

***IN THE MATTER OF THE CANADIAN TRANSPORTATION  
AGENCY'S REGULATORY MODERNIZATION INITIATIVE,  
ACCESSIBLE TRANSPORTATION***

**Submission filed with the  
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## PART I

### I. INTRODUCTION

1. On June 6, 2016, the Canadian Transportation Agency (the “Agency”) initiated a public consultation on the accessibility of the national passenger rail system for persons with disabilities as part of its review of all of the regulations administered by the Agency (the “Regulatory Modernization Initiative”).
2. The Agency has already met in person with stakeholders over the summer months, including with the Accessibility Advisory Committee, a committee made up of representatives from the community of persons with disabilities, the transportation industry and other interested parties.
3. The Agency has also sought comments in writing from stakeholders and to that end, issued a discussion paper, entitled the “Canadian Transportation Agency’s Regulatory Discussion Paper” (the “Accessible Transportation Discussion Paper”) dated June 20, 2016.
4. These comments constitute VIA Rail Canada Inc.’s (“VIA”) response to the Agency’s Accessible Transportation Discussion Paper. VIA wishes to thank the Agency for having provided stakeholders the opportunity to share their views on the issues and questions set out in the Accessible Transportation Discussion Paper.
5. VIA’s comments are divided into two parts:
  - (a) Part I is VIA’s Overview Submission, which discusses the appropriate approach to modernizing accessibility standards in the context of carriage by rail. In addition, a list of the operational and systemic questions put to VIA in the Accessible Transportation Discussion Paper is set out under ten (10) separate headings in Appendix “A” to this Part I; and
  - (b) Part II is comprised of VIA’s answers to the operational and systemic questions set out in the Agency’s Accessible Transportation Discussion Paper.

### II. FRAMEWORK AND PRINCIPLES

6. The Agency has stated that the Regulatory Modernization Initiative, of which the Accessible Transportation Consultation is an integral initial piece, will be anchored in three goals:
  - (a) **Principle of clarity, predictability and relevance to business practices:** Ensuring that the transportation industry’s obligations are clear, predictable, and relevant to a range of existing and emerging business practices;

- (b) **Principle of proportionality between regulatory burden and purpose:** Ensuring that the demands associated with compliance are only as high as necessary to achieve the regulations' purposes; and
  - (c) **Principle of efficient and effective compliance:** Facilitating the efficient and effective identification and correction of instances of non-compliance.
7. VIA concurs with the principles underlying the three anchoring goals of the Agency's Regulatory Modernization Initiative, with the following two additional comments specific to the provision of services to persons with disabilities.
  8. On the one hand, with respect to the principle of clarity, VIA agrees that legally binding obligations must be clearly defined in order to avoid the pitfall of being overbroad, and too vaguely worded so as to be unenforceable and therefore of no use to persons with disabilities seeking to avail themselves of the national transportation system.
  9. On the other hand, regulations that are too rigid risk limiting the possibility of flexible and individually tailored solutions. This is a particularly important consideration in relation to clients with disabilities. No two individuals are exactly alike and what may be a welcome service adjustment for one may not be appropriate for another. Factors such as the customer's functional limitations, the type of train equipment, the dates of travel, including points of departure and arrival, and weather conditions, are some of the factors that affect the service adjustments that are feasible and are best tailored to the circumstances.
  10. Ensuring clarity of obligations while maintaining incentives and opportunities for the transportation industry to remain flexible and responsive to individual needs, without being unduly burdensome and impracticable, is a key challenge in achieving the goals for regulatory modernization identified by the Agency.

### **III. APPROPRIATENESS OF MANDATING COMPLIANCE WITH TECHNICAL PROVISIONS**

11. The Agency has asked that stakeholders comment on the appropriateness of converting the technical provisions in the codes (e.g. provisions incorporated from the Canadian Standards Association's B651 standard, *Accessible Design for the Built Environment*) into in the new accessibility regulation,<sup>1</sup> while keeping the more objectives-based provisions in the codes of practice.
12. Subject to VIA's comments below, VIA currently complies with both the spirit and letter of the *Code of Practice for the Carriage by Rail of Persons with Disabilities* (the "Rail Code"), the *Code of Practice*

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<sup>1</sup> Accessible Transportation Discussion Paper at p. 4.

for *Removing Communication Barriers for Travelers with Disabilities* (the “Communication Code”) and the *Code of Practice for Passenger Terminal Accessibility* (the “Terminal Code”).

13. In particular, consistent with its comments on the Agency’s articulation of the anchoring goals of the Regulatory Modernization Initiative, VIA not only complies with the letter of the existing codes of practices that apply in the passenger rail context, it strives to personalise and individualise the service it provides to its customers as much as is reasonably feasible through all stages of the rail experience, from trip planning to disembarkation from a train. It does so by balancing the demands of a highly competitive transportation environment against the individualised needs of persons with disabilities. VIA’s efforts have not gone unnoticed by the travelling public, which values and appreciates the convenience and relative accessibility of rail travel, as compared to other modes of public transportation.
14. Thus, in principle and subject only to amending a discrete number of the existing service standards in the Rail Code and Terminal Code that are currently not appropriately tailored to the rail context, VIA supports the Agency’s proposal to convert both the rail-specific technical provisions of the Rail Code and the inter-modal provisions of the Communication Code and Terminal Code into regulations.
15. The discrete amendments to the Rail Code and Terminal Code are necessary, in VIA’s submission, when these are scrutinised through the lens of the principles discussed above: clarity, predictability and relevance, proportionality, efficiency and effectiveness and flexibility. These discrete cases are referred to below as well as in the relevant parts of VIA’s answers to the Agency’s ten operational and systemic questions in Part II.

#### **IV. APPROPRIATENESS OF CREATING A SINGLE NEW ACCESSIBILITY REGULATION**

16. The Agency has also asked that stakeholders comment on the Agency’s proposal to create a single comprehensive set of accessibility regulations (the “new accessibility regulations”) that would apply to all modes of transportation under the Agency’s jurisdiction<sup>2</sup> and in particular, to rail carriers that operate extra-provincial passenger services<sup>3</sup> and rail terminals that serve rail carriers operating an extra-provincial service.<sup>4</sup> The Agency has gone further and proposed to structure the new accessibility regulations to require all carriers to provide the services set out in the *Air Transportation Regulations*, SOR/88-58, Part VII<sup>5</sup> but has asked stakeholders to identify any specific concerns with the Agency’s proposal for the *Air Transportation Regulations*, Part VII to be applied more broadly to other modes of transportation.

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<sup>2</sup> Accessible Transportation Discussion Paper at p. 2.

<sup>3</sup> With the exception of smaller operations including commuter and tourist rail.

<sup>4</sup> With the exception of those serve only commuter and tourist rail carriers.

<sup>5</sup> Accessible Transportation Discussions Paper at p. 5, Question 1.

17. As discussed in further detail below, it does not appear that the Agency's anchor goals of clarity, predictability and relevance and efficient and effective enforcement would be optimised by creating a single comprehensive accessibility regulation for all modes of transport.
18. This is primarily due to the fact that there are a significant number of distinct operational features between rail cars and stations and the crafts/vessels and stations of other modes of transportation that suggest that the desired efficiency gains of a single new accessibility regulation could be outweighed by (i) diluted or ill-fitting standards and (ii) decreased flexibility for carriers and passengers with disabilities alike, thereby working at counter-purposes to the goals of regulatory clarity and relevance and effective and efficient enforcement of the regulations.
19. If these are the consequences of moving to a single, inter-modal accessibility regulation, then it would be preferable, in VIA's submission, to transition instead to a set of mode-specific regulations.
20. Alternatively, the Agency could consider a single new accessibility regulation, subject to inclusion of rail-specific chapters or parts dealing with the following subject matter:
  - (a) Seat assignment in the rail context;
  - (b) Passenger rail car specifications;
  - (c) Carriage of mobility aids by rail carriers;
  - (d) Circumstances and obligations related to transfers to and from mobility aids in a rail context;
  - (e) Fare rules pertaining to sleeper cars when the passenger has an accompanying animal;
  - (f) Check-in and curbside assistance in rail stations;
  - (g) Non-applicability of provisions in Terminal Code (Sections 2.6 and 2.7) related to ground-transportation within stations/terminals or between terminals in a rail context;
  - (h) Non-applicability of provisions in Terminal Code (Section 4.0) related to security screening in a rail context;
  - (i) Tailoring of provisions relating to service animal relieving areas (Terminal Code, Section 2.5) and escort passes (Terminal Code, Section 3.4); and
  - (j) Alternative travel arrangements.

## **A. Differences**

21. Rail travel today shares many similarities with travel by other modes, such as increased convenience enabled by technology, particularly in the planning phase of the trip.
22. By the same token, rail travel is distinct in many respects. These differences arise from three fundamental realities: (i) the physical characteristics of passenger rail cars; (ii) the unique attributes of rail stations and terminals; and (iii) the fact that there is only one ubiquitous national passenger rail service.

### **1. *Physical characteristics of passenger rail cars***

23. First and foremost, passenger rail cars, unlike aircrafts,
- (a) Come in different configurations: coach cars, sleeper cars, lounge cars, food service cars, bar service cars, other passenger service cars, and baggage cars;
  - (b) Each VIA train is equipped with at least one rail car that has a mobility aid tie-down area;
  - (c) On the other hand, with the exception of the mobility aid tie-down area of a car, the remaining seats on any given rail car are generally equally accessible.
24. The Rail Code is the rail-specific code of practice. It contains a number of rail-specific provisions relating to the characteristics of passenger rail cars, as referred to above. Section 1.2 of the Rail Code, entitled “All passenger rail cars” are specific to rail carriers and set out rail-specific requirements that would have no relevance to other modes of transport, such as:
- (a) Section 1.2.4 setting out physical criteria for stairs on a passenger rail car;
  - (b) Section 1.2.8 setting out the requirement that each passenger rail car should have a number of passenger seats that provide enough floor space for a service animal;
  - (c) Section 1.2.11 and Appendix B setting out physical dimensions and criteria for washrooms on all passenger rail cars;
  - (d) Section 1.2.13 setting out the requirement that a passenger train with only one wheelchair tie-down area should have priority storage space for one other personal wheelchair; and
  - (e) Section 1.2.14 setting out the requirement that all passenger trains should be equipped at all times with at least one on-board wheelchair provided by the rail carrier.

25. Section 1.3 sets out physical criteria for passenger cars with wheelchair tie-down areas. These requirements are intrinsic to rail travel but would have no relevance to other modes of transport.

26. Section 1.4 sets out physical criteria for wheelchair-accessible sleeping cars. These requirements are intrinsic to rail travel but would have no relevance to other modes of transport.

27. The physical differences in the relative size and configurations of rail cars have a number of significant ramifications to the design of a single, inter-modal regulation, as follows. VIA submits that the objectives of clarity, proportionality and enforceability would best be achieved through a rail-specific regulation in relation to the following subject matter:

- (a) **Passenger rail car specifications:** because passenger rail cars are, relatively speaking, larger than aircraft cabins, the size of doorways, passages and washrooms are fundamentally different from that of an aircraft. The current provisions of section 1 of the Rail Code, in particular, cannot be transposed to the air context;
- (b) **Seat assignment:** Subsection 153(1) of the *Air Transportation Regulations* Part VII refers to the air carrier's duty to advise passengers in relation to the availability of accessible seating and to refrain from assigning accessible passenger seats to passengers without disabilities. VIA notes that similar provisions are currently included in the Rail Code at Section 2.3.2. VIA submits that Section 2.3.2 of the Rail Code should be amended to better reflect the realities of rail travel if seat assignment provisions that are applicable to the rail context are to be included in the new accessibility regulations resulting from the Agency's Regulatory Modernization Initiative;
- (c) **Carriage of mobility aids other than certain electric wheelchairs, scooters and rigid-frame wheelchairs:** in contrast to the air travel, in a rail context, mobility aids other than certain electric wheelchairs, scooters and rigid-frame wheelchairs can be carried in the same passenger rail car as the passenger. Indeed, in many cases, passengers may remain in their mobility aids during the entire train sojourn. The only instances in which a person's mobility aid may not be carried in the same passenger rail car as the passenger are:
  - (i) When the total weight of the passenger and mobility aid exceeds the physical capacity of train lift equipment; or
  - (ii) When the dimensions of the mobility aid exceed the dimensions of doorways and turning radii of VIA's trains;

Thus, in a rail context, in contrast to the provisions of section 148 of the *Air Transportation Regulations* Part VII, it is the exception and not the rule that VIA would force a customer to (i) check a mobility aid for carriage in a baggage car and (ii) transfer out of the mobility aid before boarding. Passenger rail carriers, namely VIA, should be subject to tailored provisions relating to the carriage of mobility aids along the lines of Section 1.3 and Section 2.2.5 of the Rail Code;

- (d) **Provisions relating to transfers to/from mobility aids:** Subsection 148(3) of the *Air Transportation Regulations* Part VII requires that air carriers permit a person in a manually operated wheelchair to remain in the wheelchair in the terminal, between the terminal gate and aircraft door, and between the terminal and the door of the passenger's seat in an aircraft. In the passenger rail context, the provisions of subsection 148(3) would only apply in limited instances as opposed to in the majority of cases, as would be the case in the air transportation context. VIA submits that if provisions relating to the transfer of passengers to or from mobility aids that are applicable to the rail context are to be included in the new accessibility regulations, they should be tailored to better reflect the realities of rail travel; and
- (e) **One person/one fare:** In the context of rail travel, there are specific rules relating to service animals when a passenger books travel in a sleeper car or cabin.

## **2. Unique attributes of rail stations and terminals**

- 28. Second, rail stations and terminals serve similar functions but there are major differences between them.
- 29. The reality of passenger rail travel in Canada along certain stretches of the vast Canadian geography is that many of its stations see few passenger(s) boarding or deboarding. It is not practicably feasible to staff such stations with full or part-time staff. If such costs and resources were imposed, in certain instances, the delivery of different train services could be restricted.
- 30. In relation then to unstaffed stations, VIA submits that consistent with the Rail Code at Sections 2.2.2 and 2.2.4, passenger rail carriers must be exempted from the requirement to provide check-in assistance, additional in-station services, and curbside assistance services at unstaffed stations as contemplated by section 147 of the *Air Transportation Regulations* Part VII:
  - (a) Duty of air carrier to periodically inquire as to needs of a person in terminal while awaiting a flight or in transit between flights – *Air Transportation Regulations*, section 150;
  - (b) Assisting with:

- (i) Registration at check-in counter (s. 147(1)(a));
- (ii) Proceeding to the boarding area (s. 147(1)(b));
- (iii) Proceeding to a public area (s. 147(1)(i); and
- (iv) Periodically checking on passenger prior to boarding (s. 147(2)).

