

at the expense of smaller stations. For example, consider a DMA that includes nine TV stations, six of which broadcast from hypothetical City A, and the other three of which broadcast from hypothetical City B. The signal contours of the stations in City A do not reach viewers in City B, and vice versa. The rule, as revised in the *R&O*, would permit two of the three stations in City B to combine, with the possible result that they could obtain and exercise market power at the expense of the third station in City B. The rule as revised in the *MO&O* would not permit any of the stations in City B to combine with each other. (It would, however, permit one station in City A to combine with one station in City B, leaving eight TV stations in the DMA.) Thus, the alternative considered of affirming the rule as revised in the *R&O* could have enabled a smaller station's competitors to obtain and exercise market power.

73. In tightening the circumstances under which two stations can combine, we recognize that our new rule may not just protect smaller stations, but instead may hamper their ability to combine, reduce costs, and compete more effectively. We note, however, that the rules, as revised in the *R&O*, and affirmed in the *MO&O*, permit struggling stations to combine when one of them has failed or is failing, or the combination of the two would result in the construction of an authorized but as yet unconstructed station.

74. For the above reasons, we believe that the Commission has taken steps to minimize significant economic impact on a substantial number of small entities.

Report to Congress

75. The Commission will send a copy of this *MO&O*, including this Supplemental FRFA, in a report to be sent to Congress pursuant to the Congressional Review Act. In addition, the Commission will send a copy of this *MO&O*, including this Supplemental FRFA, to the Chief Counsel for Advocacy of the Small Business Administration. A copy of this *MO&O* and Supplemental FRFA (or summaries thereof) will also be published in the **Federal Register**.

List of Subjects in 47 CFR Part 73

Television broadcasting.

Federal Communications Commission.

William F. Caton,
Deputy Secretary.

Rule Changes

For the reasons discussed in the preamble, the Federal Communications

Commission amends 47 CFR part 73 as follows:

PART 73—RADIO BROADCAST SERVICES

1. The authority citation for part 73 continues to read as follows:

Authority: 47 U.S.C. 154, 303, 334 and 336.

2. Section 73.3555 is amended by revising paragraphs (b)(2)(ii) and (c)(3)(i) to read as follows:

§ 73.3555 Multiple Ownership.

* * * * *

(b) * * *

(2) * * *

(ii) at least 8 independently owned and operating, full-power commercial and noncommercial TV stations would remain post-merger in the DMA in which the communities of license of the TV stations in question are located. Count only those stations the Grade B signal contours of which overlap with the Grade B signal contour of at least one of the stations in the proposed combination. In areas where there is no Nielsen DMA, count the TV stations present in an area that would be the functional equivalent of a TV market. Count only those TV stations the Grade B signal contours of which overlap with the Grade B signal contour of at least one of the stations in the proposed combination.

* * * * *

(c) * * *

(3) * * *

(i) *TV stations:* independently owned and operating full-power broadcast TV stations within the DMA of the TV station's (or stations') community (or communities) of license that have Grade B signal contours that overlap with the Grade B signal contour(s) of the TV station(s) at issue;

* * * * *

[FR Doc. 01-3046 Filed 2-5-01; 8:45 am]

BILLING CODE 6712-01-P

DEPARTMENT OF TRANSPORTATION

49 CFR Part 37

[Docket OST-1998-3648]

RIN 2105-ACOO

Transportation for Individuals With Disabilities—Accessibility of Over-the-Road Buses (OTRBs)

AGENCY: Office of the Secretary, DOT.

ACTION: Interim final rule; Request for comments.

SUMMARY: The Department is amending its Americans with Disabilities Act

(ADA) regulations concerning accessibility of over-the-road buses (OTRBs) by removing the provision requiring compensation to passengers who do not receive required service, clarifying the information collection requirements, postponing until March 26, 2001, the requirement for bus companies to submit information reporting ridership on accessible fixed route service and the acquisition of buses, and designating a different address for regulated parties to use in submitting the required information. The amendments respond to a recent court decision and comments on the information collection requirements.

DATES: *Effective Date:* This rule becomes effective March 8, 2001.

Written Comments: Comments on the interim final rule must be submitted on or before March 8, 2001.

ADDRESSES: The public is invited to submit written comments on the Interim Final Rule. The Interim Final Rule may be changed in light of the comments received. Written comments should refer to the docket number of this interim rule and be submitted in duplicate to: DOT Central Docket Management Facility located in room PL-401 at the Plaza level of the Nassif Building, 400 Seventh Street, SW., Washington, DC 20590.

