for rulemaking, legislation and research. Further, our office uses the reports to track trends or spot areas of concern which we feel may warrant further action.

3. Extent of automated information collection. *Describe whether, and to what extent, the collection of information involves the use of automated, electronic, mechanical, or other technological collection techniques or other forms of information technology, e.g. permitting electronic submission of responses, and the basis for the decision for adopting this means of collection. Also describe any consideration of using information technology to reduce burden.*

An electronic portal for the public submission of ADA complaints and inquiries is currently under development. Once completed, the portal will be publically available at www.secure.dot.gov/dot-ada-complaint-form. This will allow DOT and the public to more efficiently submit, rout, and analyze ADA complaints.

4. Efforts to identify duplication. *Describe efforts to identify duplication. Show specifically why any similar information already available cannot be used or modified for use for the purposes described in item 2 above.*

There is no similar information accumulated that could be used or modified for the purpose described in the answer for question 2 detailed above.

5. Efforts to minimize the burden on small businesses. *If the collection of information impacts small businesses or other small entities describe any methods used to minimize burden.*

The Department certifies that the rule does not impact a substantial number of small businesses or other small entities.

6. Impact of less frequent collection of information. *Describe the consequence to federal program or policy activities if the collection is not conducted or is conducted less frequently, as well as any technical or legal obstacles to reducing burden.*

A crucial mission of the Department is to ensure equality of opportunity by vigorously enforcing Federal legislation prohibiting discrimination in transportation. Enforcement is accomplished through, among other things, investigation of complaints. If the collection is not completed, the Department will be unable to comply with the statutory requirements ADA and the Rehabilitation Act of 1973.

7. Special circumstances. *Explain any special circumstances that would cause an information collection to be conducted in a manner:*

There are no special circumstances requiring information to be collected in any of the manners stated above.

8. Compliance with 5 CFR 1320.8: *Provide an electronic copy and identify the date, volume number and page number of the publication in the federal register of the agency's notice (for a 60-day and a 30-day notice), required by 5 CFR 1320.8(d), soliciting comments on the information collection prior to submission to OMB.*

Notice and public comment were solicited with publication in the Federal Register on June 13, 2016, volume 81, page 38264, which initiated a 60-day public comment period. No comments were received. A 30-day notice was published on August 26, 2016 (81 FR 59038).

9. Payments or gifts to respondents. *Explain any decision to provide a payment or gift to respondents, other than enumeration of contractors or grantees.*

No payment or gift of any kind has been or will be provided to any respondents in the public sector or to carriers that must file reports pursuant to this rule.

10. Assurance of confidentiality: *Describe any assurance of confidentiality provided to respondents and the basis for the assurance in statute, regulation, or agency policy.*

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3The Privacy Act is applicable and regulates the manner in which the Department handles personal information. On February 25, 2005, the Department published a “Notice of establishment of system of records” (SORN) in the Federal Register [February 25, 2005, Volume 70, Number 37, Pages 9436-37] (DOT/OST 102: Aviation Consumer Complaint Application Online System (CCA) <https://www.gpo.gov/fdsys/pkg/FR-2005-02-25/pdf/05-3646.pdf>)and on August 21, 2004, a Privacy Impact Assessment (PIA) was made public on the DOT’s website (http://www.dot.gov/pia/ost_cca.htm). Both documents are available at www.dot.gov/privacy .

411. Justification for collection of sensitive information: *Provide additional justification for any questions of a sensitive nature, such as sexual behavior and attitudes, religious beliefs, and other matters that are commonly considered private. This justification should include the reasons why the agency considers the questions necessary, the specific uses to be made of the information, the explanation to be given to persons from whom the information is requested, and any steps to be taken to obtain their consent.*

The sensitive information being collected may contain information regarding an individual’s disability. Such information is often disclosed in the written complaints. Pursuant to our internal guidance, the Department will contact the complainant to request a complainant consent/release authorizing the release of personal information. The Department uses the data gathered to identify potential areas of concern and to meet the requirements of ADA and the Rehabilitation Act.

12. Estimate of burden hours for information requested: *Provide estimates of the hour burden of the collection of information.*

Respondents: the U.S. Department of Transportation currently collects data on ADA and other civil rights-related concerns based on information provided by the public via written submission, or through a toll-free telephone number. Based on our analysis of data collected through present formats, DOT receives approximately 850 separate responses from the general public on accessibility-related concerns, including:

150 pieces of correspondence on one-time accessibility-related incidents
 120 email messages
 400 telephone calls
 172 formal accessibility-related complaints.

Currently, the estimated Total Burden on Respondents: 15 to 30 minutes per submission.

13. Estimate of total annual costs to respondents. *Provide an estimate of the total annual cost burden to respondents or recordkeepers resulting from the collection of information. (Do not include the costs of any hour burden shown in items 12 and 14).*

Yearly costs to industry for maintenance of the database and data input are estimated to be \$0, as these tasks are generally completed by carrier personnel.

14. Estimate of cost to the Federal government. *Provide estimates of annualized cost to the federal government. Also, provide a description of the method used to estimate costs, which should include quantification of hours, operational expenses such as equipment, overhead, printing, and support staff, and any other expense that would not have been incurred without this collection of information. Agencies also may aggregate cost estimates from items 12, 13, and 14 in a single table.*

Annual website maintenance and hosting costs of \$750 (4 hours maintenance/update [contractor] x \$125 and \$250 for website hosting fee).

15. Explanation of program changes or adjustments. *Explain the reasons for any program changes or adjustments reported in items 12, 13 or 14.*

Not applicable.

16. Publication of results of data collection. *For collections of information whose results will be published, outline plans for tabulation, and publication. Address any complex analytical techniques that will be used. Provide the time schedule for the entire project, including beginning and ending dates of the collection of information, completion of report, publication dates, and other actions.*

Not applicable.

17. Approval for not displaying the expiration date of OMB approval. *If seeking approval to not display the expiration date for OMB approval of the information collection, explain the reasons that display would be inappropriate.*

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Not applicable.

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18. Exceptions to certification statement. *Explain each exception to the certification statement "Certification for Paperwork Reduction Act Submissions."*

Not applicable.