

(a) Common elements of the station;
 (b) Portions of the facility directly serving the rail system with the earlier completion date; and

(c) An accessible path from common elements of the station to portions of the facility directly serving the rail system with the earlier completion date.

§ 37.61 Public transportation programs and activities in existing facilities.

(a) A public entity shall operate a designated public transportation program or activity conducted in an existing facility so that, when viewed in its entirety, the program or activity is readily accessible to and usable by individuals with disabilities.

(b) This section does not require a public entity to make structural changes to existing facilities in order to make the facilities accessible by individuals who use wheelchairs, unless and to the extent required by § 37.43 (with respect to alterations) or §§ 37.47 or 37.51 of this part (with respect to key stations). Entities shall comply with other applicable accessibility requirements for such facilities.

(c) Public entities, with respect to facilities that, as provided in paragraph (b) of this section, are not required to be made accessible to individuals who use wheelchairs, are not required to provide to such individuals services made available to the general public at such facilities when the individuals could not utilize or benefit from the services.

§§ 37.63–37.69 [Reserved]

Subpart D—Acquisition of Accessible Vehicles By Public Entities

§ 37.71 Purchase or lease of new non-rail vehicles by public entities operating fixed route systems.

(a) Except as provided elsewhere in this section, each public entity operating a fixed route system making a solicitation after August 25, 1990, to purchase or lease a new bus or other new vehicle for use on the system, shall ensure that the vehicle is readily accessible to and usable by individuals

with disabilities, including individuals who use wheelchairs.

(b) A public entity may purchase or lease a new bus that is not readily accessible to and usable by individuals with disabilities, including individuals who use wheelchairs, if it applies for, and the FTA Administrator grants, a waiver as provided for in this section.

(c) Before submitting a request for such a waiver, the public entity shall hold at least one public hearing concerning the proposed request.

(d) The FTA Administrator may grant a request for such a waiver if the public entity demonstrates to the FTA Administrator's satisfaction that—

(1) The initial solicitation for new buses made by the public entity specified that all new buses were to be lift-equipped and were to be otherwise accessible to and usable by individuals with disabilities;

(2) Hydraulic, electromechanical, or other lifts for such new buses could not be provided by any qualified lift manufacturer to the manufacturer of such new buses in sufficient time to comply with the solicitation; and

(3) Any further delay in purchasing new buses equipped with such necessary lifts would significantly impair transportation services in the community served by the public entity.

(e) The public entity shall include with its waiver request a copy of the initial solicitation and written documentation from the bus manufacturer of its good faith efforts to obtain lifts in time to comply with the solicitation, and a full justification for the assertion that the delay in bus procurement needed to obtain a lift-equipped bus would significantly impair transportation services in the community. This documentation shall include a specific date at which the lifts could be supplied, copies of advertisements in trade publications and inquiries to trade associations seeking lifts, and documentation of the public hearing.

(f) Any waiver granted by the FTA Administrator under this section shall be subject to the following conditions:

(1) The waiver shall apply only to the particular bus delivery to which the waiver request pertains;