31. This does not mean, however, that no in-station services would be provided for persons whose closest VIA station is an unstaffed station. Independent of any regulation or provision of the Rail Code, under VIA's current procedures, upon request with the appropriate advance notice, VIA currently provides the following boarding or deboarding services to passengers requiring assistance due to mobility restrictions at unstaffed stations:

- (a) VIA On-Train Service staff would provide on-boarding and de-boarding assistance from the station platform on to the train or vice versa; or
- (b) If required to address the passenger's mobility needs, VIA provides transportation from the passenger's nearest local unstaffed station to a terminal or staffed station where additional in-station services are available.

32. Aside from the reality of unstaffed stations in VIA's rail network, rail stations, unlike air terminals, are not as large and do not have the security screening areas that are mandated for air terminals. As a result, certain provisions of the inter-modal Terminal Code do not apply or are not currently appropriately tailored to the rail context:

- (a) The provisions in the Terminal Code (Sections 2.6 and 2.7) related to ground-transportation within stations/terminals or between terminals do not apply in a rail context;
- (b) The provisions in the Terminal Code (Section 4.0) related to security screening do not apply in a rail context; and
- (c) The provisions relating to service animal relieving areas (Terminal Code, Section 2.5) and escort passes (Terminal Code, Section 3.4) should be amended to better reflect the operational realities of rail stations and terminals.

### **3. *Single national passenger rail carrier***

33. The third practical difference between rail travel and other modes of travel in Canada is that unlike other modes of travel, there is only one ubiquitous federally regulated passenger rail service in Canada, namely, VIA. Therefore, in the vast majority of cases, there is no option to arrange for

onward travel on another rail carrier should a passenger not be able to travel on the train originally reserved.

34. This means that the provisions in the *Air Transportation Regulations*, subsection 151(4) in relation to the obligation of an air carrier to cooperate with other air carriers where flight plans change due to flight cancellation or aircraft substitution would be irrelevant and inapplicable in the rail context. VIA notes that notwithstanding this, Section 2.2.7 of the Rail Code contains similar provisions to subsection 151(4) of the *Air Transportation Regulations*. Section 2.2.7 of the Rail Code should be amended to better reflect the realities of rail travel if provisions related to a rail carrier's obligations to cooperate in providing alternative travel are to be included in the new accessibility regulations, resulting from the Agency Regulatory Modernization Initiative.

#### **B. Recommended Approach to Regulating Accessibility in Rail Context**

35. As stated above, it does not appear that the Agency's anchor goals of clarity, predictability and relevance and efficient and effective enforcement would be optimised by creating a single comprehensive accessibility regulation for all modes of transport. If the consequences of moving to a single, inter-modal accessibility regulation sacrifice, rather than contribute, to the achievement of clarity, relevance and effective and efficient enforcement, or entail a reduction in VIA's ability to devise flexible, individually-tailored solutions, then it would be preferable, in VIA's submission, to move instead towards a set of mode-specific regulations.

36. Alternatively, the Agency could consider a single new accessibility regulation, subject to the inclusion of rail-specific chapters or parts dealing with the following subject matter:

- (a) Seat assignment in the rail context;
- (b) Passenger rail car specifications;
- (c) Carriage of mobility aids by rail carriers;
- (d) Circumstances and obligations related to transfers to and from mobility aids in a rail context;
- (e) Fare rules pertaining to sleeper cars when the passenger has an accompanying animal;
- (f) Check-in and curbside assistance in rail stations;
- (g) Non-applicability of provisions in Terminal Code (Sections 2.6 and 2.7) related to ground-transportation within stations/terminals or between terminals in a rail context;

- (h) Non-applicability of provisions in Terminal Code (Section 4.0) related to security screening in a rail context; and
- (i) Tailoring of provisions relating to service animal relieving areas (Terminal Code, Section 2.5) and escort passes (Terminal Code, Section 3.4).

## **V. CONCLUSION**

37. VIA is pleased to participate in the Agency's public consultation on accessible transportation. We look forward to participating in a constructive manner in the remaining phases of the Agency's public consultation process and working with all stakeholders, including representatives of the community of persons with disabilities, in this important public policy process.

## APPENDIX "A"

### AGENCY'S OPERATIONAL AND SYSTEMIC QUESTIONS AS SET OUT IN ACCESSIBLE TRANSPORTATION DISCUSSION PAPER ORGANISED UNDER TEN (10) HEADINGS

#### **Question 1 (Services in the *Air Transportation Regulations Part VII*)**

Discussion Paper, p. 5, Question 2

- (a) Which of the services/accommodation(s) set out in the [Air Transportation Regulations Part VII](#) are you currently offering?

Discussion Paper, p. 3

- (b) The Agency is proposing to amend the ATR Part VII to include nine (9) new or revised requirements as set out in the Agency document entitled "2013 Proposed ATR Regulatory Amendments." Of these, identify which services/accommodation proposed to be added to the ATR Part VII VIA is currently offering and if not, identify any significant difficulties or issues that VIA would experience if required to implement the proposed accommodation in a rail context.

Discussion Paper, p. 3

- (c) Assuming that the provisions of the ATR Part VII are applied to all carriers in the new accessibility regulations, comment on whether any other changes to the ATR Part VII are required.

#### **Question 2 (Communication Code)**

Discussion Paper, top of p. 6, Question 1

Provide your views on the feasibility and appropriateness of incorporating, in regulations, the technical standards referenced in Appendix A of the Discussion Paper that are currently in the Communication Code.

#### **Question 3 (Personnel Training Regulations)**

Discussion Paper, p. 3 and bottom of p. 6, Question 1

- (a) Comment on the Agency's proposal to amend the [Personnel Training for the Assistance of Persons with Disabilities Regulations](#) ("PTR") to include:
- An update to the scope of the regulations to exclude:
    - air carriers that transport less than 10,000 revenue passengers annually;
    - air terminals that are not part of the NAS;

- rail carriers in respect of commuter rail services provided by the carrier and tourist rail carriers; and,
  - extra-provincial ferry operators that exclusively use vessels of less than 1,000 gross tonnes.
- Prescribing a three-year time frame for refresher training.

Discussion Paper, p. 6, Question 2

- (b) Are there any additional requirements related to training that you think should be addressed in the new accessibility regulations?

**Question 4 (Rail Code)**

Discussion Paper, p. 7, Question 1

- (a) Provide your views on the incorporation, in regulations, of the technical standards currently in the [Code of Practice: Passenger Rail Car Accessibility and Terms and Conditions of Carriage by Rail of Persons with Disabilities](#) (the Rail Code) referenced in Appendix C of the Discussion Paper.

Discussion Paper, p. 7, Question 2

- (b) Are there currently any standards in the Rail Code that you are having significant difficulty meeting? If so, please explain the challenges.

Discussion Paper, p. 7, Question 3

- (c) Are there any alternative or additional standards to the Rail Code that you would propose? Please explain, in respect of any alternative accommodation measures, how they would provide an equivalent level of accessibility and, in respect of additional standards, why you think these are required.

Discussion Paper, p. 8, Question 4

- (d) In terms of compliance with the proposed technical standards for each of the modes of transportation, the Agency is considering a requirement for carriers and terminals to obtain the Agency's approval for planned acquisitions of new equipment and major retrofits as well as for the construction of terminals and major renovations which would reasonably be expected to impact access by persons with disabilities. What significant challenges, if any, do you think you might face if you are required to obtain the Agency's pre-approval for the acquisition of new equipment, or retrofit of existing equipment, which would reasonably be expected to impact access by persons with disabilities?

Discussion Paper, p. 8, Question 5

- (e) What significant challenges, if any, would you face if required to provide more than one tie-down area per train, including in the same car? Please consider the use of foldable and removable seats in describing any significant challenges you might face, *i.e.*, in terms of mitigating such challenges.

Discussion Paper, p. 8, Question 6

- (f) What significant challenges, if any, do you face when required to carry scooters on rail cars?

Discussion Paper, p. 8, Question 7

- (g) What systems/procedures do you have in place to accommodate persons with mobility disabilities when using a multi-level car to ensure equal access to both levels?

Discussion Paper, p. 8, Question 8

- (h) Please describe your policy(ies) on the acceptance of mobility aids with batteries.

Discussion Paper, p. 8, Question 9

- (i) Please describe your policy on alternative transportation *e.g.* the provision of an accessible taxi in the event you cannot accommodate a passenger with a disability on your equipment.

**Question 5 (Terminal Code)**

Discussion Paper, p. 9, Question 1

- (a) Please describe in detail, any significant difficulties that you may have in meeting any of the technical standards set out in the [Agency's Code of Practice: Passenger Terminal Accessibility \(Terminal Code\)](#), as summarised in Appendix F of the Discussion Paper.

Discussion Paper, p. 9, Question 2

- (b) Please describe any alternative or additional provisions (whether technical standards, facility considerations, service considerations, or other) that you think should be included in the proposed regulations?

Discussion Paper, p. 9, Question 4

- (c) Please describe the processes/procedures you have in place to help persons with disabilities who need assistance in your terminals (e.g. assistance from drop-off to check-in, boarding / deboarding, wheelchair assistance etc.)?

Discussion Paper, p. 9, Question 5

- (d) Please provide your views on the incorporation, in regulations, of the technical standards currently in the Terminal Code referenced in Appendix F.

Discussion Paper, p. 9, Question 6

- (e) Describe any policy you have for ensuring the accessibility of new construction or renovations at your terminal facilities.

Discussion Paper, p. 9, Question 7

- (f) What significant challenges, if any, do you think you might face if you are required to obtain the Agency's pre-approval for new construction and renovations which would reasonably be expected to impact access by persons with disabilities to your facilities?

**Question 6 (One Person, One Fare)**

Discussion Paper, p. 10, Question 1

- (a) Describe any policy you may have regarding fares charged to persons with disabilities for extra seating in order to accommodate their disability (e.g. to travel with an attendant or a large guide dog or because of a fused leg). For example, do you offer free travel for attendants or a reduced fare?

Discussion Paper, p. 10, Question 3

- (b) Please describe any significant difficulties, including operational, safety, or financial difficulties, you would face in implementing a one-person-one fare regime for persons with disabilities who require additional seating to accommodate their disabilities on domestic flights, as per the Agency's [Decision No. 6-AT-A-2008](#).

Discussion Paper, p. 10, Question 2

- (c) Please provide your views on how to best implement such a policy, including your views on the following:

- (i) Should qualifying passengers with disabilities always be provided, free of charge, extra seating required to accommodate their disability?
- (ii) Should qualifying passengers with disabilities be refunded fares paid for additional seating when it is determined that there were empty seats on their particular trip?

### **Question 7 (Allergies)**

#### **(d) Food Allergies (viz. peanuts, nuts and sesame seeds)**

##### Discussion Paper, p. 12, Question 1

- (i) Describe any policy you may have regarding travel by persons with disabilities due to allergies to peanuts, nuts, and sesame seeds (for example, a policy to provide buffer zones)?

##### Discussion Paper, p. 12, Question 2 and p. 11

- (ii) What significant constraints, if any, would prevent you from accommodating persons with disabilities due to allergies to peanuts, nuts, and sesame seeds with the measures set out in the findings of the [Ministerial Inquiry into Allergies to Peanuts, Nuts and Sesame Seeds in Commercial Air Travel - Report of the Inquiry Officer](#), namely:
  - a buffer zone, consisting of the row in which the allergic passenger sits or the pod-seat, as applicable;
  - an announcement to other passengers within the buffer zone that they must refrain from eating peanuts, nuts or sesame seeds or foods containing these;
  - not serving meals or snacks containing peanuts, nuts or sesame seeds in the buffer zone (recognizing that any food may contain trace amounts of the allergens);
  - advising passengers with allergies to peanuts, nuts and sesame seeds who provide advance notification of their allergies that they are expected to take the same precautions they take during their daily living, including carrying their allergy medication on their person; wiping down their seat area to remove any allergens; bringing their own food;
  - abatement, by allowing passengers to wipe down their seating areas;
  - having policies on air carrier websites in order to inform passengers on how to make arrangements for accommodation and what their responsibilities are; and,
  - training flight crews on signs and symptoms of an allergic reaction.

**(e) Allergies to animals**

Discussion Paper, p. 12, Question 3

- (i) Describe any policies you may have with respect to travel by passengers who are disabled by:
  - (A) allergies to animal dander;
  - (B) other allergies.

Discussion Paper, p. 12, Question 4

- (ii) What significant difficulties, if any, would prevent you from accommodating persons with disabilities due to allergies with accommodation measures similar to those outlined in Decision No. 227-AT-A-2012 as follows:
  - (A) a ban on the source of the allergen carried onto the aircraft cabin in which a person with an allergy disability is travelling (ban accommodation); or
  - (B) air circulation/ventilation systems using High Efficiency particulate Air (HEPA) filters or which provide 100% un-recirculated fresh air and a seating separation which is confirmed prior to boarding the flight and which provides a minimum of five rows between a person with an allergy disability and the source of the allergen carried onto the aircraft cabin, including boarding and deplaning and between their seat and a washroom.

Discussion Paper, p. 12, Question 5 and pp. 11-12

- (f) Please describe any alternative suggestions to accommodate passengers who are disabled because of their allergies. Comment on Agency's proposal that it may be prepared to:
  - (i) Consider the type of exposure – *i.e.*, ingestional, inhalational, and topical;
  - (ii) Explore the feasibility of accommodation measure to address various allergens;
  - (iii) Consider the type of accommodation that might be appropriate by mode of transportation *e.g.*, the possibility that providing accommodation for allergies may be less challenging in rail travel as reseating passengers away from the source of an allergen may be achieved by moving them to a separate car; and

- (iv) Consider that accommodation measures that might be required by regulation would be premised on the expectation that persons disabled by allergies will take the same precautions they do in their daily living, such as carrying their medication on their person, wiping down seating areas, *etc.*

### **Question 8 (Service Animals)**

#### Discussion Paper, p. 13, Questions 1 and 2

- (a) What medical documentation, if any, would you require to support an individual's claim that they require an animal in order to accommodate their disability-related needs while traveling? What types of documentation, or assurances from a person with a disability would you require, if any, as proof that an animal is a legitimate service animal?

#### Discussion Paper, p. 13, Question 3

- (b) Which types of service animals, if any, would you not be willing to allow a person with a disability to retain with them onboard (versus carrying the animals in the cargo hold or baggage car)? Please indicate reasons for your response.

#### Discussion Paper, p. 13

- (c) Comment on the Agency's proposal to include in the new regulation provisions in relation to service animals that are "more inclusive" than the current Part VII provisions and that would apply to all federal modes of transportation. In particular, comment on the feasibility of the rule contained in the [U.S. Part 382 regulations](#) (see the [U.S. Government Publishing Office](#)) which require air carriers to:
  - (i) Accept different types of service animals and, as evidence that an animal is a service animal;
  - (ii) Accept identification cards, other written documentation, the presence of harnesses or tags, and the credible verbal assurances of a qualified individual with a disability; and
  - (iii) For a person seeking to travel with an animal used for emotional support or with a psychiatric service animal, the carrier must accept the animal if the person provides documentation on the letterhead of a licensed mental health professional setting out certain pieces of information.

