§ 27.19 Compliance with Americans with Disabilities Act requirements and FTA policy.

(a) Recipients subject to this part (whether public or private entities as defined in 49 CFR part 37) shall comply with all applicable requirements of the Americans with Disabilities Act (ADA) of 1990 (42 U.S.C. 12101–12213) including the Department’s ADA regulations (49 CFR parts 35 and 37), the regulations of the Department of Justice implementing titles II and III of the ADA (28 CFR parts 36 and 39), and the regulations of the Equal Employment Opportunity Commission (EEOC) implementing title I of the ADA (29 CFR part 1630). Compliance with the EEOC title I regulations is required as a condition of compliance with section 504 for DOT recipients even for organizations which, because they have fewer than 25 or 15 employees, would not be subject to the EEOC regulation in its own right. Compliance with all these regulations is a condition of receiving Federal financial assistance from the Department of Transportation. Any recipient not in compliance with this requirement shall be subject to enforcement action under subpart F of this part.

(b) Consistent with FTA policy, any recipient of Federal financial assistance from the Federal Transit Administration whose solicitation was made before August 26, 1990, and is for one or more inaccessible vehicles, shall provide written notice to the Secretary (e.g., in the case of a solicitation made in the past under which the recipient can order additional new buses after the effective date of this section). The Secretary shall review each case individually, and determine whether the Department will continue to participate in the Federal grant, consistent with the provisions in the grant agreement between the Department and the recipient.

§ 27.72 Boarding assistance for aircraft.

(a) Paragraphs (b)–(e) of this section apply to airports with 10,000 or more annual enplanements.

(b) Airports shall, in cooperation with carriers serving the airports, provide boarding assistance to individuals with disabilities using mechanical lifts, ramps, or other devices that do not require employees to lift or carry passengers up stairs. Paragraph (c) of this section applies to aircraft with a seating capacity of 19 through 30 passengers. Paragraph (d) of this section applies to aircraft with a seating capacity of 31 or more passengers.

(c)(1) Each airport operator shall negotiate in good faith with each carrier serving the airport concerning the acquisition and use of boarding assistance devices for aircraft with a seating capacity of 19 through 30 passengers. The airport operator and the carrier(s) shall, by no later than September 2, 1997, sign a written agreement allocating responsibility for meeting the boarding assistance requirements of this section between or among the parties. The agreement shall be made available, on request, to representatives of the Department of Transportation.

(c)(2) The agreement shall provide that all actions necessary to ensure accessible boarding for passengers with disabilities are completed as soon as practicable, but no later than December 2, 1998, at large and medium commercial service hub airports (those with 1,200,000 or more annual enplanements); December 2, 1999, for small commercial service hub airports (those with between 250,000 and 1,199,999 annual enplanements); or December 2, 2000, for non-hub commercial service primary airports (those with between 10,000 and 249,999 annual enplanements). All air carriers and airport operators involved are jointly responsible for the timely and complete implementation of the agreement.

(3) Boarding assistance under the agreement is not required in the following situations:

(i) Access to aircraft with a capacity of fewer than 19 or more than 30 seats;

(ii) Access to float planes;

(iii) Access to the following 19-seat capacity aircraft models: the Fairchild Metro, the Jetstream 31, and the Beech 1900 (C and D models);

(iv) Access to any other 19-seat aircraft model determined by the Department of Transportation to be unsuitable for boarding assistance by lift, ramp or other suitable device on the basis of a significant risk of serious damage to the aircraft or the presence of internal barriers that preclude passengers who use a boarding or aisle chair to reach a non-exit row seat.

(d)(1) Each airport operator shall negotiate in good faith with each carrier serving the airport concerning the acquisition and use of boarding assistance devices for aircraft with a seating capacity of 31 or more passengers where level entry boarding is not otherwise available. The airport operator and the carrier(s) shall, by no later than March 4, 2002 sign a written agreement allocating responsibility for meeting the boarding assistance requirements of this section between or among the parties. The agreement shall be made available, on request, to representatives of the Department of Transportation.

(d)(2) The agreement shall provide that all lifts and other accessibility equipment are maintained in proper working condition.