Organizations and individuals desiring to submit comments on the collection of information requirements should direct them to the Office of Management and Budget, Attention: Desk Officer for the Office of the Secretary of Transportation, Office of Information and Regulatory Affairs, Washington, DC 20503, and should also send a copy of their comments to: DOT Central Docket Management Facility located in room PL-401 at the Plaza level of the Nassif Building, 400 Seventh Street, SW., Washington, DC 20590.

All docket material will be available for inspection at this address and on the Internet at <http://dms.dot.gov>. Docket hours at the Nassif Building are Monday-Friday, 10 a.m. to 5 p.m., excluding Federal holidays. Those desiring notification of receipt of comments must include a self-addressed, stamped envelope or postcard.

FOR FURTHER INFORMATION CONTACT: Blane A. Workie, Attorney, Regulation and Enforcement, Office of the General Counsel, 400 7th Street, SW., Room 10424, Washington, DC 20590, 202-366-9306 (voice), 202-366-9313 (fax), or blane.workie@ost.dot.gov (email).

SUPPLEMENTARY INFORMATION: The Department's September 1998 final rule

on over-the-road bus accessibility contained a number of information collection requirements and a requirement that bus operators compensate disabled passengers when required service is not provided. The final rule amends both of the aforementioned requirements and postpones until March 26, 2001, the requirement for bus companies to submit information reporting ridership on accessible fixed route service and the acquisition of buses. The Department addresses the reasons for the amendments in turn.

Section 37.199 Compensation for Failure To Provide Required Vehicles or Service

As a means of ensuring that OTRB operators were accountable for meeting service requirements under the final rule, the Department adopted a suggestion made by bus industry commenters during the comment period leading to the final rule. Section 37.199 of the final rule requires bus operators to make modest compensation payments to disabled passengers when required service is not provided. This provision focuses primarily, though not exclusively, on 48-hour advance notice service.

The bus industry sought judicial review of the entire final rule. The U.S. District Court for the District of Columbia upheld the final rule in every respect. *American Bus Association, Inc. v. Rodney E. Slater*, No. 98 Civ. 2351 (D. D.C. September 10, 1999). The industry then appealed the District Court decision solely with respect to § 37.199. On November 14, 2000, the Federal Appeals Court for the District of Columbia Circuit determined that the compensation provision was not authorized by statute. *American Bus Association, Inc. v. Rodney E. Slater*, 231 F.3d 1 (D.C. Cir. Nov. 14, 2000). In consequence of the court's decision, the Department in this final rule is deleting § 37.199, as well as certain recordkeeping and reporting provisions that relate to the compensation provision.

The Department wishes to emphasize that the remainder of the rule, including all requirements for accessible buses and bus service, remain fully in effect. The court decision does not change these requirements in any way.

The Department continues to believe that OTRB operators must remain accountable for proper implementation of all required service under the rule. While removing § 37.199 will eliminate the opportunity for individual passengers to receive compensation automatically for the denial of required

service, there are other existing means through which the Department's rule can be enforced.

Under Title III of the ADA, there are judicial remedies available for noncompliance (e.g., enforcement litigation brought by the Department of Justice). Also, the OTRB rule includes recordkeeping and reporting requirements concerning the provision of service. These requirements will allow the Department and other interested persons to determine the extent to which OTRB operators provide required service. It may also provide a factual basis for the Department to work with the Department of Justice on potential enforcement actions. The Department seeks comment on whether there are other appropriate enforcement mechanisms that the Department could, in the future, propose to replace § 37.199.

The Department also seeks comment on whether, in the absence of § 37.199, we should reconsider certain substantive provisions of the rule. During the comment period leading to the OTRB rule, bus industry commenters asked to maximize the use of on-call accessible bus service, saying that it was the most cost-effective approach to providing accessible services. Disability community commenters disagreed, saying that on-call service had shown itself to be unreliable and that disabled passengers could not count on the bus industry to comply fully with on-call service obligations.

To mitigate impacts of the rule on small businesses, we permitted charter/tour operators and smaller fixed-route and mixed-service operators to meet their requirements through 48-hour on-call services, rather than requiring them to purchase accessible buses in all cases. We believed that this decision was reasonable, in part, because it was balanced by the compensation provision of § 37.199, which would help to ensure that bus operators met their obligations. In the absence of this accountability mechanism, should the Department reconsider its decision to allow extensive use of on-call bus service? For example, should we propose requiring acquisition of accessible buses in some situations where on-call service is not permitted? Are there other ways of restoring the balance between the Department's objectives of ensuring accessible buses and service for passengers with disabilities and mitigating economic impacts on small businesses?

