§ 37.9 Standards for accessible transportation facilities.

(a) For purposes of this part, a transportation facility shall be considered to be readily accessible to and usable by individuals with disabilities if it meets the requirements of this part and the requirements set forth in Appendices B and D to 36 CFR part 1191, which apply to buildings and facilities covered by the Americans with Disabilities Act, as modified by Appendix A to this part.

(b) Facility alterations begun before January 26, 1992, in a good faith effort to make a facility accessible to individuals with disabilities may be used to meet the key station requirements set forth in §§37.47 and 37.51 of this part, even if these alterations are not consistent with the requirements set forth in Appendices B and D to 36 CFR part 1191 and Appendix A to this part, if the modifications complied with the Uniform Federal Accessibility Standards (UFAS) or ANSI A117.1(1980) (American National Standards Specification for Making Buildings and Facilities Accessible to and Usable by the Physically Handicapped). This paragraph applies only to alterations of individual elements and spaces and only to the extent that provisions covering those elements or spaces are contained in UFAS or ANSI A117.1, as applicable.

(c) (1) New construction or alterations of buildings or facilities on which construction has begun, or all approvals for final design have been received, before November 29, 2006, are not required to be consistent with the requirements set forth in Appendices B and D to 36 CFR part 1191 and Appendix A to this part, if the construction or alterations comply with the former Appendices B and D to 36 CFR part 1191 or Appendix A to this part concerning which the entity is seeking a determination of equivalent facilitation.

(d)(1) For purposes of implementing the equivalent facilitation provision in ADA Chapter 1, Section 103, of Appendix B to 36 CFR part 1191, the following parties may submit to the Administrator of the applicable operating administration a request for a determination of equivalent facilitation:

(i)(A) A public or private entity that provides transportation facilities subject to the provisions of subpart C of this part, or other appropriate party with the concurrence of the Administrator.

(B) With respect to airport facilities, an entity that is an airport operator subject to the requirements of 49 CFR part 27 or regulations implementing the Americans with Disabilities Act, an air carrier subject to the requirements of 14 CFR part 382, or other appropriate party with the concurrence of the Administrator.

(ii) The manufacturer of a product or accessibility feature to be used in a transportation facility or facilities.

(2) The requesting party shall provide the following information with its request:

(i) Entity name, address, contact person and telephone;

(ii) Specific provision(s) of Appendices B and D to 36 CFR part 1191 or Appendix A to this part concerning which the entity is seeking a determination of equivalent facilitation.

(iii) [Reserved]

(iv) Alternative method of compliance, with demonstration of how the alternative meets or exceeds the level of accessibility or usability provided in Appendices B and D to 36 CFR part 1191 or Appendix A to this part; and

(v) Documentation of the public participation used in developing an alternative method of compliance.

(3) In the case of a request by a public entity that provides transportation facilities (including an airport operator), or a request by an air carrier with respect to airport facilities, the required public participation shall include the following:

(i) The entity shall contact individuals with disabilities and groups representing them in the community. Consultation with these individuals and groups shall take place at all stages of the development of the request for equivalent facilitation. All documents and other information concerning the
request shall be available, upon re-
quest, to Department of Transpor-
tation officials and members of the
public.

(ii) The entity shall make its pro-
posed request available for public com-
ment before the request is made final
or transmitted to DOT. In making the
request available for public review, the
entity shall ensure that it is available,
upon request, in accessible formats.

(iii) The entity shall sponsor at least
one public hearing on the request and
shall provide adequate notice of the
hearing, including advertisement in ap-
propriate media, such as newspapers of
general and special interest circulation
and radio announcements.

(4) In the case of a request by a man-
ufacturer or a private entity other
than an air carrier, the manufacturer
or private entity shall consult, in per-
son, in writing, or by other appropriate
means, with representatives of na-
tional and local organizations rep-
resenting people with those disabilities
who would be affected by the request.

(5) A determination of compliance
will be made by the Administrator of
the concerned operating administra-
tion on a case-by-case basis, with the
concurrence of the Assistant Secretary
for Transportation Policy.

(6)(i) Determinations of equivalent
facilitation are made only with respect
to transportation facilities, and per-
tain only to the specific situation con-
cerning which the determination is
made. Provided, however, that with re-
spect to a product or accessibility fea-
ture that the Administrator deter-
mines can provide an equivalent facili-
tation in a class of situations, the Ad-
ministrator may make an equivalent
facilitation determination applying to
that class of situations.

(ii) Entities shall not cite these de-
terminations as indicating that a pro-
duct or method constitutes equivalent
facilitation in situations, or classes of
situations, other than those to which
the determinations specifically per-
tain.

(iii) Entities shall not claim that a
determination of equivalent facilita-
tion indicates approval or endorsement
of any product or method by the Fed-
eral government, the Department of
Transportation, or any of its operating
administrations.

[71 FR 63265, Oct. 30, 2006]

§ 37.11 Administrative enforcement.

(a) Recipients of Federal financial as-
istance from the Department of Transpor-
tation are subject to adminis-
terative enforcement of the require-
ments of this part under the provisions
of 49 CFR part 27, subpart C.

(b) Public entities, whether or not
they receive Federal financial assis-
tance, also are subject to enforcement
action as provided by the Department
of Justice.

(c) Private entities, whether or not
they receive Federal financial assis-
tance, are also subject to enforcement
action as provided in the regulations of
the Department of Justice imple-
menting title III of the ADA (28 CFR
part 36).

[56 FR 45621, Sept. 6, 1991, as amended at 61
FR 25416, May 21, 1996]

§ 37.13 Effective date for certain vehi-
cle specifications.

(a) The vehicle lift specifications
identified in §§ 38.23(b)(6), 38.83(b)(6),
38.95(b)(6), and 38.125(b)(6) of this title
apply to solicitations for vehicles
under this part after January 25, 1992.

(b) The vehicle door height require-
ments for vehicles over 22 feet identi-
fied in § 38.25(c) of this title apply to so-
licitations for vehicles under this part

[56 FR 62215, Dec. 9, 1991]

§ 37.15 Interpretations and guidance.
The Secretary of Transportation, Of-
ice of the Secretary of Transportation,
and Operating Administrations may
issue written interpretations of or
written guidance concerning this part.
Written interpretations and guidance
shall be developed through the Depart-
ment’s coordinating mechanism for
disability matters, the Disability Law
Coordinating Council. Written inter-
pretations and guidance constitute the
official position of the Department of
Transportation, or any of its operating
administrations, only if they are issued
over the signature of the Secretary of
Transportation or if they contain the
following statement: “The General