

Americans with Disabilities Act (ADA) of 1990 (42 U.S.C. 12101–12213) including the Department's ADA regulations (49 CFR parts 37 and 38), the regulations of the Department of Justice implementing titles II and III of the ADA (28 CFR parts 35 and 36), 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.

[55 FR 40763, Oct. 4, 1990, as amended at 56 FR 45621, Sept. 6, 1991; 61 FR 32354, June 24, 1996]

Subpart B—Program Accessibility Requirements in Specific Operating Administration Programs: Airports, Railroads, and Highways

§ 27.71 Airport facilities.

(a) This section applies to all terminal facilities and services owned, leased, or operated on any basis by a recipient of DOT financial assistance at a commercial service airport, in-

cluding parking and ground transportation facilities.

(b) Airport operators shall ensure that the terminal facilities and services subject to this section shall be readily accessible to and usable by individuals with disabilities, including individuals who use wheelchairs. Airport operators shall be deemed to comply with this section 504 obligation if they meet requirements applying to state and local government programs and facilities under Department of Justice (DOJ) regulations implementing Title II of the Americans with Disabilities Act (ADA).

(c) The airport shall ensure that there is an accessible path between the gate and the area from which aircraft are boarded.

(d) Systems of inter-terminal transportation, including, but not limited to, shuttle vehicles and people movers, shall comply with applicable requirements of the Department of Transportation's ADA rules.

(e) The Americans with Disabilities Act Accessibility Guidelines (ADAAGs), including section 10.4 concerning airport facilities, shall be the standard for accessibility under this section.

(f) Contracts or leases between carriers and airport operators concerning the use of airport facilities shall set forth the respective responsibilities of the parties for the provision of accessible facilities and services to individuals with disabilities as required by this part and applicable ADA rules of the Department of Transportation and Department of Justice for airport operators and applicable Air Carrier Access Act rules (49 CFR part 382) for carriers.

(g) If an airport operator who receives Federal financial assistance for an existing airport facility has not already done so, the recipient shall submit a transition plan meeting the requirements of § 27.65(d) of this part to the FAA no later than March 3, 1997.

[61 FR 56424, Nov. 1, 1996]

§ 27.72 Boarding assistance for aircraft.

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

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(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.

(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 Depart-

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ment 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.

(4) When boarding assistance is not required to be provided under paragraph (c)(3) of this section, or cannot be provided as required by paragraphs (b) and (c) of this section (e.g., because of mechanical problems with a lift), boarding assistance shall be provided by any available means to which the passenger consents, except hand-carrying as defined in 14 CFR 382.39(a)(2).

(5) The agreement shall ensure that all lifts and other accessibility equipment are maintained in proper working condition.

(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.

(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 4, 2002. All air carriers and airport operators involved are jointly responsible for the timely and complete implementation of the agreement.

(3) Level-entry boarding assistance under the agreement is not required with respect to float planes or with respect to any widebody aircraft determined by the Department of Transportation to be unsuitable for boarding assistance by lift, ramp, or other device on the basis that no existing boarding assistance device on the market will accommodate the aircraft without a significant risk of serious damage to

the aircraft or injury to passengers or employees.

(4) When level-entry boarding assistance is not required to be provided under paragraph (d)(3) of this section, or cannot be provided as required by paragraphs (b) and (d) of this section (e.g., because of mechanical problems with a lift), boarding assistance shall be provided by any available means to which the passenger consents, except hand-carrying as defined in 14 CFR 382.39(a)(2).

(5) The agreement shall ensure that all lifts and other accessibility equipment are maintained in proper working condition.

(e) In the event that airport personnel are involved in providing boarding assistance, the airport shall ensure that they are trained to proficiency in the use of the boarding assistance equipment used at the airport and appropriate boarding assistance procedures that safeguard the safety and dignity of passengers.

[66 FR 22115, May 3, 2001]

§ 27.75 Federal Highway Administration—highways.

(a) *New facilities*—(1) *Highway rest area facilities*. All such facilities that will be constructed with Federal financial assistance shall be designed and constructed in accordance with the accessibility standards referenced in § 27.3(b) of this part.

(2) *Curb cuts*. All pedestrian crosswalks constructed with Federal financial assistance shall have curb cuts or ramps to accommodate persons in wheelchairs, pursuant to section 228 of the Federal-Aid Highway Act of 1973 (23 U.S.C. 402(b)(1)(F)).

(3) *Pedestrian over-passes, under-passes and ramps*. Pedestrian over-passes, under-passes and ramps, constructed with Federal financial assistance, shall be accessible to handicapped persons, including having gradients no steeper than 10 percent, unless:

(i) Alternate safe means are provided to enable mobility-limited persons to cross the roadway at that location; or

(ii) It would be infeasible for mobility-limited persons to reach the over-passes, under-passes or ramps because of unusual topographical or architect-

tural obstacles unrelated to the federally assisted facility.

(b) *Existing facilities—Rest area facilities*. Rest area facilities on Interstate highways shall be made accessible to handicapped persons, including wheelchair users, within a three-year period after the effective date of this part. Other rest area facilities shall be made accessible when Federal financial assistance is used to improve the rest area, or when the roadway adjacent to or in the near vicinity of the rest area is constructed, reconstructed or otherwise altered with Federal financial assistance.

[44 FR 31468, May 31, 1979, as amended by Amdt. 27-3, 51 FR 19017, May 23, 1986. Redesignated at 56 FR 45621, Sept. 6, 1991]

§ 27.77 Recipients of Essential Air Service subsidies.

Any air carrier receiving Federal financial assistance from the Department of Transportation under the Essential Air Service program shall, as a condition of receiving such assistance, comply with applicable requirements of this part and applicable section 504 and ACAA rules of the Department of Transportation.

[61 FR 56425, Nov. 1, 1996]

Subpart C—Enforcement

SOURCE: 44 FR 31468, May 31, 1979. Redesignated at 56 FR 45621, Sept. 6, 1991.

§ 27.121 Compliance information.

(a) *Cooperation and assistance*. The responsible Departmental official, to the fullest extent practicable, seeks the cooperation of recipients in securing compliance with this part and provides assistance and guidance to recipients to help them comply with this part.

(b) *Compliance reports*. Each recipient shall keep on file for one year all complaints of noncompliance received. A record of all such complaints, which may be in summary form, shall be kept for five years. Each recipient shall keep such other records and submit to the responsible Departmental official or his/her designee timely, complete, and accurate compliance reports at