### **Question 9 (Special Seating or Positioning Devices)**

Discussion Paper, top of p. 14, Question 1

Comment on the Agency's proposal to include in the regulation a requirement that all carriers, regardless of the mode of transportation, allow passengers who require special seating or positioning devices to accommodate their disability to be able to use them unless this is prohibited by safety rules or would otherwise seriously compromise their personal safety or that of other passengers. Would this cause any significant challenges?

### **Question 10 (Curbside Assistance)**

Discussion Paper, middle of p. 14, Question 1

- (a) How do you ensure that passengers with disabilities are provided assistance from the curb to check-in, including wheelchair assistance, guiding assistance for passengers with visual impairments, and assistance with luggage?

Discussion Paper, p. 14

- (b) Comment on the Agency's proposal to add a requirement for rail carriers and/or their terminals to provide assistance to persons with disabilities from the curb to the check-in area when departing from a terminal and from the general public area to the curb upon arrival at a terminal, consistent with [EU Regulation 1107/2006](#) which requires managing bodies of airports to provide curbside assistance to persons with disabilities.

## **PART II**

### **RESPONSES TO OPERATIONAL AND SYSTEMIC QUESTIONS AS SET OUT IN THE ACCESSIBLE TRANSPORTATION DISCUSSION PAPER (QUESTIONS 1 TO 10)**

**OPERATIONAL AND SYSTEMIC QUESTIONS –  
QUESTION 1 (SERVICES IN THE AIR TRANSPORTATION REGULATIONS PART VII)**

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Discussion Paper, p. 5, Question 2

1. (a) Which of the services/accommodation(s) set out in the [ATR Part VII](#) are you currently offering?

**ANSWER:**

1. Given that the [Air Transportation Regulations](#), SOR/88-53 (“*Air Transportation Regulations* Part VII”) were drafted with air carriers in mind, and that there are considerable operational differences between air and rail travel, not all the provisions of the *Air Transportation Regulations* Part VII are directly applicable to railway carriers.
2. For ease of reference and for organizational purposes, in our response to Question 1(a) below, we have organised the existing services and service standards in the *Air Transportation Regulations* Part VII into seven categories. By way of overview, the existing services or service standards in the *Air Transportation Regulations* Part VII are applicable (or not) to the rail context as follows:
  - (a) Trip planning services – applicable;
  - (b) Seat assignment services – largely inapplicable and where applicable, should be subject to different service standards;
  - (c) Carriage of mobility aids – largely inapplicable;
  - (d) Check-in, boarding and deboarding assistance – inapplicable to unstaffed rail stations. In staffed stations, largely applicable, with the notable exception of the general rule in air context that passengers in wheelchairs of all descriptions and scooters must transfer out of such aids in the air context, which is not generally the case in the rail context;
  - (e) In-cabin assistance – applicable;
  - (f) Carriage of service animals at no extra charge – applicable with the notable exception of the need for tailored rules in relation to accompanying animals when the passenger is travelling in a sleeper car; and
  - (g) Damaged or lost mobility aids – applicable.
3. For convenience, throughout VIA’s submissions, when referring to the provisions of the *Air Transportation Regulations* Part VII, the generic term “carrier” is used with the understanding that the *Air Transportation Regulations* themselves are particular to aircraft carriers.

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**A. Trip Planning**

4. The trip planning services set out in [subsection 147\(2\)](#), [section 151](#), and [section 152](#) of the *Air Transportation Regulations* Part VII in relation to trip planning for passengers with disabilities are applicable in the rail context.
5. Consistent with [Subsection 2.2.2\(a\) of the Rail Code](#), which mirrors the provisions of subsection 147(2) of the *Air Transportation Regulations* Part VII, VIA's Customer Centre is equipped to provide passengers with the necessary information relating to accommodating a disability on a VIA trip.
6. Consistent with [Section 2.3.1 of the Rail Code](#), which mirrors the provisions of section 152 of the *Air Transportation Regulations* Part VII, VIA's Customer Centre will identify the disability requiring accommodation and the associated Special Service Request, communicate the nature and procedure of accommodation to the customer, and add a Special Service Request code to the customer's reservation.
7. Consistent with [Section 2.2.3 of the Rail Code](#), which mirrors the provisions of subsections 151(1)-(3) of the *Air Transportation Regulations* Part VII, VIA commits to offering and implementing all Special Service Requests, as discussed below, made at least forty-eight (48) hours prior to travel. In circumstances where less than forty-eight (48) hours' notice is given, VIA will make all reasonable efforts to accommodate such requests.
8. All standardized Special Service Requests are assigned a service code indicating the type of request (e.g. assistance entraining and detraining, accommodation of scooters and wheelchairs in train tie-down areas, on-board and in-station assistance for visually impaired individuals, providing assistance using the inclined platform lift or manual wheelchair lift depending on the station, informing station employees of passengers with multiple chemical sensitivities, etc.). These codes are the same codes employed by airlines when adding particular types of service accommodations to passenger reservations.
9. The requests are subsequently reviewed by the operations staff which develops, coordinates, implements, and executes the service plan for a given passenger's travel by rail. Operations staff includes, as applicable, both On-Train Service employees and station employees.
10. In circumstances where an individual with a disability requires accommodation above and beyond the standard Special Service Requests, that individual's travel plan is referred to VIA's Customer

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Relations department which, in turn, works closely with the individual to develop a tailor-made solution to best suit the passenger's needs on a case by case basis.

**B. Seat Assignment**

11. [Section 153](#) of the *Air Transportation Regulations* Part VII requires that upon identification of the nature of a customer's disability, carriers shall, before assigning a passenger seat to that person, inform the customer of those seats most accessible to that person. Furthermore, where the carrier assigns seats before travel, accessible passenger seats shall be the last seats assigned to passengers without disabilities, and where advanced seat assignment is not possible, the carrier shall make a reasonable effort to ensure that accessible passenger seats are the last seats made available to passengers without disabilities.
12. As noted above and in VIA's Overview Submission, the seat assignment provisions in the *Air Transportation Regulations* Part VII are largely irrelevant to the context of rail travel. This is so notwithstanding that Section 2.3.2 of the Rail Code contains similarly-worded provisions as those contained in section 153 of the *Air Transportation Regulations* Part VII.
13. As a result, and as noted in VIA's Overview Submission, should the Agency determine that it wishes to include seat assignment provisions in relation to passenger rail in any new accessibility regulations, such provisions should be tailored to better reflect the operational realities of travel in a rail context, as discussed below.
14. First, while VIA does generally assign seats before travel as do certain air carriers, in contrast to airplanes, seats on any given VIA train are typically equally accessible. Therefore, the distinction made in section 153 of the *Air Transportation Regulations* Part VII between less and more accessible seats is not applicable to seats on VIA trains.
15. Second, and again in contrast to airplanes, in a rail context, as a general rule, passengers who use wheelchairs of most types and certain scooters have the option of remaining in their own mobility aids for the duration of their rail trip. VIA train "tie-down" areas can accommodate a number of mobility aids including manually operated wheelchairs, many electric wheelchairs, and some scooters.

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16. Should a passenger wish to reserve a tie-down area for a trip, they should follow the same procedure as for any other Special Service Request, as discussed above in VIA's response to Question 1(a)(A).
17. Other than requests pertaining to the use of a passenger tie-down area, VIA also handles requests for special seating assignments from passengers who wish to travel with a personal attendant, and passengers who require more than one seat for other reasons. This is discussed in Question 6.
18. The foregoing are important differentiating features of rail travel that are nowhere reflected in section 153 in the *Air Transportation Regulations*. Thus, rather than directly transposing the provisions of section 153 of the *Air Transportation Regulations* to the rail context, should seat assignment requirements be imposed on VIA, these should be properly tailored to the rail context.

**C. Carriage of Mobility Aids**

19. [Subsections 148\(1\) and 148\(2\)](#) of the *Air Transportation Regulations* Part VII set out the requirements associated with the carriage of various types of mobility aids, both large and small, by air carriers as priority baggage in a baggage hold without extra charge.
20. As stated above and in VIA's Overview Submission, section 148 of the *Air Transportation Regulations* Part VII is generally inapplicable in the rail context. This is so because without exception and subject only to safety standards, in a rail context, all manually-operated collapsible wheelchairs, any mobility aids smaller than a manually-operated wheelchair and certain types of rigid-frame wheelchairs, electric wheelchairs and scooters may be carried in the same passenger rail car as the passenger.
21. Thus, in a rail context, in contrast to the provisions of section 148 of the *Air Transportation Regulations* Part VII, it is the exception and not the rule that VIA would force a customer to (i) check a mobility aid for carriage in a baggage car and (ii) transfer out of the mobility aid before boarding.
22. In a rail context, the only provision of section 148 that would be applicable is paragraph 148(1)(a) in relation to certain electric wheelchairs, scooters and rigid-frame wheelchairs. Indeed, in many cases and for many models of even these larger types of mobility aids, in a rail context, passengers may remain in their mobility aids during the entire train sojourn. The only instances in

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which these larger types of mobility aids may not be carried in the same passenger rail car as the passenger are:

- (a) When the total weight of passenger and mobility aid exceed the physical capacity of train lift equipment; or
- (b) When the dimensions of the mobility aid exceed the dimensions of doorways and turning radii of VIA's trains.

23. As stated in VIA's Overview Submission, passenger rail service should be subject to tailored provisions relating to the carriage of mobility aids along the lines of [Section 1.3 and Section 2.2.5 of the Rail Code](#), with which VIA is fully compliant, rather than provisions akin to section 148 of the *Air Transportation Regulations*.

**D. Check in, Boarding and Deboarding Assistance and Accommodations**

24. As stated above and discussed in further detail below, the check-in, boarding and deboarding assistance that is relevant in a rail context differs from the assistance given in an air context in a number of ways.

**1. Assistance that is available only at staffed rail stations**

25. A number of the in-station services listed in the *Air Transportation Regulations* Part VII are relevant only to staffed stations or terminals, which can be assumed for air terminals but cannot be for rail stations.

26. For example, the services listed in [subsections 147\(1\)\(a\)-\(f\),\(h\),\(i\)](#) of the *Air Transportation Regulations* Part VII pertain to assistance during check-in and during transfers between the terminal and the aircraft. [Section 150](#) of the *Air Transportation Regulations* requires that air carrier personnel periodically inquire as to the needs of a passenger with a disability and attend to those needs at the pre-boarding and in-transit phases of travel.

27. VIA provides the foregoing check-in and other services, but only in staffed stations. VIA also provides additional assistance to passengers who require it in relation to connections between the train and station, as well as with detraining if it has been notified of the need for special assistance by way of a Special Service Request at least forty-eight (48) hours prior to travel.

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28. The express exemption for unstaffed railway stations from a number of the in-station service requirements is expressly recognised in the Rail Code. Thus,

- (a) [Section 2.2.4 of the Rail Code](#), which mirrors the provisions of subsection 147(1)(a)-(f),(h),(i) of the Air Transportation Regulations, provides a carve-out for unstaffed railway stations;
- (b) [Section 2.2.2 \(b\)](#) of the Rail Code in relation to periodic, in-station inquiries by rail carrier personnel contains a carve-out for unstaffed railway stations.

**2. No need to transfer out of wheelchairs and other mobility aids in rail context**

29. [Subsection 148\(3\) and subsection 148\(4\)](#) of the *Air Transportation Regulations* Part VII permit the use of manually operated wheelchairs at all possible times during boarding and deboarding, and imposes obligations on the carrier to assist with the disassembling and packaging of the aid after transferring the individual to the seat, and the unpacking and reassembling of the mobility aid upon arrival.

30. These provisions of the *Air Transportation Regulations* Part VII would be largely irrelevant in the rail context. This is so because, in general, passenger rail travel enables passengers in manually operated wheelchairs (rigid-frame or foldable) and in electric wheelchairs and scooters to remain in their mobility aids for the duration of travel. This difference is recognized and indeed prescribed, where space and facilities permit, by [Section 2.2.5\(b\) of the Rail Code](#).

31. Where a passenger may not remain in their mobility aid due to the dimensions of their aid, VIA On-Train Service employees will assist the customer with the transfer and stowing the assistive device on board on a baggage rail car. This type of assistance can be arranged if the request is placed with the VIA Customer Centre or in-person at least forty-eight (48) hours prior to the time of travel.

32. An elaboration of VIA's practices and procedures with respect to the carriage of scooters may be found at Question 4(f).

**3. In-station services that may be provided by On-Train Service personnel**

33. This leaves a few provisions of the Rail Code pertaining to in-station services that would apply in staffed and unstaffed stations alike, subject to advance notice.

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34. [Subsection 147\(3\)](#) of the *Air Transportation Regulations* Part VII provides that where a person requests assistance in boarding or seating or in stowing carry-on baggage pursuant to subsection 147(1), an air carrier may require the person to board the aircraft in advance of other passengers.
35. Consistent with [Section 2.2.4 of the Rail Code](#), which mirrors the provisions of subsection 147(3) of the *Air Transportation Regulations* Part VII, VIA provides the option of advanced boarding for individuals requesting assistance by way of a Special Service Request.
36. For additional information on the in-station services offered by VIA, please see VIA's answer to Question 5(c).

**E. In-Cabin Assistance and Accommodation**

37. As stated above, in the in-cabin assistance provisions of the *Air Transportation Regulations* Part VII are generally applicable in the rail context, given that there are similar provisions in the Rail Code that VIA has implemented.
38. [Paragraph 147\(1\)\(g\)](#) of the *Air Transportation Regulations* Part VII, mirrored in [Subsection 2.2.6\(g\)](#) of the Rail Code, mandates that, upon request, carriers assist persons, other than by carrying the person, in moving to and from aircraft washrooms, including assisting the person in using an on-board wheelchair where one is available.
39. [Paragraph 147\(1\)\(j\)](#) of the *Air Transportation Regulations* Part VII, mirrored in [Subsections 2.2.6\(d\) and \(e\)](#) of the Rail Code, mandates that, upon request, carriers serve special meals, where available, and provide limited assistance with meals such as opening packages, identifying items and cutting large food portions.
40. [Paragraph 147\(1\)\(k\)](#) of the *Air Transportation Regulations* Part VII, mirrored in [Subsection 2.2.6\(c\)](#) of the Rail Code, mandates that, upon request, carriers periodically inquire during the flight about the person's needs and attend to those needs where the services required are usually provided by the carrier, or where the services are required to be provided by the air carrier under the *Air Transportation Regulations*.
41. With respect to the aforementioned provisions, VIA ensures that On-Train-Service employees are trained in assisting persons with disabilities with on-board mobility, including moving to and from washrooms and inquiring periodically about the individual's needs during travel. VIA On-Train Service employees may further provide limited meal assistance (e.g. opening packages or

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identifying food items), and special meals are made available by selection through online or phone reservation. It should be noted however that VIA does not offer special meals that are free of allergens.