Section 37.213 Information Collection Requirements

The Department is making changes to the final rule regarding the information collection requirements in response to comments. In an April 1, 1999, **Federal Register** notice (64 FR 15866), we asked for comments on these requirements under the Paperwork Reduction Act. We received 91 comments from members of disability community organizations, individuals with disabilities, and state and local agencies that work with individuals with disabilities. Prior to this notice, the American Bus Association (ABA) had provided a comment on the information collection requirements of the rule. We received no additional comments from the bus industry regarding the information collection requirements following the April 1999 notice.

The common theme among the disability community comments was that the only way to protect the civil rights of people with disabilities and provide equal access to transportation is to hold OTRB companies accountable by requiring documentation. Documentation is the only way a disabled passenger can prove that he or she made a request for advance service or equivalent service or that lawful compensation is due.

The commenters, however, had concerns regarding the proposed documentation. One concern was that bus companies may require the passenger to provide documentation as proof or as a prerequisite to receiving accessible service. A commenter requested that the rule make clear that neither a copy of the form or confirmation number is needed as proof of request or as a prerequisite to receiving accessible service. DOT believes that it is clear that bus companies cannot require documentation as a prerequisite to receiving accessible service. Nowhere in the rule is there a requirement for disabled persons to provide proof of request as a prerequisite to receiving accessible service.

A second concern was that the request for an accessible bus should cover the entire trip, including round trip or any connections, and operators should be required to document the arrangements that were made to provide an accessible bus. Commenters wanted assurance that a passenger traveling round trip or whose trip involves bus changes should only have to make one request. DOT believes that the rule intends for a request for accessible bus service to cover the entire trip, including round trip and/or any connections. The

amendment revises the rule to clarify this point.

A third concern was that the rule does not specify what constitutes a failure to provide an accessible bus. A failure to provide service occurs when accessible service is not provided. Specific questions as to whether there is a failure on the part of operator to provide the requested accessible service when the passenger is made to wait or accepts an alternative arrangement are primarily matters of interpretation. DOT does not believe it is necessary to modify the regulations for this purpose.

Commenters supported the requirement that bus companies report the number of new or used accessible buses that have been purchased or leased. Many commenters explained that this requirement is essential to monitor companies' compliance with the regulations. One commenter suggested that companies should be required to report both the number of accessible buses that are actually used in service and the number of accessible buses in the entire fleet. DOT does not think, however, that there is a strong rationale for requiring companies to report the number of accessible buses that are actually used in service, since the rule already requires fixed route operators to report the number of accessible buses in each category and ridership on accessible buses.

Another commenter expressed a concern with how bus companies are planning to make their fleets accessible. Specifically, the commenter wanted data indicating whether companies would raise fares or receive government assistance. As stated in the September 1998 final rule's preamble, there are a variety of programs that provide financial assistance or relief to OTRB companies. OTRB companies accepted over \$2 million in accessibility subsidies during 1999, for example. The Department does not believe, however, that it is necessary to collect extensive fare information, which can reflect a variety of market influences.

Some disability community commenters said that the requirement that bus companies report the number of lift boardings should be eliminated from the rule. There is a general belief among disability community commenters that, historically, bus companies have underreported this information and that DOT's reliance on this data will be detrimental to the disability community. Thus, in the absence of some way to independently verify this data, they assert that this requirement should be dropped. The ABA believes that reporting under the rule should be limited to Class I carriers and to data

concerning total one-way trips and total one-way trips by passengers in wheelchairs.

DOT believes that it is important that the rule retain the requirement to report the number of lift boardings because ridership has been a major issue in this regulation. Six years from now, there will be a regulatory review and some measure of usage is potentially useful information. DOT is aware of concerns of underreporting and will aim to periodically perform spot checks of lift boarding usage to test the accuracy of the information provided by the OTRB industry. We are also willing to consider data developed independently by sources outside the Department.

We recognize that ABA opposes the accountability requirements of the rule, and consequently would prefer to avoid reporting information concerning the success of bus companies in meeting their requirements for accessible buses and service. Nonetheless, for program evaluation and compliance purposes, we believe that this recordkeeping and reporting is vital to ensuring that passengers receive the nondiscriminatory service that the ADA and the Department's regulation establish as their civil right.

