

§ 37.197

for or in contemplation of use on the system, it is not required to purchase or lease an accessible bus except as needed to meet the requirements of § 37.189.

§ 37.197 Remanufactured OTRBs.

(a) This section applies to any private entity operating OTRBs that takes one of the following actions:

(1) On or after the date on which this subpart applies to the entity, it remanufactures an OTRB so as to extend its useful life for five years or more or makes a solicitation for such remanufacturing; or

(2) Purchases or leases an OTRB which has been remanufactured so as to extend its useful life for five years or more, where the purchase or lease occurs after the date on which this subpart applies to the entity and during the period in which the useful life of the vehicle is extended.

(b) In any situation in which this subpart requires an entity purchasing or leasing a new OTRB to purchase or lease an accessible OTRB, OTRBs acquired through the actions listed in paragraph (a) of this section shall, to the maximum extent feasible, be readily accessible to and usable by individuals with disabilities, including individuals who use wheelchairs.

(c) For purposes of this section, it shall be considered feasible to remanufacture an OTRB so as to be readily accessible to and usable by individuals with disabilities, including individuals who use wheelchairs, unless an engineering analysis demonstrates that including accessibility features required by this part would have a significant adverse effect on the structural integrity of the vehicle.

§ 37.199 [Reserved]

§ 37.201 Intermediate and rest stops.

(a) Whenever an OTRB makes an intermediate or rest stop, a passenger with a disability, including an individual using a wheelchair, shall be permitted to leave and return to the bus on the same basis as other passengers. The operator shall ensure that assistance is provided to passengers with disabilities as needed to enable the passenger to get on and off the bus at the

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stop (e.g., operate the lift and provide assistance with securement; provide other boarding assistance if needed, as in the case of a wheelchair user who has transferred to a vehicle seat because other wheelchair users occupied all securement locations).

(b) If an OTRB operator owns, leases, or controls the facility at which a rest or intermediate stop is made, or if an OTRB operator contracts with the person who owns, leases, or controls such a facility to provide rest stop services, the OTRB operator shall ensure the facility complies fully with applicable requirements of the Americans with Disabilities Act.

(c) If an OTRB equipped with an inaccessible restroom is making an express run of three hours or more without a rest stop, and a passenger with a disability who is unable to use the inaccessible restroom requests an unscheduled rest stop, the operator shall make a good faith effort to accommodate the request. The operator is not required to make the stop. However, if the operator does not make the stop, the operator shall explain to the passenger making the request the reason for its decision not to do so.

§ 37.203 Lift maintenance.

(a) The entity shall establish a system of regular and frequent maintenance checks of lifts sufficient to determine if they are operative.

(b) The entity shall ensure that vehicle operators report to the entity, by the most immediate means available, any failure of a lift to operate in service.

(c) Except as provided in paragraph (d) of this section, when a lift is discovered to be inoperative, the entity shall take the vehicle out of service before the beginning of the vehicle's next trip and ensure that the lift is repaired before the vehicle returns to service.

(d) If there is no other vehicle available to take the place of an OTRB with an inoperable lift, such that taking the vehicle out of service before its next trip will reduce the transportation service the entity is able to provide, the entity may keep the vehicle in service with an inoperable lift for no more than five days from the day on

which the lift is discovered to be inoperative.

§ 37.205 Additional passengers who use wheelchairs.

If a number of wheelchair users exceeding the number of securement locations on the bus seek to travel on a trip, the operator shall assign the securement locations on a first come-first served basis. The operator shall offer boarding assistance and the opportunity to sit in a vehicle seat to passengers who are not assigned a securement location. If the passengers who are not assigned securement locations are unable or unwilling to accept this offer, the operator is not required to provide transportation to them on the bus.

§ 37.207 Discriminatory practices.

It shall be considered discrimination for any operator to—

(a) Deny transportation to passengers with disabilities, except as provided in § 37.5(h);

(b) Use or request the use of persons other than the operator's employees (e.g., family members or traveling companions of a passenger with a disability, medical or public safety personnel) for routine boarding or other assistance to passengers with disabilities, unless the passenger requests or consents to assistance from such persons;

(c) Require or request a passenger with a disability to reschedule his or her trip, or travel at a time other than the time the passenger has requested, in order to receive transportation as required by this subpart;

(d) Fail to provide reservation services to passengers with disabilities equivalent to those provided other passengers; or

(e) Fail or refuse to comply with any applicable provision of this part.

§ 37.209 Training and other requirements.

OTRB operators shall comply with the requirements of §§ 37.161, 37.165–37.167, and 37.173. For purposes of § 37.173, “training to proficiency” is deemed to include, as appropriate to the duties of particular employees, training in proper operation and main-

tenance of accessibility features and equipment, boarding assistance, securement of mobility aids, sensitive and appropriate interaction with passengers with disabilities, handling and storage of mobility devices, and familiarity with the requirements of this subpart. OTRB operators shall provide refresher training to personnel as needed to maintain proficiency.

§ 37.211 Effect of NHTSA and FHWA safety rules.

OTRB operators are not required to take any action under this subpart that would violate an applicable National Highway Traffic Safety Administration or Federal Highway Administration safety rule.

§ 37.213 Information collection requirements.

(a) This paragraph (a) applies to demand-responsive operators under § 37.189 and fixed-route operators under § 37.193(a)(1) that are required to, and small mixed-service operators under § 37.191 that choose to, provide accessible OTRB service on 48 hours' advance notice.

(1) When the operator receives a request for an accessible bus or equivalent service, the operator shall complete lines 1–9 of the Service Request Form in Appendix A to this subpart. The operator shall transmit a copy of the form to the passenger no later than the end of the next business day following the receipt of the request. The passenger shall be required to make only one request, which covers all legs of the requested trip (e.g., in the case of a round trip, both the outgoing and return legs of the trip; in the case of a multi-leg trip, all connecting legs).

(2) The passenger shall be required to make only one request, which covers all legs of the requested trip (e.g., in the case of a round trip, both the outgoing and return legs of the trip; in the case of a multi-leg trip, all connecting legs). The operator shall transmit a copy of the form to the passenger in one of the following ways:

(i) By first-class United States mail. The operator shall transmit the form no later than the end of the next business day following the request;