42. Please see VIA's answer to Question 7(a) for an elaboration of VIA's policies and procedures regarding accommodating individuals with disabilities due to allergies.
43. VIA promotes the mobility of passengers who nonetheless require significant personal assistance through its "One person, one fare" policy, addressed further in VIA's answer to Question 6.
44. However, VIA notes that the provisions of [paragraphs 148\(5\)\(a\) and 148\(5\)\(b\)](#) of the *Air Transportation Regulations* Part VII are slightly different than the comparable provisions found at [Subsection 2.2.5\(c\)](#) of the Rail Code.
45. The provisions of paragraphs 148(5)(a) and 148(5)(b) require that carriers allow the stowage of smaller assistive devices on board, including collapsible wheelchairs, "where space permits."
46. The Rail Code contains a similar requirement but does not contain the proviso that the service standard is only applicable "where space permits". This is because VIA trains have considerably more room for the stowage of both large and small mobility aids and, subject to safety requirements, VIA permits passengers to carry on board any apparatus required by the passenger related to the disability (examples include CPAP machines, oxygen, walkers, canes, wheelchairs, any items required for a service animals *etc.*). It should be noted that concentrator airway pressure treatment devices for sleep apnea or oxygen are permitted as carry-on but are subject to certain conditions.
47. The carriage of such small assistive items remains subject to weight and size limits set out by VIA. Customers are encouraged to contact VIA's Customer Centre prior to travel with any such device so that a Special Service Request may be added to their travel reservation and that arrangements can be made, if necessary, to permit the carriage of assistive devices.

**F. Service Animals**

48. [Section 149](#) of the *Air Transportation Regulations* Part VII, requires that air carriers accept service animals, without additional charge and permit them to remain with the passenger for the duration of the trip.

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49. VIA provides the services referred to in section 149 of the *Air Transportation Regulations* Part VII with respect to services animals as defined in [Section 1.2.8](#) of the *Rail Code*, which defines “service animal” as “an animal that is required by a person with a disability for assistance and is certified, in writing, as having been trained to assist a person with a disability by a professional service animal institution.”<sup>1</sup>
50. In particular, VIA generally permits passengers with disabilities to be accompanied by one service animal or guide dog, certified to have been trained by a professional instructor to assist the individual with disabilities at no extra charge. In both economy and business class, passengers travelling with service animals require two (2) seats and VIA will only charge that individual for one (1) seat. Animals may accompany the passenger with disabilities anywhere on board, including in areas where food is served, provided the animal wears a leash, harness or other tether.
51. However, the standard in section 149 of the *Air Transportation Regulations* is not directly transposable to sleeper cars in the rail context. Indeed, Section 1.2.8 of the *Rail Code* which contains a similar provision relating to service animals, specifically carves out an exception for sleeper cars – a consideration not relevant to air travel.
52. On board VIA sleeper cars, service animals cannot occupy a lower/upper berth or a cabin for one at night. These passengers, may, however occupy a cabin for two and the price will be established according to the passengers’ request:
- (a) If the passenger requests an upper berth, he/she will travel in a cabin for two and will pay the price of the upper berth;
  - (b) If the passenger requests a lower berth, he/she will travel in a cabin for two and will pay the price of the lower berth; or
  - (c) If the passenger requests a cabin for one, he/she will travel in a cabin for two and will pay the price of the cabin for one.
53. See VIA’s answer to Question 8 for further elaboration on VIA’s policies with respect to service animals and other accompanying animals.

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<sup>1</sup> *Passenger Rail Car Accessibility and Terms and Conditions of Carriage by Rail of Persons with Disabilities*, < online: <https://www.otc-cta.gc.ca/eng/publication/passenger-rail-car-accessibility> >.

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**G. Damaged or Lost Aids**

54. [Section 155](#) of the *Air Transportation Regulations* Part VII sets out requirements with respect to lost or damaged mobility aids during travel. This consideration is essentially the same for travel by rail and the Rail Code, which contains similar provisions at [Section 2.4](#).
55. Consistent with Section 2.4 of the Rail Code, VIA accepts responsibility for the prompt delivery of the passenger's aid in accordance with the original information provided by the passenger, and in the same condition as it was delivered to VIA.
56. Accordingly, VIA provides a number of services with respect to lost or damaged mobility aids including temporary replacements, and arranging for the immediate repair of a lost or damaged mobility aids within a reasonable period and at VIA's expense. With respect to mobility aids that are lost or damaged beyond repair, VIA will immediately arrange for a replacement aid. VIA personnel who handle checked baggage are familiar with the local procedures for the prompt repair, temporary/permanent replacement and transportation of mobility aids.
57. A baggage agent must complete a lost or damaged baggage report for a claim regarding a mobility aid. VIA maintains current information on the location and contact numbers of the nearest suppliers, repair facilities and transports of mobility aids.

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- 1. (b) The Agency is proposing to amend the [ATR Part VII](#) to include nine (9) new or revised requirements as set out in the Agency document entitled “2013 Proposed ATR Regulatory Amendments.” Of these, identify which services/accommodation proposed to be added to the [ATR Part VII](#) VIA is currently offering and if not, identify any significant difficulties or issues that VIA would experience if required to implement the proposed accommodation in a rail context.**

**ANSWER:**

1. By way of overview, the nine (9) proposed amendments to the *Air Transportation Regulations* Part VII would be applicable (or not) to the rail context as follows:
- (a) Amendment 1<sup>2</sup> (space for service animals) – amendments are relevant to rail context but a specific exception must be made for sleeper cars;
  - (b) Amendment 2 (seat assignment services) – amendments are relevant, in part, to rail context but:
    - (i) A specific exception must be made from the last-minute travel amendment for unstaffed stations, of which VIA has a large number; and
    - (ii) The proposed amendment to require carriers to reassign seating is not applicable to passenger rail travel as all seats aboard VIA trains are generally equally accessible;
  - (c) Amendment 3 (carriage of mobility aids) – amendments are not relevant to rail context;
  - (d) Amendment 4 (orientation for persons who are blind or partially sighted) – amendment is relevant to rail context;
  - (e) Amendment 5 (transfers to and from a mobility aid) – amendment is relevant to rail context;
  - (f) Amendment 6 (permitting passengers to remain in a manually operated wheelchair prior to boarding) – amendment not relevant to rail context;
  - (g) Amendment 7 (permitting small aids and assistive devices to be retained by passenger in-cabin) – amendment not necessary in rail context;

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<sup>2</sup> Amendment numbers are drawn from the *2013 Proposed Regulatory Amendments*

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- (h) Amendment 8 (periodic check-in only if requested by passenger) – applicable in rail context; and
- (i) Amendment 9 (temporary replacements of lost or damaged mobility cannot be recalled until a permanent, suitable replacement or full reimbursement of value of mobility aid is provided – applicable in rail context.

**A. Amendment 1 (Space for Service Animals)**

- 2. Amendment 1 aims to clarify [subsection 149\(2\)](#) of the *Air Transportation Regulations* Part VII, to require carriers to provide sufficient space for a service animal, which is to remain on the floor and at the passenger’s seat and the passenger to travel safely and without undue discomfort.
- 3. The Agency has provided the following rationale for this proposed amendment as follows:
  - 1. Space for service animals  
... The rationale for doing so is to eliminate instances where service animal users experience undue discomfort and/or service animals suffer injuries due to insufficient space for the service animal and service animal user.
- 4. VIA provides the services set out in the proposed amendment to [subsection 149\(2\)](#) of the *Air Transportation Regulations* by providing one additional seat, free of charge, for individuals with disabilities requiring service or therapy animals.
- 5. However, this rule should only be applicable to regular passenger rail cars. Consistent with VIA’s discussion at Question 1(a)(F) above of its established practices with respect to accompanying animals when a passenger books travel in a rail sleeper car, proposed Amendment 1 should not be applicable to sleeper cars in the rail context.
- 6. In addition, Amendment 1 (like the existing provision at subsection 149(2) of the *Air Transportation Regulations*) should be subject to a clear definition of a “service animal.”
- 7. See VIA’s answer to Question 8 for further discussion of VIA’s established practices in relation to the acceptance of service animals and other accompanying for carriage on board its trains.

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**B. Amendment 2 (Seat Assignment)**

8. Amendment 2 proposes to clarify [section 153](#) of the *Air Transportation Regulations* Part VII, to ensure that persons with disabilities are provided with the seating that best meets their needs, including:
- (a) For last-minute travel;
  - (b) Advanced seat selection without charge;
  - (c) Re-assignment of seats if necessary;
  - (d) Ensuring that agents are aware of which seats on an aircraft are accessible and for which disability-related needs the seating is appropriate; and
  - (e) Ensuring the persons with disabilities have input into which seat assignment best meets their needs.
9. VIA does generally provide advance seating assignments and without charge (including in the case of the reservation of wheelchair tie-down areas or as particularly associated with a Special Service Request).
10. However, because seats on any given VIA train are generally equally accessible and due to the operational reality in a rail context of unstaffed rail stations, the proposed standard in Amendment 2, if applied to the rail context, should be tailored to reflect these operational differences. This is discussed in further detail below.
- 1. For last-minute travel**
11. The Agency proposal to amend [section 153](#) of the *Air Transportation Regulations* Part VII to require carriers to accommodate seat assignment requests at the last minute.
12. This would present operational challenges for VIA, particularly at its unstaffed stations.
13. VIA currently provides services in relation to last minute travel (defined as travel for which under forty-eight (48) hours' notice of any special requirements is given). However, VIA has noted several challenges with respect to making the necessary arrangements for safe and secure travel of passengers with disabilities where it has not been notified in advance of the need for such special arrangements.

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14. Generally, VIA requires a minimum of forty-eight (48) hours' notice to accommodate passengers with disabilities in accordance with its obligations. Having said this, VIA endeavors to accommodate requests from individuals with disabilities, regardless of whether a Special Service Request has been made within the 48-hour window, provided that the appropriate space is available and taking into account the passenger's functional limitations and travel itinerary.
15. However, one of the principal barriers faced in implementing last-minute Special Service Requests is that they can generally only be implemented (if at all) at staffed station locations. Special Service Requests at unstaffed VIA stations require more notice as the accommodation process is more logistically complex. Were an amendment to be passed requiring VIA to accommodate last-minute special travel requests for individuals with disabilities, in a large number of cases, VIA would have insufficient time to implement these requests at unstaffed stations.
16. VIA is in the early phases of implementing a new policy exception with respect to last minute reservations for compassionate travel due to unforeseeable events for immediate family (death in family, hospital injury). Travelling for compassionate family reasons due to unforeseeable events requires twenty-four (24) hours' advanced notice for travel made by way of contacting VIA's Customer Centre and arranging the Special Service Request that will be required. To date, the last-minute family travel policy is available only at staffed VIA stations.

**2. *Advanced seat selection without charge***

17. The Agency proposes to amend [section 153](#) of the *Air Transportation Regulations* Part VII, to require carriers to offer free advanced seat selection to persons with disabilities.
18. VIA does generally provide advance seating assignments and without charge (including in the case of the reservation of wheelchair tie-down areas or as particularly associated with a Special Service Request).

**3. *Re-assignment of seats if necessary***

19. The Agency proposes to amend [section 153](#) of the *Air Transportation Regulations* Part VII, to require carriers to reassign seats if necessary to meet the needs of passengers with disabilities.
20. This proposed amendment is likely not applicable to passenger rail travel as all seats aboard VIA trains are generally equally accessible.
21. Please see VIA's policy with respect to on-board seat reassignment to accommodate passengers with allergies set out in Question 7(b).

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**4. *Ensuring that agents are aware of which seats on an aircraft are accessible and for which disability-related needs the seating is appropriate***

22. The Agency proposes to amend [section 153](#) of the *Air Transportation Regulations* Part VII to require agents to be aware of which seats are accessible for various disability-related needs.

23. VIA ensures that agents staffing its Customer Centre and its operations staff are aware of the tie-down areas on its trains as well as the types of assistive devices that may be carried on board each of the different types of trains currently in service on VIA's network.

**5. *Ensuring the persons with disabilities have input into which seat assignment best meets their needs***

24. The Agency proposes to amend [section 153](#) of the *Air Transportation Regulations* Part VII to require carriers to permit passenger input into choosing the appropriate seating assignment to accommodate their disabilities.

25. VIA currently encourages passengers' input into choosing appropriate seating assignments. Moreover, VIA does generally provide advance seating assignments without charge (including in the case of the reservation of wheelchair tie-down areas or as particularly associated with a Special Service Request).

**C. Amendment 3 (Carriage of Mobility Aids)**

26. [Amendment 3](#) proposes to amend [section 148](#) of the *Air Transportation Regulations* Part VII, to impose a number of additional requirements on air carriers in relation to the carriage of mobility aids, including:

- (a) Removal of the arbitrary 60-seat threshold;
- (b) Requiring all [aircrafts] that are subject to the regulation to carry a mobility aid where the design of the aircraft permits;
- (c) In situations where the aircraft design does not permit the carriage of a mobility aid, requiring carriers to offer, where possible, an alternative route(s) within their own network in respect of which the aircraft being operated will be able to carry the mobility aid. In such instances, carriers would be required, when offering alternative arrangements, to charge the lesser of the fare for the original flight and the fare for the new flight; and

**OPERATIONAL AND SYSTEMIC QUESTIONS –  
QUESTION 1 (SERVICES IN THE AIR TRANSPORTATION REGULATIONS PART VII)**

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- (d) In instances where carriers are unable to offer an alternative flight within their own network, they would continue to be required, per paragraph 148(2)(b) of the *Air Transportation Regulations*, to advise the person about transportation arrangements that are available for the mobility aid. In addition, carriers would also be required to explain, in writing, within 10 business days, in what respects the aircraft's design prevents the mobility aid from being carried.
27. As discussed in further detail below, the proposed amendments to the *Air Transportation Regulations* Part VII are not directly applicable to VIA.
- 1. *Removal of arbitrary 60-seat threshold***
28. The 60-seat threshold for mobility aid carriage services is not applicable to VIA trains.
- 2. *Require all [aircraft] that are subject to the regulation to carry a mobility aid where the design of the aircraft permits.***
29. As more fully explained above in response to Question 1(a), the carriage of mobility aids is subject to many different considerations, such that rail-specific services and standards are more appropriate.
- 3. *In situations where the aircraft design does not permit the carriage of a mobility aid, carriers would be required to offer, where possible, an alternative route(s) within their own network in respect of which the aircraft being operated will be able to carry the mobility aid. In such instances, carriers would be required, when offering alternative arrangements, to charge the lesser of the fare for the original flight and the fare for the new flight.***
30. This amendment is not applicable to travel aboard VIA trains as VIA does not coordinate with other carriers to plan alternative routes.
31. As stated by VIA in its Overview Submission, should provisions relating to assistance in making alternative travel arrangements be included for rail travel in any new accessibility regulations, these should be tailored to reflect the operational reality that there is only one ubiquitous national passenger rail service in Canada – VIA Rail. VIA's established policy with respect to alternative travel arrangements and the circumstances in which VIA provides this assistance is discussed in VIA's response to Question 4(i) below.
- 4. *In instances where carriers are unable to offer an alternative flight within their own network, they would continue to be required, per paragraph 148(2)(b) of the Air Transportation Regulations, to advise the person about transportation arrangements that are available for the mobility aid. In addition, carriers would also***

**OPERATIONAL AND SYSTEMIC QUESTIONS –  
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*be required to explain, in writing, within 10 business days, in what respects the aircraft's design prevents the mobility aid from being carried.*

32. This amendment is not applicable to travel with VIA trains. See the discussion immediately above at paragraphs 30 and 31.