Many disability community commenters expressed the viewpoint that the proposed five-year record retention requirement is too short. The OTRB industry has over thirteen years to phase in the ADA regulations. Therefore, commenters said, the retention period should be extended to fifteen or twenty years in order to cover the entire period in which the regulations are to be phased in. The ABA suggested, however, that the record retention period be reduced to one year, as a means of reducing paperwork burdens.

DOT is not persuaded by these arguments and believes that five years is an appropriate time period for retention of records and a reasonable compromise between these competing concerns. It is unlikely that in year 10 there will be a need or interest to look at forms from year 4, and older records would be of limited use in enforcement proceedings. In DOT's experience, five years is ample time to retain records for enforcement purposes. In addition, requiring long-term or indefinite retention of records could add to the information collection burden of the rule for Paperwork Reduction Act purposes. Yet, permitting companies to discard records after one year would probably be insufficient for program evaluation and compliance purposes.

Commenters further requested that DOT require that the individual forms

be submitted to DOT annually because the summarized reports submitted by industry might not be entirely accurate. DOT believes that it is sufficient to require the OTRB industry to submit annual reports, especially considering the fact that operators must make the forms available to DOT or Department of Justice (DOJ) officials at their request. In addition, the limitations of the Department's resources would make it difficult for us to catalog the additional forms and review them adequately. Commenters also asserted that records should be made available to the general public. Most, if not all, of the records or information that DOT receives from the OTRB industry would be available to the public under the Freedom of Information Act (FOIA).

There were also a number of comments regarding the proposed forms to be used. One suggestion is that Form A should denote the locations where the accessible bus is needed and operators should be required to document the arrangements made for the return trip or any connections. A second suggestion is that Forms A and B differ unnecessarily, which can lead to confusion. A third suggestion is that there needs to be clarification of when a passenger is entitled to documentation for equivalent service.

Commenters said that the rule and Form B should more clearly require small fixed operators who choose to provide equivalent service give the passenger a copy of Form B upon request for equivalent service and whenever the requested equivalent service is provided. A fourth suggestion is that DOT fix an error in item 10 of Form B. Item 10 of Form B states "If the answer to items 9 and 10 is no, attach documentation that compensation required by Department of Transportation regulations was paid." Item 10 mistakenly refers to item 10 as if it preceded it, leading one commenter to wonder whether an item is missing from Form B.

Based upon these comments, DOT is revising Appendix A to Subpart H of Part 37 and section 37.213 of the final rule. As explained earlier, DOT agrees with the comments that the form should include a question about the location(s) where an accessible bus is needed. DOT also agrees with the suggestions that Forms A and B should not differ unnecessarily. For these reasons, we have eliminated the dual forms and created one form, which will be used for all purposes. The new form avoids the problem cited by commenters with respect to item 10 of Form B. Additionally, the new form does not require OTRB operators attach

documentation that compensation was paid because the compensation provision has been eliminated. Furthermore, DOT agrees that there needs to be clear language in section 37.213(b) of the final rule and Form B explaining that a passenger is entitled to documentation whenever equivalent service is requested and whenever the requested equivalent service is not provided.

The ABA requested clarification of the time in which bus companies should send copies of the form back to passengers after a request for accessible or equivalent service. The ABA suggested the next business day after the request is received. In cases where the carrier failed to provide accessible or equivalent service, and the carrier paid compensation, ABA recommended that the form and attached compensation should be sent within up to seven working days from the failure to provide service. The ABA said that this would be consistent with the seven-day time frame for actually providing the compensation.

The Department agrees with the ABA in that on the next business day after a passenger's request for accessible or equivalent services is received, bus companies should send copies of the form back to that passenger. It does not matter whether the operator believes that it has a basis under the rule for failing to provide accessible or equivalent service (e.g., the request for accessible service was not made in a timely manner), it must still send copies of the form to the passenger on the next business day. The compensation provision has been removed from the rule and thus, the related requirement of attaching compensation to the form no longer exists.

Comments were also received suggesting that DOT require bus companies to post public notice of key ADA requirements on their buses, at their stations, in their publications, and on their web-sites. Some commenters propose that the companies make forms available through various means such as over the internet, via facsimile, available for pick-up, or mailed on the same day the request is made. Such third-party notice requirements are viewed as information collection burdens under the Paperwork Reduction Act, and we are not convinced that they are necessary burdens to impose. It is in the interest of all concerned, including the companies, to make customers aware of available services. The Department can revisit this issue if it appears, during implementation, that consumers are not receiving adequate information.

