

### § 37.133

section may be considered in a public entity's request for an undue financial burden waiver under §§ 37.151–37.155 of this part.

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

#### § 37.133 Subscription service.

(a) This part does not prohibit the use of subscription service by public entities as part of a complementary paratransit system, subject to the limitations in this section.

(b) Subscription service may not absorb more than fifty percent of the number of trips available at a given time of day, unless there is non-subscription capacity.

(c) Notwithstanding any other provision of this part, the entity may establish waiting lists or other capacity constraints and trip purpose restrictions or priorities for participation in the subscription service only.

#### § 37.135 Submission of paratransit plan.

(a) *General.* Each public entity operating fixed route transportation service, which is required by § 37.121 to provide complementary paratransit service, shall develop a paratransit plan.

(b) *Initial submission.* Except as provided in § 37.141 of this part, each entity shall submit its initial plan for compliance with the complementary paratransit service provision by January 26, 1992, to the appropriate location identified in paragraph (f) of this section.

(c) *Annual Updates.* Except as provided in this paragraph, each entity shall submit an annual update to its plan on January 26 of each succeeding year.

(1) If an entity has met and is continuing to meet all requirements for complementary paratransit in §§ 37.121–37.133 of this part, the entity may submit to FTA an annual certification of continued compliance in lieu of a plan update. Entities that have submitted a joint plan under § 37.141 may submit a joint certification under this paragraph. The requirements of §§ 37.137 (a) and (b), 37.138 and 37.139 do not apply when a certification is submitted under this paragraph.

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(2) In the event of any change in circumstances that results in an entity which has submitted a certification of continued compliance falling short of compliance with §§ 37.121–37.133, the entity shall immediately notify FTA in writing of the problem. In this case, the entity shall also file a plan update meeting the requirements of §§ 37.137–37.139 of this part on the next following January 26 and in each succeeding year until the entity returns to full compliance.

(3) An entity that has demonstrated undue financial burden to the FTA shall file a plan update meeting the requirements of §§ 37.137–37.139 of this part on each January 26 until full compliance with §§ 37.121–37.133 is attained.

(4) If FTA reasonably believes that an entity may not be fully complying with all service criteria, FTA may require the entity to provide an annual update to its plan.

(d) *Phase-in of implementation.* Each plan shall provide full compliance by no later than January 26, 1997, unless the entity has received a waiver based on undue financial burden. If the date for full compliance specified in the plan is after January 26, 1993, the plan shall include milestones, providing for measured, proportional progress toward full compliance.

(e) *Plan implementation.* Each entity shall begin implementation of its plan on January 26, 1992.

(f) *Submission locations.* An entity shall submit its plan to one of the following offices, as appropriate:

(1) The individual state administering agency, if it is—

(i) A section 18 recipient;

(ii) A small urbanized area recipient of section 9 funds administered by the State;

(iii) A participant in a coordinated plan, in which all of the participating entities are eligible to submit their plans to the State; or

(2) The FTA Regional Office (as listed in appendix B to this part) for all other entities required to submit a paratransit plan. This includes an FTA recipient under section 9 of the FT Act; entities submitting a joint plan (unless

they meet the requirements of paragraph (f)(1)(iii) of this section), and a public entity not an FT Act recipient.

[56 FR 45621, Sept. 6, 1991, as amended at 61 FR 25416, May 21, 1996; 61 FR 26468, May 28, 1996]

#### § 37.137 Paratransit plan development.

(a) *Survey of existing services.* Each submitting entity shall survey the area to be covered by the plan to identify any person or entity (public or private) which provides a paratransit or other special transportation service for ADA paratransit eligible individuals in the service area to which the plan applies.

(b) *Public participation.* Each submitting entity shall ensure public participation in the development of its paratransit plan, including at least the following:

(1) *Outreach.* Each submitting entity shall solicit participation in the development of its plan by the widest range of persons anticipated to use its paratransit service. Each entity shall develop contacts, mailing lists and other appropriate means for notification of opportunities to participate in the development of the paratransit plan;

(2) *Consultation with individuals with disabilities.* Each entity shall contact individuals with disabilities and groups representing them in the community. Consultation shall begin at an early stage in the plan development and should involve persons with disabilities in all phases of plan development. All documents and other information concerning the planning procedure and the provision of service shall be available, upon request, to members of the public, except where disclosure would be an unwarranted invasion of personal privacy;

(3) *Opportunity for public comment.* The submitting entity shall make its plan available for review before the plan is finalized. In making the plan available for public review, the entity shall ensure that the plan is available upon request in accessible formats;

(4) *Public hearing.* The entity shall sponsor at a minimum one public hearing and shall provide adequate notice of the hearing, including advertisement in appropriate media, such as newspapers of general and special interest

circulation and radio announcements; and

(5) *Special requirements.* If the entity intends to phase-in its paratransit service over a multi-year period, or request a waiver based on undue financial burden, the public hearing shall afford the opportunity for interested citizens to express their views concerning the phase-in, the request, and which service criteria may be delayed in implementation.

(c) *Ongoing requirement.* The entity shall create an ongoing mechanism for the participation of individuals with disabilities in the continued development and assessment of services to persons with disabilities. This includes, but is not limited to, the development of the initial plan, any request for an undue financial burden waiver, and each annual submission.

#### § 37.139 Plan contents.

Each plan shall contain the following information:

(a) Identification of the entity or entities submitting the plan, specifying for each—

(1) Name and address; and

(2) Contact person for the plan, with telephone number and facsimile telephone number (FAX), if applicable.

(b) A description of the fixed route system as of January 26, 1992 (or subsequent year for annual updates), including—

(1) A description of the service area, route structure, days and hours of service, fare structure, and population served. This includes maps and tables, if appropriate;

(2) The total number of vehicles (bus, van, or rail) operated in fixed route service (including contracted service), and percentage of accessible vehicles and percentage of routes accessible to and usable by persons with disabilities, including persons who use wheelchairs;

(3) Any other information about the fixed route service that is relevant to establishing the basis for comparability of fixed route and paratransit service.

(c) A description of existing paratransit services, including:

(1) An inventory of service provided by the public entity submitting the plan;