**D. Amendment 4 (Orientation for Persons who are Blind or Partially Sighted)**

33. Amendment 4 introduces a new provision that would require carriers to provide an orientation of the aircraft for persons who are blind or partially sighted (e.g. orientation of passenger-operated controls at the seat, layout of the aircraft, etc.) to facilitate independence for these individuals.

34. VIA has well-established internal policies and procedures with respect to assisting individuals who are blind or partially sighted.

35. Amendment 4 is relevant to passenger rail travel and would be consistent with VIA's established practices.

**E. Amendment 5 (Transfers to and from a Mobility Aid)**

36. Amendment 5 aims to clarify [paragraphs 147\(1\)\(e\) and \(f\)](#) of the *Air Transportation Regulations* Part VII, to provide that a carrier's obligation during flight is to assist with transfers between a person's seat and an on-board wheelchair, as opposed to being wholly responsible for the transfer.

37. This amendment is proposed in order to more clearly reflect evolving industry practices and to reflect the fact that persons who require transfer assistance during a flight, usually travel with an attendant who provides assistance with other functions such as personal care.

38. VIA's On-Train Service employees currently offer the transfer services set out in [paragraphs 147\(1\)\(e\) and \(f\)](#) but only in certain limited circumstances when a passenger may not remain seated in their own mobility aid due to considerations related to the total weight or dimensions of the mobility aid. This is particularly relevant to passengers with mobility aids travelling in sleeper cars.

39. For passengers travelling in sleeper accommodation, at boarding time (30 min before departure), the passenger is transferred to a boarding chair (commonly referred to as the Washington Chair). A wheelchair may be stored in the baggage car.

**OPERATIONAL AND SYSTEMIC QUESTIONS –  
QUESTION 1 (SERVICES IN THE AIR TRANSPORTATION REGULATIONS PART VII)**

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40. Also, upon request (in the form of a Special Service Request), VIA allows a support person to travel, free of charge, with a passenger who requires assistance to transfer to or from a seat, taking into account the passenger's functional limitations.

**F. Amendment 6 (Permitting Passengers to Remain in a Manually Operated Wheelchair)**

41. Amendment 6 proposes to clarify [subsection 148\(3\)](#) of the *Air Transportation Regulations* Part VII, to provide that a carrier's obligation to permit a passenger to remain in a manually operated wheelchair before boarding is subject to there being sufficient time before the scheduled departure of the passenger's flight.
42. As noted above in VIA's answer to Question 1(a), VIA currently offers this service by permitting passengers to remain in their manually operated wheelchairs for the duration of their rail sojourn, including in the passenger rail car.
43. There proposed amendment is, therefore, not applicable to rail context.

**G. Amendment 7 (Carriage of Small Aids and Assistive Devices)**

44. Amendment 7 aims to clarify [paragraph 148\(5\)\(b\)](#) of the *Air Transportation Regulations* Part VII, to provide that, subject to safety regulations made under the *Aeronautics Act* and any other relevant safety requirements, the carrier's obligation to permit persons with disabilities to keep small aids and assistive devices that are required during flight (e.g., canes, crutches, braces, prosthesis, ventilators, CPAP machines, etc.) at their side is no longer subject to a space limitation or proviso. Other aids and devices that are not required by the passenger in flight and which cannot be carried in the cabin due to space limitations would continue to be carried in the cargo hold as priority baggage.
45. With respect to the baggage allowance for passengers with a disability, VIA offers to carry, without charge and in addition to the carry-on entitlement, any apparatus required by the passenger related to the disability. However, the carriage of small assistive items remains subject to weight and size limits set out by VIA. VIA currently permits small assistive aids for its passengers.

**H. Amendment 8 (Assistance/Accommodation in Check-In, Boarding, Deboarding)**

46. Amendment 8 aims to clarify [section 150](#) of the *Air Transportation Regulations* Part VII, so that the obligation to periodically inquire about the needs of persons who are not independently mobile applies only if this service is requested by the passenger.

**OPERATIONAL AND SYSTEMIC QUESTIONS –  
QUESTION 1 (SERVICES IN THE AIR TRANSPORTATION REGULATIONS PART VII)**

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47. VIA already offers this service by way of a Special Service Request. The Special Service Request is added to the passenger's travel plan and may be with respect to entraining/detraining (i.e. in stations) or en route. On-Train Service employees review the Special Service Requests during a pre-trip briefing to inform the crew of the type of assistance required.

**I. Amendment 9 (Lost or Damaged Mobility Aids)**

48. Amendment 9 aims to clarify [paragraph 155\(4\)\(b\)](#) of the *Air Transportation Regulations* Part VII, so that, in instances where a passenger's mobility aid is damaged during carriage or is not immediately available for the person at destination, a carrier cannot recall a temporary replacement aid until a person is provided with a suitable replacement mobility aid or is reimbursed for the full replacement cost of the aid.
49. VIA currently complies with the proposed Amendment 9. VIA requires timely reporting of lost or damaged mobility aids. Customers are encouraged to report at the time of detraining.

**OPERATIONAL AND SYSTEMIC QUESTIONS –  
QUESTION 1 (SERVICES IN THE AIR TRANSPORTATION REGULATIONS PART VII)**

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Discussion Paper, p. 3

- 1. (c) Assuming that the provisions of the ATR Part VII are applied to all carriers in the new accessibility regulations, comment on whether any other changes to the ATR Part VII are required.**

**ANSWER:**

1. As submitted by VIA in its Overview Submission, it does not appear that the Agency's anchor goals of clarity, predictability and relevance and efficient and effective enforcement would be optimised by creating a single comprehensive accessibility regulation for all modes of transport.
2. Were the Agency to consider a single new accessibility regulation, VIA submits that the Agency would need to include rail-specific chapters or parts dealing with the following subject matter of the *Air Transportation Regulations* Part VII:
  - (a) Seat assignment in the rail context;
  - (b) Passenger rail car specifications;
  - (c) Carriage of mobility aids by rail carriers;
  - (d) Circumstances and obligations related to transfers to and from mobility aids in a rail context;
  - (e) Fare rules pertaining to sleeper cars when the passenger has an accompanying animal;  
and
  - (f) Check-in and curbside assistance in rail stations.
3. In addition to the foregoing, VIA has identified two areas that would benefit from the elaboration of a service standard where there are currently no standards in the *Air Transportation Regulations* Part VII.
4. The first deals with the use of lifts to and from rail station platforms to passenger rail cars and vice versa. There is a height differential of as much one metre between train platforms and train doors. Passenger rail service therefore necessitates the use of lifts between the train platform and train door. There are a number of considerations related to the use of lifts in a rail context. One key consideration is the total weight of passengers and their mobility aids, which obviously cannot exceed a lift's maximum rated capacity. This also applies to incline station lifts.

**OPERATIONAL AND SYSTEMIC QUESTIONS –  
QUESTION 1 (SERVICES IN THE AIR TRANSPORTATION REGULATIONS PART VII)**

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5. VIA submits that it must be permitted to inquire into and request validation (evidence), as applicable, of the following, at the time of reservation:
  - (a) Whether the passenger is requesting the carriage of a mobility aid;
  - (b) If so, the weight of the mobility aid and that of the passenger; and
  - (c) The turning radius of the mobility aid.
  
6. The second area would be applicable to both the air and rail contexts and relates to the definition or necessary qualifications of a support person to a passenger with a disability. A support person must be capable of responding to the functional limitations of the passenger and if so instructed, provide some assistance in the case of an emergency evacuation.

## OPERATIONAL AND SYSTEMIC QUESTIONS – QUESTION 2 (COMMUNICATION CODE)

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Discussion Paper, top of p. 6, Question 1

The Agency is proposing to include the provisions of the [Code of Practice: Removing Communication Barriers for Travellers with Disabilities](#) (the “Communication Code”), as listed in Appendix A of the Discussion Paper in the new accessibility regulation.

Provide your views on the feasibility and appropriateness of incorporating, in regulations, the technical standards referenced in Appendix A of the Discussion Paper that are currently in the Communication Code.

### ANSWER:

1. VIA has recently undergone an audit of its communications practices and procedures as against the provisions of the Communication Code. VIA was deemed to be compliant with these practices and procedures.
2. In light of the VIA's experience, VIA does not anticipate significant difficulty with complying with the provisions of the Communication Code should these be translated into a regulation.

**OPERATIONAL AND SYSTEMIC QUESTIONS –  
QUESTION 3 (PERSONNEL TRAINING REGULATIONS)**

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Discussion Paper, p. 3 and bottom of p. 6, Question 1

3. (a) Comment on the Agency’s proposal to amend the [\*Personnel Training for the Assistance of Persons with Disabilities Regulations\*](#) (“PTR”) to include:
- An update to the scope of the regulations to exclude:
    - air carriers that transport less than 10,000 revenue passengers annually;
    - air terminals that are not part of the NAS;
    - rail carriers in respect of commuter rail services provided by the carrier and tourist rail carriers; and,
    - extra-provincial ferry operators that exclusively use vessels of less than 1,000 gross tonnes.
  - Prescribing a three-year time frame for refresher training.

**ANSWER:**

1. VIA has no comment on the Agency’s proposal to amend the PTR to exclude smaller carriers, including rail carriers in respect of commuter rail services and tourist rail carrier services.
2. VIA has no objection to the Agency’s proposal to prescribe a three-year time frame for refresher training under the PTR.

**OPERATIONAL AND SYSTEMIC QUESTIONS –  
QUESTION 3 (PERSONNEL TRAINING REGULATIONS)**

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Discussion Paper, p. 6, Question 2

**3. (b) Are there any additional requirements related to training that you think should be addressed in the new accessibility regulations?**

**ANSWER:**

1. VIA has no comment on additional training requirements.

## OPERATIONAL AND SYSTEMIC QUESTIONS – QUESTION 4 (RAIL CODE)

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Discussion Paper, p. 7, Question 1

4. (a) Provide your views on the incorporation, in regulations, of the technical standards currently in the [Code of Practice: Passenger Rail Car Accessibility and Terms and Conditions of Carriage by Rail of Persons with Disabilities](#) (the Rail Code) referenced in Appendix C of the Discussion Paper, namely:

### **Section 1.2 – All passenger rail cars**

- 1.2.1 Identification of wheelchair-accessible rail cars using the international symbol of access
- 1.2.2 Signage (b) – (f)
- 1.2.4 Stairs
- 1.2.5 Handrails and grab bars
- 1.2.6 Floors
- 1.2.7 Emergency windows and exits
- 1.2.8 Seats with floor space to accommodate a service animal
- 1.2.9 Tactile seat markers
- 1.2.10 Means to communicate announcements
- 1.2.11 Washrooms (Refer to [Appendix B](#))
- 1.2.12 Alarms
- 1.2.13 Storage space for personal wheelchairs
- 1.2.14 On-board wheelchair

### **Section 1.3 Coach cars with a wheelchair tie-down**

- 1.3.1 Number of wheelchair tie-downs
- 1.3.2 Doorways
- 1.3.3 Washrooms (Refer to [Appendix C](#))
- 1.3.4 Location of wheelchair tie-downs
- 1.3.5 Armrests

### **Section 1.4 Wheelchair-accessible sleeping cars**

- 1.4.1 How many cars should have what features and by when
- 1.4.2 Accessibility criteria for sleeping car rooms

### **Section 1.6 Maintenance**

#### **Section 2.2 – Services to be provided**

- 2.2.1 Services to be provided automatically – carriage of service animals
- 2.2.2 Services provided on request that do not require advance notice
- 2.2.3 Advance notice
- 2.2.4 Arrival and departure services that require advance notice
- 2.2.5 Services related to carriage of aids that require advance notice
- 2.2.6 On-board services that require advance notice

#### **Section 2.3 – Administration**

- 2.3.1 Handling requests for service
- 2.3.2 Assigning seats and rooms
- 2.3.3 Publishing system timetables
- 2.3.4 Accepting a passenger's judgement

#### **Section 2.4 – Damaged or lost mobility aids**

- 2.4.1 Provision of a temporary replacement
- 2.4.2 Damaged aids that can be repaired
- 2.4.3 Damaged aids that cannot be repaired and lost aids
- 2.4.4 Use of a temporary replacement aid

## OPERATIONAL AND SYSTEMIC QUESTIONS – QUESTION 4 (RAIL CODE)

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### ANSWER:

1. Subject to VIA's comments below, VIA has implemented the technical standards currently found in the Rail Code. VIA endeavours to provide the best level of service to all passengers on its existing network. Passengers with disabilities are no exception to this. The travelling public has expressed its appreciation for the convenience and relative accessibility of rail travel, based on recent consumer research undertaken by VIA.
2. However, as adverted to in VIA's answers to Question 1(a), there are certain technical standards contained in the Rail Code, which mirror provisions in the *Air Transportation Regulations* Part VII, that VIA submits are irrelevant or not suitably tailored to the rail context, as follows:
  - (a) Section 2.2.4(d) and 2.2.6(b): Assistance in transferring from/to mobility aids which, in a rail context would only apply in certain limited instances, *i.e.*, when the weight or dimensions of the passenger and mobility aid exceed the capacity of lift equipment available at a station, or the doorway and passageway dimensions of the rail cars on a given train;
  - (b) Section 2.2.7: Circumstances and standards applicable to provision of alternative travel arrangements in a rail context; and
  - (c) Section 2.3.2: Seat assignment in the rail context.
3. As a result, as submitted by VIA in its Overview Submission, should the Agency include provisions in relation to the foregoing subjects in new accessibility regulations that are to apply in a rail context, they should be amended to better reflect the practical realities of rail travel.
4. VIA is committed to constantly improve its network to meet the needs of all passengers, regardless of profile. Whenever it is considering major upgrades to its facilities and infrastructure, it fully bears the evolving needs of its clientele in mind.
5. This transition will necessarily be ongoing on a train by train and station by station basis. It is neither economically nor operationally feasible to replace all trains and stations overnight. At the same time, given that a new generation of trains will be coming online, it is not fiscally prudent or reasonably practicable to expend scarce resources to modify legacy trains when those resources could be spent on improvements to a new generation of trains.

## **OPERATIONAL AND SYSTEMIC QUESTIONS – QUESTION 4 (RAIL CODE)**

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6. Furthermore, it would be consistent with the Agency's established practices and the rule of law for trains acquired or upgraded before the coming into force date of any new accessibility regulations resulting from the Agency's Regulatory Modernization Initiative to remain subject to the current standards, as reflected in the Rail Code. Any new standards resulting from the Agency's Regulatory Modernization Initiative would apply to trains acquired or contracted for on or after the coming in force date of the new accessibility regulations.