As for the burden estimates, the commenters agreed that most of DOT's estimations of the burden hours that it will take to comply with the reporting requirements were reasonable. The only one they felt was exaggerated was the estimation of the amount of time it will take to prepare an annual report listing the number of accessible buses. DOT estimated that it will take 35.4 hours and the commenters feel that three to five hours is a more accurate estimation. The commenters argue that computers and the Internet substantially lessen the burden of the paperwork requirements. OTRB companies can use computers to automatically confirm and record transactions completed over the Internet. If the transaction is completed by telephone, an employee can enter the information as the transaction is taking place. By keeping an up-to-date database, this information will always be ready and available. Therefore, it will take minimal hours to report this information to DOT.

DOT agrees that modern technology could reduce the burden of preparing an annual report listing the number of accessible buses. However, the commenters have not provided DOT with the data to support their belief that three to five hours is a more accurate estimate. All of DOT's burden hour estimates were calculated using national averages of cost indicators developed through a major study of records management costs. The Association of Records Managers and Administrators (ARMA) sponsored this study.

Extension of Due Date for Information Collection

The September 1998 final rule on over the road buses (49 CFR Part 37, Subpart H) called for bus companies to submit a number of forms, reports and data to the Department. In this final rule, we extend the due date for information collection as required by § 37.213 of this rule. Paragraph (c) of this section called for large operators to make their first submissions to the Department on October 30, 2000, for the year beginning in October 1999, and for small operators to make their first submissions to the Department on October 29, 2001, for the year beginning in October 2000. Paragraph (d) called for bus companies to submit their first report on accessible and inaccessible new, used and leased buses to the Department on October 28, 1999, for the year beginning in October 1998.

The Department is extending the effective date for some of the information collection requirements for two reasons. First, although the Department published a notice

requesting comments on these information collection requirements on April 1, 1999, DOT has not been able to publish a notice addressing the comments received until today. Following the publication of this final rule, we expect to obtain an OMB control number for the new information collection requirements resulting from the OTRB rulemaking.

Second, in December 1999, two major bus industry associations petitioned the Department to change this rule. Beginning on October 29, 1999, bus companies were required to submit a report concerning the acquisition of buses. The industry associations alleged that most operators were not aware of the requirement and relatively few operators had submitted the information. Although we did provide legal notice of the requirement, we believe we should provide more time because we have not completed the Paperwork Reduction Act requirements. The Department will also make efforts to inform companies of this reporting requirement.

The Department, however, does not want to lose the benefit of information gathered during the past two years regarding company bus acquisitions. Thus, we are amending § 37.213(d) by changing the first reporting date for the acquisition of buses from October 29, 1999 to March 26, 2001, but we will require the March 2001 report to include data for the period of October 1998 through October 2000. All subsequent submissions will be due on the last Monday in October of that year and would include a year of data (i.e. the October 29, 2001 submission should include data from October 2000 through October 2001).

The Department also does not want to lose the benefit of information gathered during the past year regarding ridership. Thus, we are amending § 37.213(c) by changing the first reporting date for ridership data for large operators from October 30, 2000 to March 26, 2001. The same data that should have been submitted on October 30, 2000, for the period of October 1999 through October 2000, shall be submitted on March 26, 2001. Beginning on October 29, 2001 and on the last Monday in October each year thereafter, large operators must submit data for the year commencing and ending each October (i.e. the October 30, 2001 submission by large operators must include data from October 2000 through October 2001). The due date for submissions by small operators, October 29, 2001, remains unchanged except to clarify that data for each year thereafter must be submitted on the last Monday in October.

Additionally, we are amending § 37.213(a), (b), (c), and (d) by deleting the phrase "on that date" and adding the phrase "on the last Monday in October" to clarify that the due date for the submission of data in subsequent years is always the last Monday in October.

Finally, petitioners were correct in stating that there was uncertainty about which office in DOT would collect the data in this and other reports. Although the September 1998 report designated the Bureau of Transportation Statistics (BTS) to play this role, DOT has decided to require submission of the reports to the Office of Data Analysis and Information Systems in the Federal Motor Carrier Safety Administration, and the rule has been changed to this effect.

Regulatory Analysis and Notices

- Executive Order 12866 (Regulatory Planning and Review) and DOT Regulatory Policies and Procedures

This rulemaking is not "significant" under Executive Order 12866 or the Department of Transportation Regulatory Policies and Procedures because there are no costs associated with this rule.

