

## § 37.29

### § 37.29 Private entities providing taxi service.

(a) Providers of taxi service are subject to the requirements of this part for private entities primarily engaged in the business of transporting people which provide demand responsive service.

(b) Providers of taxi service are not required to purchase or lease accessible automobiles. When a provider of taxi service purchases or leases a vehicle other than an automobile, the vehicle is required to be accessible unless the provider demonstrates equivalency as provided in § 37.105 of this part. A provider of taxi service is not required to purchase vehicles other than automobiles in order to have a number of accessible vehicles in its fleet.

(c) Private entities providing taxi service shall not discriminate against individuals with disabilities by actions including, but not limited to, refusing to provide service to individuals with disabilities who can use taxi vehicles, refusing to assist with the stowing of mobility devices, and charging higher fares or fees for carrying individuals with disabilities and their equipment than are charged to other persons.

### § 37.31 Vanpools.

Vanpool systems which are operated by public entities, or in which public entities own or purchase or lease the vehicles, are subject to the requirements of this part for demand responsive service for the general public operated by public entities. A vanpool system in this category is deemed to be providing equivalent service to individuals with disabilities if a vehicle that an individual with disabilities can use is made available to and used by a vanpool in which such an individual chooses to participate.

### § 37.33 Airport transportation systems.

(a) Transportation systems operated by public airport operators, which provide designated public transportation and connect parking lots and terminals or provide transportation among terminals, are subject to the requirements of this part for fixed route or demand responsive systems, as applicable, operated by public entities. Public airports which operate fixed route transpor-

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tation systems are subject to the requirements of this part for commuter bus service operated by public entities. The provision by an airport of additional accommodations (e.g., parking spaces in a close-in lot) is not a substitute for meeting the requirements of this part.

(b) Fixed-route transportation systems operated by public airport operators between the airport and a limited number of destinations in the area it serves are subject to the provisions of this part for commuter bus systems operated by public entities.

(c) Private jitney or shuttle services that provide transportation between an airport and destinations in the area it serves in a route-deviation or other variable mode are subject to the requirements of this part for private entities primarily engaged in the business of transporting people which provide demand responsive service. They may meet equivalency requirements by such means as sharing or pooling accessible vehicles among operators, in a way that ensures the provision of equivalent service.

### § 37.35 Supplemental service for other transportation modes.

(a) Transportation service provided by bus or other vehicle by an intercity commuter or rail operator, as an extension of or supplement to its rail service, and which connects an intercity rail station and limited other points, is subject to the requirements of this part for fixed route commuter bus service operated by a public entity.

(b) Dedicated bus service to commuter rail systems, with through ticketing arrangements and which is available only to users of the commuter rail system, is subject to the requirements of this part for fixed route commuter bus service operated by a public entity.

### § 37.37 Other applications.

(a) A private entity does not become subject to the requirements of this part for public entities, because it receives an operating subsidy from, is regulated by, or is granted a franchise or permit to operate by a public entity.

(b) Shuttle systems and other transportation services operated by privately-owned hotels, car rental agencies, historical or theme parks, and other public accommodations are subject to the requirements of this part for private entities not primarily engaged in the business of transporting people. Either the requirements for demand responsive or fixed route service may apply, depending upon the characteristics of each individual system of transportation.

(c) Conveyances used by members of the public primarily for recreational purposes rather than for transportation (e.g., amusement park rides, ski lifts, or historic rail cars or trolleys operated in museum settings) are not subject to the requirements of this part. Such conveyances are subject to Department of Justice regulations implementing title II or title III of the ADA (28 CFR part 35 or 36), as applicable.

(d) Transportation services provided by an employer solely for its own employees are not subject to the requirements of this part. Such services are subject to the regulations of the Equal Employment Opportunity Commission under title I of the ADA (29 CFR part 1630) and, with respect to public entities, the regulations of the Department of Justice under title II of the ADA (28 CFR part 35).

(e) Transportation systems operated by private clubs or establishments exempted from coverage under title II of the Civil Rights Act of 1964 (42 U.S.C. 2000-a(e)) or religious organizations or entities controlled by religious organizations are not subject to the requirements of this part.

(f) If a parent private company is not primarily engaged in the business of transporting people, or is not a place of public accommodation, but a subsidiary company or an operationally distinct segment of the company is primarily engaged in the business of transporting people, the transportation service provided by the subsidiary or segment is subject to the requirements of this part for private entities primarily engaged in the business of transporting people.

(g) High-speed rail systems operated by public entities are subject to the re-

quirements of this part governing intercity rail systems.

(h) Private rail systems providing fixed route or specified public transportation service are subject to the requirements of §37.107 with respect to the acquisition of rail passenger cars. Such systems are subject to the requirements of the regulations of the Department of Justice implementing title III of the ADA (28 CFR part 36) with respect to stations and other facilities.

#### § 37.39 [Reserved]

### Subpart C—Transportation Facilities

#### § 37.41 Construction of transportation facilities by public entities.

A public entity shall construct any new facility to be used in providing designated public transportation services so that the facility is readily accessible to and usable by individuals with disabilities, including individuals who use wheelchairs. This requirement also applies to the construction of a new station for use in intercity or commuter rail transportation. For purposes of this section, a facility or station is “new” if its construction begins (i.e., issuance of notice to proceed) after January 25, 1992, or, in the case of intercity or commuter rail stations, after October 7, 1991.

#### § 37.43 Alteration of transportation facilities by public entities.

(a)(1) When a public entity alters an existing facility or a part of an existing facility used in providing designated public transportation services in a way that affects or could affect the usability of the facility or part of the facility, the entity shall make the alterations (or ensure that the alterations are made) in such a manner, to the maximum extent feasible, that the altered portions of the facility are readily accessible to and usable by individuals with disabilities, including individuals who use wheelchairs, upon the completion of such alterations.

(2) When a public entity undertakes an alteration that affects or could affect the usability of or access to an area of a facility containing a primary