## OPERATIONAL AND SYSTEMIC QUESTIONS – QUESTION 4 (RAIL CODE)

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Discussion Paper, p. 7, Question 2

**4. (b) Are there currently any standards in the Rail Code that you are having significant difficulty meeting? If so, please explain the challenges.**

**ANSWER:**

1. VIA is not currently experiencing difficulty in meeting the standards in the Rail Code.
2. However, as stated above in response to Question 4(a), VIA finds that the services and standards in Sections 2.2.4(d) and 2.2.6(b) (assistance to or from a mobility aid), Section 2.2.7 (alternative travel arrangements) and Section 2.3.2 (seat assignment in the rail context), are not well tailored and relevant to the practical realities of rail travel. Should the Agency intend to include provisions in relation to such services in any new accessibility regulations and to impose standards in relation to such services on passenger rail carriers, the relevant standards should be better tailored to reflect the operational realities of rail travel.

## OPERATIONAL AND SYSTEMIC QUESTIONS – QUESTION 4 (RAIL CODE)

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Discussion Paper, p. 7, Question 3

- 4. (c) Are there any alternative or additional standards to the Rail Code that you would propose? Please explain, in respect of any alternative accommodation measures, how they would provide an equivalent level of accessibility and, in respect of additional standards, why you think these are required.**

**ANSWER:**

1. Subject to VIA's comments in relation to Sections 2.2.4(d) and 2.2.6(b) (assistance to/from mobility aids), Section 2.2.7 (alternative travel arrangements) and Section 2.3.2 (seat assignment in the rail context), VIA submits that the rail-specific services and standards set out in the Rail Code are appropriate and adequate.

## OPERATIONAL AND SYSTEMIC QUESTIONS – QUESTION 4 (RAIL CODE)

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Discussion Paper, p. 8, Question 4

**4. (d) In terms of compliance with the proposed technical standards for each of the modes of transportation, the Agency is considering a requirement for carriers and terminals to obtain the Agency's approval for planned acquisitions of new equipment and major retrofits as well as for the construction of terminals and major renovations which would reasonably be expected to impact access by persons with disabilities. What significant challenges, if any, do you think you might face if you are required to obtain the Agency's pre-approval for the acquisition of new equipment, or retrofit of existing equipment, which would reasonably be expected to impact access by persons with disabilities?**

### ANSWER:

1. The notion of subjecting decisions relating to equipment acquisition or major terminal retrofits to an additional pre-approval requirement is inconsistent with the stated objectives of the Agency's Regulatory Modernization Initiative. Furthermore, imposing such a regulatory requirement would be unnecessary and result in a significantly increased regulatory burden that is disproportionate to the objective of ensuring compliance with the regulations.
2. By all indications, the Agency is considering moving from voluntary codes of practice and *ad hoc*, *post-facto*, complaint-driven processes, to the establishment of services and standards that are appropriate to the different modes of transportation in binding regulations.
3. The stated goals of the Agency's modernization initiative are:
  - (a) **Clarity, predictability and relevance to business practices:** Ensuring that industry's obligations are clear, predictable, and relevant to a range of existing and emerging business practices.
  - (b) **Proportionality between regulatory burden and purpose:** Ensuring that the demands associated with compliance are only as high as necessary to achieve the regulations' purposes.
  - (c) **Efficient and effective compliance:** Facilitating the efficient and effective identification and correction of instances of non-compliance.
4. VIA supports these objectives and intends to participate in the Agency's consultations leading up to the establishment of the appropriate services and standards in a rail context and once these are established, intends to comply in full with the services and standards.

## OPERATIONAL AND SYSTEMIC QUESTIONS – QUESTION 4 (RAIL CODE)

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5. Accessibility services and standards pertaining to services on board passenger trains and within terminals prior to boarding and in the de-boarding phase of a passenger rail trip, will, by all indications, be established in binding regulations. Once these accessibility services and standards are established in regulations, it would be redundant and wholly unnecessary for the Agency to subject decisions relating to equipment acquisition or major terminal retrofits to an additional pre-approval or notice procedure, since such decision-making will necessarily take into consideration the mandated regulatory requirements.
6. Indeed, in VIA's submission, it would defeat the very purposes of clarity and predictability of the industry's obligations, proportionality and efficient and effective enforcement of accessibility services and standards contained in regulations if the Agency retains an *ad hoc*, case-by-case approval or notice requirement in relation to equipment acquisition or major terminal retrofits.
7. For these reasons, VIA does not support the notion of subjecting equipment acquisition and terminal retrofit decisions to a further pre-approval or notice process.

## OPERATIONAL AND SYSTEMIC QUESTIONS – QUESTION 4 (RAIL CODE)

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Discussion Paper, p. 8, Question 5

- 4. (e) What significant challenges, if any, would you face if required to provide more than one tie-down area per train, including in the same car? Please consider the use of foldable and removable seats in describing any significant challenges you might face, *i.e.*, in terms of mitigating such challenges.**

**ANSWER:**

1. With respect to the next generation of passenger rail cars, VIA is aware of the availability of passenger rail car equipment configurations in the marketplace that envisage collapsible or foldable seat configurations.
2. With respect to passenger rail cars previously acquired and currently in service, please refer to VIA's response to Question 4(a) above. VIA also notes that in relation to previously acquired passenger rail cars that are currently in service, the subject matter of this question is currently under review by the Agency in an adjudicative process.

## OPERATIONAL AND SYSTEMIC QUESTIONS – QUESTION 4 (RAIL CODE)

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Discussion Paper, p. 8, Question 6

**4. (f) What significant challenges, if any, do you face when required to carry scooters on rail cars?**

**ANSWER:**

1. In contrast to the air context, in a rail context, scooters, like other mobility aids, may be carried in the same passenger rail car as the passenger, through the use of lifts and mobility aid tie-down areas. The only instances in which a passenger's mobility aid may not be carried in the same passenger rail car as the passenger are:
    - (i) When the total weight of the passenger and mobility aid exceeds the physical capacity of train lift equipment; or
    - (ii) When the dimensions of the mobility aid exceed the dimensions of doorways and turning radii of VIA's trains.
  2. Where a mobility aid cannot be carried in the same passenger rail car as the passenger, VIA's policies provide for the transportation of scooters, free of charge, in the baggage rail car.
  3. While VIA and passenger rail in general can accept carriage of scooters, from time to time, certain challenges associated with the carriage of scooters on board passenger rail trains are identified, as discussed in further detail below, due to:
    - (a) Employee health and safety;
    - (b) Weight and transport to and from trains; and
    - (c) Storage.
- A. Employee Assistance**
4. Where a scooter may be accepted on board the passenger rail car, at the time of booking or reservation of the train ticket, VIA agents will provide passengers with information pertaining to the maximum passable door width dimensions on the train on which travel is being booked.
  5. Once on board, VIA On-Train Service employees are often called upon to lift and maneuver scooters to facilitate passage through the rail car. This is because the turning radius of a scooter is often too large to round corners, such as around the corner of the vestibule into the main body of the passenger rail car. In such cases, VIA On-Train Service employees will sometimes attempt

## OPERATIONAL AND SYSTEMIC QUESTIONS – QUESTION 4 (RAIL CODE)

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to assist with this problem by lifting one end of the scooter to maneuver it into a position so that it can pass through the door in a straight line.

6. This can result in scratching the scooter and employees can injure themselves when trying to lift and simultaneously move the scooter sideways.
7. Other considerations regarding employee assistance involve employees having to quickly learn how to manoeuvre the scooter based on information received from the passenger, and each employee is confronted with new learning curves due to the non-standardization of scooters.

### **B. Lifts to and from Passenger Rail Car**

8. On occasion, the length of some scooters can exceed the capacity of the platform wheelchair lift or incline stair lift in VIA stations and therefore cannot be accommodated in the passenger rail car.
9. Weight is an additional consideration. In order to ensure the safety of passengers and employees, the combined weight of the passenger and the scooter must be validated to ensure they do not exceed the capacity of the lift.
10. VIA requires a passenger statement to attest that the combined weight of the passenger and mobility aid is less than the capacity of the lift. Alternatively, VIA may require a certificate from a licensed medical practitioner (doctor, nurse or physiotherapist).
11. If the combined weight of the passenger and that of the scooter is not available, there may be a risk to the employee or passenger. Weight capacities for inclined stair lifts for specific stations are 205kg (450lbs) in Montréal and 225kg (495lbs) in Kingston. The maximum weight capacity on the platform wheelchair lift is 272kg (600lbs).

### **C. Anchoring or Storage of Scooters in Passenger Rail Car**

12. VIA has received requests in the past relating to acceptance of multiple scooters for tie-down in the same passenger rail car. However, there is limited space to store equipment the size of scooters in a given passenger rail car.
13. Anchoring systems may also pose a challenge depending on the type of scooter as different equipment types exist. Sometimes the train equipment on which the customer was originally booked is changed at the last minute due to operational reasons. A scooter that fits through the doors in one type of train equipment may not fit through a narrower door frame of the substituted equipment.

#### **OPERATIONAL AND SYSTEMIC QUESTIONS – QUESTION 4 (RAIL CODE)**

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14. Additionally, certain scooters are too long to fit in existing tie-down spaces and on some scooters, the position of the handle bars prevents the table which is attached to the wall of the train from being lowered into position.

## **OPERATIONAL AND SYSTEMIC QUESTIONS – QUESTION 4 (RAIL CODE)**

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Discussion Paper, p. 8, Question 7

- 4. (g) What systems/procedures do you have in place to accommodate persons with mobility disabilities when using a multi-level car to ensure equal access to both levels?**

**ANSWER:**

1. VIA does not operate multi-level coach cars. This question is not applicable to travel on VIA trains.

## OPERATIONAL AND SYSTEMIC QUESTIONS – QUESTION 4 (RAIL CODE)

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Discussion Paper, p. 8, Question 8

**4. (h) Please describe your policy(ies) on the acceptance of mobility aids with batteries.**

**ANSWER:**

1. VIA's policies with respect to the acceptance of mobility aids with batteries (e.g. scooters or automated wheelchairs) are discussed in Question 4(f) above.
2. For any other mobility aids not mentioned, customers can contact VIA's Customer Centre to determine what type of accommodation is available, and will be referred to the Customer Relations department to develop (where possible) a tailor-made accommodation solution.

## OPERATIONAL AND SYSTEMIC QUESTIONS – QUESTION 4 (RAIL CODE)

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Discussion Paper, p. 8, Question 9

- 4. (i) Please describe your policy on alternative transportation e.g. the provision of an accessible taxi in the event you cannot accommodate a passenger with a disability on your equipment.**

**ANSWER:**

1. VIA offers alternative transportation to the nearest station with accessible boarding in the Québec City – Windsor Corridor, at VIA's expense, in the following circumstances:
  - (a) The combined weight of the passenger and mobility device requiring accommodation exceeds the stair lift capacity (205kg (450lbs)) in Montréal or (225kg (495 lbs)) in Kingston but is less than platform lift capacity (272 kg (600 lbs));
  - (b) The passenger cannot board due to a change of VIA's equipment resulting in the door widths being narrower than the information given to the passenger at the time of the booking;
  - (c) There is no lift available at the departure or arrival station or the lift is out of service; or
  - (d) There has been a last minute track change at Kingston; or
  - (e) A train cannot continue due to a service disruption.
  
2. The foregoing operational realities, rather than the circumstance referred to in Section 2.2.7 of the Rail Code, should be taken into consideration in devising any new regulatory requirements in relation to alternative travel arrangements in a rail context.

## OPERATIONAL AND SYSTEMIC QUESTIONS – QUESTION 5 (TERMINAL CODE)

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Discussion Paper, p. 9, Question 1

5. (a) Please describe in detail, any significant difficulties that you may have in meeting any of the technical standards set out in the Agency's [Code of Practice: Passenger Terminal Accessibility](#) (Terminal Code), as summarised in Appendix F of the Discussion Paper:

### SECTION 2: FACILITY CONSIDERATIONS

#### 2.1 General Considerations

- 2.1.1 Accessibility assessment before undertaking renovations or new constructions

#### 2.2 Outdoor considerations

- 2.2.1 Drop-off and pick-up areas for passengers with disabilities

#### 2.3 Rest areas

- 2.3.1 Seating areas along circulation paths
- 2.3.2 Alternatives for standing in line

#### 2.4 Boarding and deboarding

- 2.4.1 Accessible boarding bridges, platforms, or gangways
- 2.4.2 Safe, dignified accessible alternate when usual boarding route is inaccessible.

#### 2.5 Relieving areas for service animals

- 2.5.1 Availability of relieving area
- 2.5.4 Areas clearly identified, with accessible directional signage

#### 2.6 Transportation within and between passenger terminals

#### 2.7 Ground transportation

- 2.7.1 Contracts to include availability of accessible transportation (refer to "key elements for the provision of accessible ground transportation")
- 2.7.2 Adapted vehicles to accommodate persons using large mobility aids
- 2.7.3 Information to public

### SECTION 3: SERVICE CONSIDERATIONS

#### 3.1 Passenger assistance

#### 3.3 Customer service

- 3.3.1 Complaints Process
- 3.3.2 Information to public about complaints process

#### 3.4 Escort Passes

#### 3.5 Facility and service awareness program

- 3.5.1 Means to make accessibility features and services known to travelers
- 3.5.2 Information on terminal accessibility features and services made available to the public

## **OPERATIONAL AND SYSTEMIC QUESTIONS – QUESTION 5 (TERMINAL CODE)**

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### **SECTION 4: CONSIDERATIONS FOR SECURITY SCREENING OF PASSENGERS**

**4.1 Alternatives for queuing system**

**4.2 Audible and visual means of communication**

**4.3 Private screening if necessary**

**4.4 Information in instructional videos to be presented both verbally and visually**

**4.7 Complaints Process**

**4.8 Public documents to be available to travelers in multiple formats**

### **ANSWER:**

1. VIA currently meets the requirements of the Agency's *Terminal Code* at staffed stations, subject to the following clarifications:
  - (a) The provisions in relation to transportation within passenger terminals (Section 2.6), ground transportation (Section 2.7) and security screening (Section 4) are not relevant in a rail context;
  - (b) Passengers who inquire about a relieving area for their service animals (Section 2.5) are directed by VIA personnel to a suitable area. VIA also provides additional assistance to the customer, if requested; and
  - (c) In lieu of formal Escort Passes (Section 3.4), requests for assistance by a non-traveller (from the station to the train) are addressed on a case by case basis.