- Executive Order 13132 (Federalism)

This final rule has been analyzed in accordance with the principles and criteria contained in Executive Order 13132 ("Federalism"). This final rule does not adopt any regulation that (1) has substantial direct effects on the States, the relationship between the national government and the States, or the distribution of power and responsibilities among the various levels of government; (2) imposes substantial direct compliance costs on State and local governments; or (3) preempts state law. Therefore, the consultation and funding requirements of Executive Order 13132 do not apply.

- Executive Order 13084

This final rule has been analyzed in accordance with the principles and criteria contained in Executive Order 13084 ("Consultation and Coordination with Indian Tribal Governments"). Because this final rule does not significantly or uniquely affect the communities of the Indian tribal governments and does not impose substantial direct compliance costs, the funding and consultation requirements of Executive Order 13084 do not apply.

- Regulatory Flexibility Act

The Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*) requires an agency to review regulations to assess their impact

on small entities unless the agency determines that a rule is not expected to have a significant impact on a substantial number of small entities. We hereby certify this final rule will not have a significant economic impact on a substantial number of small entities because it imposes no costs.

- Paperwork Reduction Act

As required by the Paperwork Reduction Act of 1995, DOT has submitted the Information Collection Requests (ICRs) abstracted below to the Office of Management and Budget (OMB). Before OMB decides whether to approve these proposed collections of information and issue a control number, the public must be provided 30 days to comment. Organizations and individuals desiring to submit comments on the collection of information requirements should direct them to the Office of Management and Budget, Attention: Desk Officer for the Office of the Secretary of Transportation, Office of Information and Regulatory Affairs, Washington, DC 20503, and should also send a copy of their comments to: DOT Central Docket Management Facility located in room PL-401 at the Plaza level of the Nassif Building, 400 Seventh Street, SW., Washington, DC 20590. OMB is required to make a decision concerning the collection of information requirements contained in this rule between 30 and 60 days after publication of this document in the **Federal Register**. Therefore, a comment to OMB is best assured of having its full effect if OMB receives it within 30 days of publication.

We will respond to any OMB or public comments on the information collection requirements contained in this rule. OST may not impose a penalty on persons for violating information collection requirements which do not display a current OMB control number, if required. OST intends to obtain current OMB control numbers for any new information collection requirements resulting from this rulemaking action. The OMB control number, when assigned, will be announced by separate notice in the **Federal Register**.

The ICRs were previously published in the **Federal Register** (54 FR 15866). Although minor changes in the information collection burden hours in 1(A)–(D) and 2(A)–(C) as well as the estimated total annual burden hours have been made due to mathematical errors in the previous submission, the assumptions upon which these calculations are based have not changed. Moreover, the effect on the

information collection burden hours of the elimination of the compensation requirement provision on the ICRs is de minimis.

The DOT Final Rule on Accessibility of Over-the-Road Buses has information collection requirements in four areas: (1) Advance notice requests; (2) equivalent service; (3) ridership on accessible fixed route service; and, (4) number of accessible and inaccessible purchased or leased buses.

(1)(A) Requirement to fill out a form each time there is an advance notice request.

Respondents: Demand-responsive (i.e. charter/tour service) operators. Fixed route companies before fleet becomes fully accessible. Small mixed service operators that choose to provide 48 hour notice.

Estimated Annual Burden on Respondents: 3.3 (low estimate) to 5.0 (high estimate) hours for each of the 3,448 respondents.

Estimated Total Annual Burden: 11,478 (low estimate) to 17,321 (high estimate) hours.

Frequency: 15 times (low estimate) and 23 times (high estimate) in initial year.

(1)(B) Requirement to provide a copy of the form to the passenger when the operator receives a request for accessible bus service.

Respondents: Demand-responsive (i.e. charter/tour service) operators. Fixed route companies before fleet becomes fully accessible. Small mixed service operators that choose to provide 48 hour notice.

Estimated Annual Burden on Respondents: 3.1 (low estimate) to 4.7 hours (high estimate) for each of the 3,448 respondents.

Estimated Total Annual Burden: 10,787 (low estimate) to 16,277 (high estimate) hours.

Frequency: 15 times (low estimate) and 23 times (high estimate) in initial year.

(1)(C) Requirement to provide a copy of the form to the passenger on the scheduled date of trip if the requested accessible bus was not provided.

Respondents: Demand-responsive (i.e. charter/tour service) operators. Fixed route companies before fleet becomes fully accessible. Small mixed service operators that choose to provide 48 hour notice.

Estimated Annual Burden on Respondents: 0.3 (low estimate) to 0.5 hours (high estimate) for each of the 3,448 respondents.

Estimated Total Annual Burden: 1,079 (low estimate) to 1628 (high estimate) hours.

Frequency: 1 time (low estimate) to 2 times (high estimate) in initial year.

(1)(D) Requirement to retain one copy of the form for 5 years.

Respondents: Demand-responsive (i.e. charter/tour service) operators. Fixed route companies before fleet becomes fully accessible. Small mixed service operators that choose to provide 48 hour notice.

Estimated Annual Burden on Respondents: 1.9 (low estimate) to 2.9 (high estimate) hours for each of the 3,448 respondents.

Estimated Total Annual Burden: 6,627 (low estimate) to 9999 (high estimate) hours.

Frequency: 15 times (low estimate) and 23 times (high estimate) in initial year.

(1)(E) Requirement to submit a summary of its form to DOT.

Respondents: Demand-responsive (i.e. charter/tour service) operators. Fixed route companies before fleet becomes fully accessible. Small mixed service operators that choose to provide 48 hour notice.

Estimated Annual Burden on Respondents: 35.4 hours for each of the 3,448 respondents.

Estimated Total Annual Burden: 122,059 hours.

Frequency: Submit summary to DOT annually.

(2)(A) Requirement to fill out a form each time fixed route operator provides equivalent service.

Respondents: Small fixed route operators who choose to provide equivalent service to passengers with disabilities.

Estimated Annual Burden on Respondents: 4.0 (low estimate) to 6.3 (high estimate) hours for each of the 215 respondents.

Estimated Total Annual Burden: 870 (low estimate) to 1356 (high estimate) hours.

Frequency: 18 times (low estimate) and 28 times (high estimate) in initial year.

(2)(B) Requirement to provide one copy of the form to the passenger.

Respondents: Small fixed route operators who choose to provide equivalent service to passengers with disabilities.

Estimated Annual Burden on Respondents: 3.8 (low estimate) to 5.9 (high estimate) hours for each of the 215 respondents.

Estimated Total Annual Burden: 817 (low estimate) to 1274 (high estimate) hours.

Frequency: 18 times (low estimate) and 28 times (high estimate) in initial year.

(2)(C) Requirement to retain copy for 5 years.

Respondents: Small fixed route operators who choose to provide equivalent service to passengers with disabilities.

Estimated Annual Burden on Respondents: 2.3 (low estimate) to 3.6 (high estimate) hours for each of the 215 respondents.

Estimated Total Annual Burden: 502 (low estimate) to 783 (high estimate) hours.

Frequency: 18 times (low estimate) and 28 times (high estimate) in initial year.

(2)(D) Requirement to submit a summary of its form to DOT.

Respondents: Small fixed route operators who choose to provide equivalent service to passengers with disabilities.

Estimated Annual Burden on Respondents: 35.4 hours for each of the 215 respondents.

Estimated Total Annual Burden: 7,611 hours.

Frequency: Submit summary to DOT annually.

(3) Requirement to submit a report to DOT on ridership on accessible fixed route buses.

Respondents: Fixed route operators. *Estimated Annual Burden on Respondents:* 35.4 hours for each of the 448 respondents.

Estimated Total Annual Burden: 15,859 hours.

Frequency: Submit report to DOT annually.

(4) Requirement to submit a report to DOT listing the number of accessible and inaccessible new and used buses it has purchased or leased, as well as the total numbers of buses in operators' fleets.

Respondents: All operators. *Estimated Annual Burden on Respondents:* 35.4 hours for each of the 3448 respondents.

Estimated Total Annual Burden: 122,059 hours.

Frequency: Submit report to DOT annually.

The estimated total annual burden resulting from the collection of information in the DOT Final Rule on Accessibility of Over-the-Road Buses is between 299,748 hours (low estimate) to 316,226 hours (high estimate).

• Unfunded Mandates Reform Act

The Department has determined that the requirements of Title II of the Unfunded Mandates Reform Act of 1995 do not apply to this rulemaking.

List of Subjects in 49 CFR Part 37

Buildings and facilities, Buses, Civil rights, Individuals with disabilities,

Mass transportation, Railroads, Reporting and recordkeeping requirements, Transportation.

Issued this 18th day of January, 2000, at Washington, DC.