## OPERATIONAL AND SYSTEMIC QUESTIONS – QUESTION 5 (TERMINAL CODE)

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Discussion Paper, p. 9, Question 2

- 5. (b) Please describe any alternative or additional provisions (whether technical standards, facility considerations, service considerations, or other) that you think should be included in the proposed regulations?**

**ANSWER:**

1. In the Agency's consideration of how and which portions of the Terminal Code should be applied to passenger rail, VIA submits that the Agency should be guided by the following additional considerations:
  - (a) First, any regulations in relation to terminals must take into account the operational reality of unstaffed stations in the rail context;
  - (b) Second, provisions relating to transportation within passenger terminals (Section 2.6), ground transportation (Section 2.7) and security screening (Section 4) are not relevant and should therefore not be transposed to passenger rail carriers; and
  - (c) Third, the provisions in relation to passengers who inquire about a relieving area for their service animals (Section 2.5) and requests by a passenger for assistance from a non-traveller during the boarding or deboarding phase (Section 3.4) should be better tailored to reflect the operational realities of passenger rail services.

## OPERATIONAL AND SYSTEMIC QUESTIONS – QUESTION 5 (TERMINAL CODE)

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Discussion Paper, p. 9, Question 4

**5. (c) Please describe the processes/procedures you have in place to help persons with disabilities who need assistance in your terminals (e.g. assistance from drop-off to check-in, boarding / deboarding, wheelchair assistance etc.)?**

**ANSWER:**

1. VIA is committed to assisting passengers with all their travel-related needs, both on board trains and in VIA stations. Passengers travelling with disabilities are no exception. As such, VIA endeavours to provide in-station accommodation for a variety of needs experienced by passengers travelling with a disability. In-station accommodation is provided both in the form of assistance from VIA employees, and facility considerations within VIA stations.
2. VIA station employees coordinate with VIA's On-Train Service employees to assist passengers with visual disabilities, hearing disabilities, mental disabilities, and physical disabilities to ensure maximum security and ease of travel.
3. Station employees and On-Train Service employees are available to assist passengers with numerous travel needs, including but not limited to:
  - (a) Assistance with checking-in and navigation to VIA boarding platforms;
  - (b) Entraining and detraining at en route and main stations (including entraining and detraining where transfer to and from mobility aids is required);
  - (c) Assistance with baggage (including mobility aids or other small assistive devices);
  - (d) Assistance in moving to and from station washrooms (other than by carrying the passenger); and
  - (e) Assistance with the maneuvering of a wheelchairs or other mobility aids both on VIA trains and in VIA stations.
4. These types of accommodation are arranged through a Special Service Request. Upon receipt of a passenger's Special Service Request, VIA advises passengers that they should arrive at the station at least 30 minutes prior to the time of travel and that upon arrival at the station on the day of travel, passengers should locate a station employee at a pre-arranged location at the station. Due to multiple access points at VIA stations, to most efficiently assist passengers with their particular needs, passengers are generally directed to meet employees at the following designated points:
  - (i) Toronto: Special Service Agent's Desk Front Street West Entrance;

## **OPERATIONAL AND SYSTEMIC QUESTIONS – QUESTION 5 (TERMINAL CODE)**

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- (ii) Montreal: Ticket Office;
  - (iii) Ottawa: Ticket Office;
  - (iv) Other staffed stations: Ticket Office/Baggage Counter; and
  - (v) Unstaffed stations: Meet On-Train Service employee on platform when train arrives.
5. At unstaffed VIA stations, the foregoing types of services can also be arranged in advance through a Special Service Request. For more discussion about in-station assistance, please refer to Question 1(a)(D) “Check-in, Boarding, and Deboarding Assistance and Accommodations”.
6. With respect to facility considerations, push button alarms are available in all VIA station washrooms, and various structural considerations are incorporated to facilitate the movement of passengers travelling with disabilities including but not limited to elevators, ramps, and, lifts to transport mobility aids to and from VIA trains.
7. Should passengers require the accommodation of, and assistance related to, disabilities or medical needs that are not covered by VIA’s standard Special Service Requests, the file with the request is referred to VIA’s Customer Relations department for further handling. For example, requests for pick-up or drop-off at curbside (or station from unstaffed stations) are handled on a case by case basis by VIA’s Customer Relations department, which arranges for either a station employee at a staffed station, or an On-Train Service employee at an unstaffed station.

## **OPERATIONAL AND SYSTEMIC QUESTIONS – QUESTION 5 (TERMINAL CODE)**

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Discussion Paper, p. 9, Question 5

**5. (d) Please provide your views on the incorporation, in regulations, of the technical standards currently in the Terminal Code referenced in Appendix F.**

**ANSWER:**

1. See VIA's comments in response to Question 5(a) and 5(b) above.

## **OPERATIONAL AND SYSTEMIC QUESTIONS – QUESTION 5 (TERMINAL CODE)**

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Discussion Paper, p. 9, Question 6

**5. (e) Describe any policy you have for ensuring the accessibility of new construction or renovations at your terminal facilities.**

**ANSWER:**

1. All new construction undertaken by VIA is in full compliance with the Terminal Code, and all applicable building codes relating to accessibility. VIA also has in place an internal policy through which it routinely consults and obtains input from accessibility experts prior to undertaking new construction projects or renovations in terminals, to ensure optimal accessibility design and functionality.

## **OPERATIONAL AND SYSTEMIC QUESTIONS – QUESTION 5 (TERMINAL CODE)**

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Discussion Paper, p. 9, Question 7

- 5. (f) What significant challenges, if any, do you think you might face if you are required to obtain the Agency's pre-approval for new construction and renovations which would reasonably be expected to impact access by persons with disabilities to your facilities?**

**ANSWER:**

1. See VIA's answer to Question 5(e) above. See also VIA's answer to Question 4(d) which asks stakeholders to comment on challenges they might face if required to obtain the Agency's pre-approval for the acquisition of new equipment or construction or retrofit of terminals.
2. In keeping with VIA's submissions in response to Question 4(d), VIA would be opposed to the notion of subjecting decisions relating to new construction of or renovations to terminal stations to Agency pre-approval. Such a pre-approval requirement would be inconsistent with the stated goals of the Agency's modernization initiative, unnecessary, and would impose a significantly increased regulatory burden that would be disproportionate to the objective of ensuring compliance with the regulations.
3. Imposing an additional pre-approval requirement at the Agency level would be doubly burdensome on carriers that operate terminal stations, given that, as noted in VIA's answer to Question 5(e), terminal stations are also subject to provincial and other building standards. Building standards are already subject to pre-approval in the form of building permits and are also subject to post-construction inspections. Building standards are continuously updated to meet accessibility needs. It would be inefficient and unduly burdensome to impose an additional pre-approval requirement at the Agency level for new construction of or renovations to terminal stations.

## OPERATIONAL AND SYSTEMIC QUESTIONS – QUESTION 6 (ONE PERSON, ONE FARE)

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Discussion Paper, p. 10, Question 1

- 6. (a) Describe any policy you may have regarding fares charged to persons with disabilities for extra seating in order to accommodate their disability (e.g. to travel with an attendant or a large guide dog or because of a fused leg). For example, do you offer free travel for attendants or a reduced fare?**

**ANSWER:**

1. There are three principal situations where a passenger may require extra seating to accommodate a disability:
  - (a) Where the passenger is accompanied by a Support Person to attend to the passenger's needs during travel;
  - (b) Where the passenger is accompanied by a service animal; and
  - (c) In rare circumstances, a passenger may request that no other passenger be seated in the seat next to him or her due to extreme discomfort caused by proximity to strangers or others.
2. In the first instance, VIA offers free travel for a personal attendant or other Support Person.
3. VIA has established a comprehensive policy regarding passengers requiring Support Persons. VIA provides travel coverage for one Support Person of the passenger's own choosing, to assist the passenger with disability-related needs en route (e.g. individuals requiring support with respect to eating, person hygiene or medical care). VIA's policy is inclusive and permits support persons for passengers with a range of needs, including physical, mental/psychiatric, sensory and intellectual learning needs.
4. In order to be eligible for passage without charge:
  - (a) The Support Person must be at least 12 years of age; and
  - (b) The Support Person must be able to assist the person with disabilities, look after all necessary travel arrangements, and tend to the personal needs and well-being of the person with disabilities throughout the entire trip.

## **OPERATIONAL AND SYSTEMIC QUESTIONS – QUESTION 6 (ONE PERSON, ONE FARE)**

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5. In the second instance, and as elaborated upon in Question 8, if the passenger must be accompanied by a service animal, an extra seat is reserved to ensure sufficient floor space for the service animal, free of charge.
6. In the third instance, VIA's policy is similar to that for support persons. However, instead of providing a fare for an extra traveller, VIA will reserve a seat immediately next to the individual free of charge.
7. In practice, to arrange for the travel of a Support Person (or an extra seat for passengers suffering from a mental disorder related to extreme discomfort arising from proximity to others), a Medical Certificate in a form acceptable to VIA must be completed by a doctor and delivered to VIA's Customer Centre, as follows:
  - (a) A Medical Certificate is provided from a licensed medical doctor or licensed medical health professional;
  - (b) The Medical Certificate states that the passenger cannot travel alone without the Support Person (or requires an extra seat); and
  - (c) The Medical Certificate is dated and signed one year or less prior to the date of travel (or indicates that the condition is permanent).
8. Completed and signed Medical Certificates should be scanned, faxed, or a hard copy sent (along with that customer's VIA preference number) to VIA's Customer Centre,<sup>1</sup> and a note will be placed in the customer's VIA preference profile indicating their entitlement to a free support person ticket.
9. Next, customers should contact VIA's Customer Centre, which will confirm the note in the customer's VIA preference profile to ensure that the appropriate documentation has been provided, and arrange for a Special Service Request for a Support Person to be added to their travel plan.
10. If there is not sufficient time, or if for any other reason a completed Medical Certificate cannot be processed by the Customer Centre Agent prior to the passenger's next trip, the passenger can present their Medical Certificate or card from a recognized institution at the ticket office to obtain paper tickets. The Counter Sales Agent will make a photocopy of the certificate and send it to VIA's Customer Centre to be noted on the customer's preference profile.

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<sup>1</sup> Email: [Support\\_person@viarail.ca](mailto:Support_person@viarail.ca), Hard copy: VIA Rail Customer Centre in Moncton, Fax: (506 859-3943)

## OPERATIONAL AND SYSTEMIC QUESTIONS – QUESTION 6 (ONE PERSON, ONE FARE)

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Discussion Paper, p. 10, Question 3

- 6. (b) Please describe any significant difficulties, including operational, safety, or financial difficulties, you would face in implementing a one-person-one fare regime for persons with disabilities who require additional seating to accommodate their disabilities on domestic flights, as per the Agency's [Decision No. 6-AT-A-2008](#).**

**ANSWER:**

1. VIA already incorporates a one-person, one-fare scheme.

## **OPERATIONAL AND SYSTEMIC QUESTIONS – QUESTION 6 (ONE PERSON, ONE FARE)**

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Discussion Paper, p. 10, Question 2

- 6. (c) Please provide your views on how to best implement such a policy, including your views on the following:**
- (i) Should qualifying passengers with disabilities always be provided, free of charge, extra seating required to accommodate their disability?**
  - (ii) Should qualifying passengers with disabilities be refunded fares paid for additional seating when it is determined that there were empty seats on their particular trip?**

**ANSWER:**

1. VIA already implements this policy in the manner set out in the response to Question 6(a).

## OPERATIONAL AND SYSTEMIC QUESTIONS – QUESTION 7 (ALLERGIES)

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### 7. (a) Food allergies (viz. peanuts, nuts and sesame seeds)

Discussion Paper, p. 12, Question 1

- (i) Describe any policy you may have regarding travel by persons with disabilities due to allergies to peanuts, nuts, and sesame seeds (for example, a policy to provide buffer zones)?

Discussion Paper, p. 12, Question 2 and p. 11

- (ii) What significant constraints, if any, would prevent you from accommodating persons with disabilities due to allergies to peanuts, nuts, and sesame seeds with the measures set out in the findings of the Ministerial Inquiry into Allergies to Peanuts, Nuts and Sesame Seeds in Commercial Air Travel - Report of the Inquiry Officer, namely:
- a buffer zone, consisting of the row in which the allergic passenger sits or the pod-seat, as applicable;
  - an announcement to other passengers within the buffer zone that they must refrain from eating peanuts, nuts or sesame seeds or foods containing these;
  - not serving meals or snacks containing peanuts, nuts or sesame seeds in the buffer zone (recognizing that any food may contain trace amounts of the allergens);
  - advising passengers with allergies to peanuts, nuts and sesame seeds who provide advance notification of their allergies that they are expected to take the same precautions they take during their daily living, including carrying their allergy medication on their person; wiping down their seat area to remove any allergens; bringing their own food;
  - abatement, by allowing passengers to wipe down their seating areas;
  - having policies on air carrier websites in order to inform passengers on how to make arrangements for accommodation and what their responsibilities are; and,
  - training flight crews on signs and symptoms of an allergic reaction.

### ANSWER:

1. VIA understands that special measures may be required in order to accommodate passengers who suffer from allergies and consequently, endeavours to minimize such passengers' risk of exposure to allergens. Measures employed by VIA to accommodate allergies include:

- (a) Establishing buffer zones;

## OPERATIONAL AND SYSTEMIC QUESTIONS – QUESTION 7 (ALLERGIES)

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- (b) On-board announcements requesting that other passengers refrain from using products containing allergents; and
  - (c) Requesting that On-Train Service staff and station staff refrain from wearing heavily scented products in consideration of individuals with multiple chemical sensitivity.
2. VIA will make all reasonably practicable efforts to make the arrangements necessary to meet the client's needs. In addition to the foregoing measures, if indicated, VIA On-Train Service staff will refrigerate and heat allergen-free meals prepared and brought on board by the passenger with the allergy(ies).
  3. Despite VIA's commitment to making all possible efforts to accommodate allergy-related disabilities, VIA faces several constraints with respect to accommodating passengers with allergies and can therefore not guarantee an allergen-free environment at all times. Specifically, VIA cannot guarantee that food and beverages served on board are free of allergens (seafood, peanuts, nuts, *etc.*) and cannot offer special meals that are guaranteed free of allergens. This is primarily due to the fact that VIA cannot guarantee the accuracy of the information printed on the packaging of products that are distributed on board. Likewise, meals prepared by an external caterer or supplier cannot be guaranteed free of allergens.
  4. Moreover, practically speaking, VIA cannot accept responsibility for allergens brought on board by other passengers, or for any allergen residue that other passengers may have left on surfaces and seats.
  5. VIA does not allow unaccompanied minors with allergies to travel alone. Furthermore, VIA advises passengers suffering from one or a number of allergies, to have in their possession the medications, treatments and remedies (epinephrine, asthma inhaler, *etc.*) that may be required, to bring their own food, snacks, and cleaning wipes for surfaces, and to diligently check ingredients on any packaging before consumption.
  6. To arrange for the accommodation of an allergy, a passenger with a disability due to allergies would contact the VIA's Customer Centre<sup>1</sup> and provide a full overview of the disability and associated needs. Air Canada employs the medical approval "Fitness for Travel Form". VIA supports Air Canada's approach and is of the view that the information collected on this form is pertinent to train travel for all functional limitations, including allergies. VIA's Customer Service Call Centre would then create a Special Service Request in accordance with the passenger's

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<sup>1</sup> Customer Centre at 1-888-VIA-RAIL.