Rodney E. Slater,

Secretary of Transportation.

For the reasons set forth in the preamble, 49 CFR Part 37 is amended as follows:

PART 37—TRANSPORTATION SERVICES FOR INDIVIDUALS WITH DISABILITIES (ADA)

1. The authority citation for part 37 continues to read as follows:

Authority: 42 U.S.C. 12101–12213; 49 U.S.C. 322.

Subpart H—Over-the-Road Buses (OTRBs)

§ 37.199 [Removed and Reserved]

2. Remove and reserve § 37.199.

3. Revise § 37.213 to read as follows:

§ 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) On the scheduled date(s) of the trip(s), the operator providing the trip shall complete lines 10 and 11 of the form. In any case in which the requested accessible bus was not provided, the operator shall transmit a copy of the form to the passenger no later than the end of the next business day following failure to provide requested service.

(3) The operator shall retain its copy of the completed form for five years. The operator shall make these forms available to Department of Transportation or Department of Justice officials at their request.

(4) Beginning October 29, 2001, for large operators, and October 28, 2002,

for small operators, and on the last Monday in October in each year thereafter, each operator shall submit a summary of its forms to the Department of Transportation. The summary shall state the number of requests for accessible bus service and the number of times these requests were met. It shall also include the name, address, telephone number, and contact person name for the operator.

(b) This paragraph (b) applies to small fixed route operators who choose to provide equivalent service to passengers with disabilities under § 37.183(b)(2).

(1) The operator shall complete the Service Request Form in Appendix A to this subpart on every occasion on which a passenger with a disability needs equivalent service in order to be provided transportation.

(2) The operator shall transmit a copy of the form to the passenger no later than the next business day following request for equivalent service and whenever the requested equivalent service is not provided. The operator shall retain its copy of the completed form for five years. The operator shall make these forms available to the Department of Transportation of Department of Justice officials at their request.

(3) Beginning on October 28, 2002 and on the last Monday in October in each year thereafter, each operator shall submit a summary of its forms to the Department of Transportation. The summary shall state the number of situations in which equivalent service was needed and the number of times such service was provided. It shall also include the name, address, telephone

number, and contact person name for the operator.

(c) This paragraph (c) applies to fixed-route operators.

(1) On March 26, 2001, each fixed-route large operator shall submit to the Department a report on how many passengers with disabilities used the lift to board accessible buses for the period of October 1999 to October 2000. For fixed-route operators, the report shall reflect separately the data pertaining to 48-hour advance reservation service and other service.

(2) Beginning on October 29, 2001 and on the last Monday in October in each year thereafter, each fixed-route operator shall submit to the Department, a report on how many passengers with disabilities used the lift to board accessible buses. For fixed-route operators, the report shall reflect separately the data pertaining to 48-hour advance reservation service and other service.

(d) This paragraph (d) applies to each over the road bus operator.

(1) On March 26, 2001, each operator shall submit to the Department, a summary report listing the number of new buses and used buses it has purchased or leased for the period of October 1998 through October 2000, and how many buses in each category are accessible. It shall also include the total number of buses in the operator's fleet and the name, address, telephone number, and contact person name for the operator.

(2) Beginning on October 29, 2001 and on the last Monday in October in each year thereafter, each operator shall submit to the Department, a summary report listing the number of new buses and used buses it has purchased or

leased during the preceding year, and how many buses in each category are accessible. It shall also include the total number of buses in the operator's fleet and the name, address, telephone number, and contact person name for the operator.

(e) The information required to be submitted to the Department shall be sent to the following address: Federal Motor Carrier Safety Administration, Office of Data Analysis & Information System 400 7th Street, S.W., Washington, D.C. 20590.

4. Revise Appendix A to Subpart H of Part 37 to read as follows:

Appendix A to Subpart H of Part 37— Service Request Form

Form for Advance Notice Requests and Provision of Equivalent Service

1. Operator's name _____
2. Address _____
3. Phone number: _____
4. Passenger's name: _____
5. Address: _____
6. Phone number: _____
7. Scheduled date(s) and time(s) of trip(s): _____
8. Date and time of request: _____
9. Location(s) of need for accessible bus or equivalent service, as applicable: _____
10. Was accessible bus or equivalent service, as applicable, provided for trip(s)?
Yes _____ no _____
11. Was there a basis recognized by U.S. Department of transportation regulations for not providing an accessible bus or equivalent service, as applicable, for the trip(s)? Yes _____ no _____
If yes, explain _____

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