## **OPERATIONAL AND SYSTEMIC QUESTIONS – QUESTION 7 (ALLERGIES)**

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needs. In the case of severe allergies, the request may be referred to the Customer Relations department for further handling. Advance notice of least forty-eight (48) hours would be required to accommodate these types of requests, in addition to a medical note attesting to the allergy.

7. At the time of travel, the passenger would check-in once on board the VIA train. If a seating separation is proposed as part of the Special Service Request, On-Train Service employees would be governed by clear procedures, such as an on-board announcement (depending on the allergy) drafted in advance to ensure consistent messaging. Additionally, training on the proper procedure to handle allergy accommodation would be provided to VIA Customer Centre and Customer Relations agents, station employees and On-Train Service employees.

## OPERATIONAL AND SYSTEMIC QUESTIONS – QUESTIONS 7 (ALLERGIES TO ANIMALS)

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Discussion Paper, p. 11

### 7. (b) Allergies to animals

Discussion Paper, p. 12, Question 3

(i) **Describe any policies you may have with respect to travel by passengers who are disabled by:**

- A. **allergies to animal dander; and**
- B. **other allergies.**

Discussion Paper, p. 12, Question 4

(ii) **What significant difficulties, if any, would prevent you from accommodating persons with disabilities due to allergies with accommodation measures similar to those outlined in Decision No. 227-AT-A-2012 as follows:**

- A. **a ban on the source of the allergen carried onto the aircraft cabin in which a person with an allergy disability is travelling (ban accommodation); or**
- B. **air circulation/ventilation systems using High Efficiency particulate Air (HEPA) filters or which provide 100% un-recirculated fresh air and a seating separation which is confirmed prior to boarding the flight and which provides a minimum of five rows between a person with an allergy disability and the source of the allergen carried onto the aircraft cabin, including boarding and deplaning and between their seat and a washroom.**

### ANSWER:

1. In circumstances where a passenger is disabled due to allergies, whether due to animal dander or other allergies, VIA endeavors to craft tailor-made solutions to the passenger's needs, including through the use of the strategies and procedures set out in VIA's response to Question 7(a).
2. Should the issue arise on board, the passenger will immediately be moved away from the allergen. In circumstances where the passenger's assistive mobility aid is anchored to the tie-down area, if at all possible, the source of the allergen is removed from that area.
3. VIA does not permit the carriage of animals in passenger cars with the exception of service animals/therapy animals. In the case of an allergy to a service animal, the procedure set out above is employed.

## **OPERATIONAL AND SYSTEMIC QUESTIONS – QUESTIONS 7 (ALLERGIES TO ANIMALS)**

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4. With respect to other allergens, VIA cannot always guarantee an allergy-free environment in stations and on its trains. Instances where VIA may have difficulty complying with the buffer zone proposal in Decision No. 227-AT-A-2012, include instances of last-minute travel. By way of example, in the case of Multiple Chemical Sensitivity (MCS), last-minute travel requests would be difficult to manage given the numerous departments and persons that would have to be consulted and made aware of the passenger's needs and the accommodations required.
  
5. It should also be noted that VIA does not have an air circulation/ventilation systems using High Efficiency particulate Air (HEPA) filters as discussed in Decision No. 227-AT-A-2012.

## OPERATIONAL AND SYSTEMIC QUESTIONS – QUESTION 7 (ALLERGIES)

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Discussion Paper, p. 12, Question 5 and pp. 11-12

- 7. (c) Please describe any alternative suggestions to accommodate passengers who are disabled because of their allergies. Comment on Agency’s proposal that it may be prepared to:**
- (i) Consider the type of exposure – *i.e.*, ingestional, inhalational, and topical;**
  - (ii) Explore the feasibility of accommodation measure to address various allergens;**
  - (iii) Consider the type of accommodation that might be appropriate by mode of transportation *e.g.*, the possibility that providing accommodation for allergies may be less challenging in rail travel as reseating passengers away from the source of an allergen may be achieved by moving them to a separate car; and**
  - (iv) Consider that accommodation measures that might be required by regulation would be premised on the expectation that persons disabled by allergies will take the same precautions they do in their daily living, such as carrying their medication on their person, wiping down seating areas, *etc.***

### **ANSWER:**

1. In place of outright bans of specific allergens, VIA proposes to carefully evaluate the passenger’s functional limitations and to work closely with the passenger to tailor a solution suited to their needs through the use of the methods discussed in VIA’s response to Questions 7(a) and (b).

## OPERATIONAL AND SYSTEMIC QUESTIONS – QUESTION 8 (SERVICE ANIMALS)

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Discussion Paper, p. 13, Questions 1 and 2

- 8. (a) What medical documentation, if any, would you require to support an individual’s claim that they require an animal in order to accommodate their disability-related needs while traveling? What types of documentation, or assurances from a person with a disability would you require, if any, as proof that an animal is a legitimate service animal?**

### ANSWER:

1. Generally speaking, persons requiring the assistance of service animals while travelling fall into one of two categories:
  - (a) Individuals requiring the support of an animal to address physical disabilities (e.g. guide dogs or dogs employed to detect and warn individuals of oncoming seizures); and
  - (b) Individuals requiring the support of an animal in order to address mental disabilities, sometimes referred to as “therapy animals.”
2. In the case of service animals required to support a passenger with a physical disability, Section 1.2.8 of the [Rail Code](#) defines “service animal” as “an animal that is required by a person with a disability for assistance and is certified, in writing, as having been trained to assist a person with a disability by a professional service animal institution.”<sup>1</sup>
3. In keeping with the foregoing definition of a “service animal”, VIA requires that the service animal be certified as having been trained by a professional instructor to assist persons with disabilities.
4. Therapy animals, in contrast to service animals, are not specifically addressed in the Rail Code and are not always professionally trained. Passengers wishing to travel with a therapy animal are required to provide:
  - (a) A note from a licensed medical doctor or licensed mental health professional that prescribes the assistance of an animal for the passenger and that such assistance is required in order for the passenger to travel; and

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<sup>1</sup> Passenger Rail Car Accessibility and Terms and Conditions of Carriage by Rail of Persons with Disabilities <online: <https://www.otc-cta.gc.ca/eng/publication/passenger-rail-car-accessibility>>.

## OPERATIONAL AND SYSTEMIC QUESTIONS – QUESTION 8 (SERVICE ANIMALS)

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- (b) Agreement in writing from the passenger that the passenger shall, at all times,
    - (i) Maintain control of the animal; and
    - (ii) Keep the animal on a leash, harness or other tether, unless this would interfere with the safe and effective performance of the animal's work or tasks, in which case the animal must be otherwise controlled; and
  - (c) Beginning January 1, 2018, VIA intends to phase in a new policy that requires that passengers provide VIA with a Health Certificate for therapy animals signed by a veterinarian, at the passenger's cost. This certificate will attest that the animal is fit for travel. It would be valid for a period of one year. This policy will ensure the health and safety of all persons and other animals travelling on board.
5. In either case and notwithstanding the fact that only "service animals", as defined, are addressed in the Rail Code, VIA permits passengers with disabilities to be accompanied on their trip by a certified service animals or properly documented therapy animals at no extra charge.
  6. From a procedural perspective, in the case of either a service animal or a therapy animal, the appropriate documentation must be sent to VIA's Customer Center in accordance with VIA's "One person, one fare" policy,<sup>2</sup> preferably at least forty-eight (48) hours in advance of the date of travel.
  7. Once this documentation is received by VIA's Customer Center, a note will be added to the passenger's preference profile that the appropriate documentation has been received. A Special Service Request can then be initiated by the passenger with VIA's Customer Center to request that an accompanying service or therapy animal be added to their reservation. Requests for travel with therapy animals are, on occasion, escalated to VIA's Customer Relations department for further processing.

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<sup>2</sup> For further information on VIA's one person, on fare policy, see VIA's answer to Question 6(a).

## OPERATIONAL AND SYSTEMIC QUESTIONS – QUESTION 8 (SERVICE ANIMALS)

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Discussion Paper, p. 13, Question 3

**8. (b) Which types of service animals, if any, would you not be willing to allow a person with a disability to retain with them onboard (versus carrying the animals in the cargo hold or baggage car)? Please indicate reasons for your response.**

**ANSWER:**

1. To date, VIA has not received any requests from passengers for service animals other than dogs, which are accepted if they have the proper certification of training.
2. All other types of service animal requests will be reviewed on a case by case basis by VIA's Customer Relations department.
3. In no case will VIA will accept animals if the animal in question has a prior history of aggressive or disruptive behaviour or alternatively, a prior, established history of the passenger being unable to control the animal. Animals must never have bitten a person or another animal.
4. With respect to therapy animals, to date, VIA has accepted dogs and cats, and has not received requests that other types of animals be accepted for carriage as therapy animals.
5. VIA is committed to accommodating passenger's needs, and will accept other domesticated animals under certain conditions:
  - (a) The weight of the animal should not exceed 15 kg;
  - (b) The animal must be a fully mature animal (*i.e.* not a kitten or puppy);
  - (c) The animal must be sterilized and have a microchip ID implant;
  - (d) The animal must not carry a disease that can be transmitted to humans or contaminate food service;
  - (e) Tusked or hooved animals, as well as animals falling within certain enumerated classes will not be accepted;<sup>3</sup>
  - (f) Service animals that are considered "dangerous breeds" (*e.g.* pit bulls) will not be permitted;

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<sup>3</sup> VIA will not accept any of the following therapy animals: kittens, puppies, pet rodents (mice, rats, guinea pigs), reptiles, ferrets, hedgehogs, sugar-glidors, mini pigs, mini horses, snakes, birds, insects or spiders.

## **OPERATIONAL AND SYSTEMIC QUESTIONS – QUESTION 8 (SERVICE ANIMALS)**

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- (g) The animal must be clean and must not carry a strong or foul odor;
  - (h) During travel on VIA's facilities, the animal must be leashed, harnessed, or tethered in some other fashion;
  - (i) The animal must be attended to at all times in a station and while on board the train; no animal may be left unattended in any public or private area, in a washroom or in a private cabin;
  - (j) The animal must remain on the floor; animals must sit under the passenger's seat, on the passenger's lap or at the passenger's feet; the animal is not allowed to sit in the aisle or on seats;
  - (k) In any public area of the train, a service animal must wear a vest or highly visible collar which identifies the animal as a service animal (bilingual identification is desirable – English and French);
  - (l) Passengers are required to note that there may not always be sufficient time to walk animals at station stops for purposes of relieving; and
  - (m) Passengers must carry on their person and have accessible at all times throughout the trip, the vaccination records of the animal.
6. VIA personnel may require the removal of the animal en route to or from the station premises if the animal is out of control and effective action is not taken to control the animal (for example, a dog barking repeatedly and uncontrollably, or that is not housebroken), or the animal poses a direct threat to the health or safety of passengers, employees or other animals.
7. Where a passenger is asked to remove an animal, but the passenger intends to carry on with his or her travel plans without the animal in question, the passenger is responsible for making the necessary arrangements at their own cost to transfer custody and care of the animal to another person or local Animal Control. Should the necessary arrangements entail delay, the passenger may be required to continue or begin VIA travel at a later time or on a later date.

## OPERATIONAL AND SYSTEMIC QUESTIONS – QUESTION 8 (SERVICE ANIMALS)

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Discussion Paper, p. 13

- 8. (c) Comment on the Agency’s proposal to include in the new regulation provisions in relation to service animals that are “more inclusive” than the current Part VII provisions and that would apply to all federal modes of transportation. In particular, comment on the feasibility of the rule contained in the [U.S. Part 382 regulations](#) (see the [U.S. Government Publishing Office](#)) which require air carriers to:**
- (i) Accept different types of service animals and, as evidence that an animal is a service animal;**
  - (ii) Accept identification cards, other written documentation, the presence of harnesses or tags, and the credible verbal assurances of a qualified individual with a disability;**
  - (iii) For a person seeking to travel with an animal used for emotional support or with a psychiatric service animal, the carrier must accept the animal if the person provides documentation on the letterhead of a licensed mental health professional setting out certain pieces of information.**

### **ANSWER:**

1. See VIA’s response to Questions 8(a) and 8(b).

## OPERATIONAL AND SYSTEMIC QUESTIONS – QUESTION 9 (SPECIAL SEATING OR POSITIONING DEVICES)

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Discussion Paper, top of p. 14, Question 1

9. **Comment on the Agency’s proposal to include in the regulation a requirement that all carriers, regardless of the mode of transportation, allow passengers who require special seating or positioning devices to accommodate their disability to be able to use them unless this is prohibited by safety rules or would otherwise seriously compromise their personal safety or that of other passengers. Would this cause any significant challenges?**

### ANSWER:

1. VIA agrees that all efforts should be made to accommodate passengers’ special seating or positioning devices, and that efforts should be made to permit passengers to use such devices on board, provided there are no safety concerns.
2. For example, VIA may permit children travelling in accessible strollers to remain in the strollers after they have been anchored in a tie-down area. VIA may also allow special adaptor seats in some bedrooms to permit the raising of the height of the seat to accommodate such special devices. These situations are reviewed on a case by case basis by VIA’s Customer Relations department.
3. Thus, VIA does not oppose such a requirement, provided it is structured in such a way as to comply with the [Health and Safety Regulations, SOR/86-304](#) under the [Canadian Labor Code, R.S.C. 1985 C L-2](#) and other safety legislation.

## **OPERATIONAL AND SYSTEMIC QUESTIONS – QUESTION 10 (CURBSIDE ASSISTANCE)**

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Discussion Paper, middle of p. 14, Question 1

**10. (a) How do you ensure that passengers with disabilities are provided assistance from the curb to check-in, including wheelchair assistance, guiding assistance for passengers with visual impairments, and assistance with luggage?**

**ANSWER:**

1. With advanced notice (forty-eight (48) hours or more), requests for pick-up or drop-off assistance at curbside are handled on a case by case basis by VIA's Customer Relations department in relation to staffed stations.
2. This assistance may include wheelchair assistance, guiding assistance for passengers with visual impairments, and assistance with luggage.
3. At unstaffed stations, VIA is not able to provide check-in or curbside assistance.

## **OPERATIONAL AND SYSTEMIC QUESTIONS – QUESTION 10 (CURBSIDE ASSISTANCE)**

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Discussion Paper, p. 14

- 10. (b) Comment on the Agency’s proposal to add a requirement for rail carriers and/or their terminals to provide assistance to persons with disabilities from the curb to the check-in area when departing from a terminal and from the general public area to the curb upon arrival at a terminal, consistent with [EU Regulation 1107/2006](#) which requires managing bodies of airports to provide curbside assistance to persons with disabilities.**

### **ANSWER:**

1. At staffed stations, VIA provides service for curb to check-in assistance, and/or terminal to curb assistance at designated points of entry and exit.