

with disabilities, including individuals who use wheelchairs, unless the system, when viewed in its entirety, meets the standard for equivalent service of § 37.105 of this part.

(d) *Demand Responsive System, Vehicle Capacity Over 16.* If the entity operates a demand responsive system, and purchases or leases a vehicle with a seating capacity of over 16 passengers (including the driver) for use on the system, it shall ensure that the vehicle is readily accessible to and usable by individuals with disabilities, including individuals who use wheelchairs, unless the system, when viewed in its entirety, meets the standard for equivalent service of § 37.105 of this part.

(e) *Demand Responsive System, Vehicle Capacity of 16 or Fewer.* Entities providing demand responsive transportation covered under this section are not specifically required to ensure that new vehicles with seating capacity of 16 or fewer are accessible to individuals with wheelchairs. These entities are required to ensure that their systems, when viewed in their entirety, meet the equivalent service requirements of §§ 37.171 and 37.105, regardless of whether or not the entities purchase a new vehicle.

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

§ 37.103 Purchase or lease of new non-rail vehicles by private entities primarily engaged in the business of transporting people.

(a) *Application.* This section applies to all acquisitions of new vehicles by private entities which are primarily engaged in the business of transporting people and whose operations affect commerce, in which a solicitation for the vehicle is made (except as provided in paragraph (d) of this section) after August 25, 1990.

(b) *Fixed route systems.* If the entity operates a fixed route system, and purchases or leases a new vehicle other than an automobile, a van with a seating capacity of less than eight persons (including the driver), it shall ensure that the vehicle is readily accessible to and usable by individuals with disabilities, including individuals who use wheelchairs.

(c) *Demand responsive systems.* If the entity operates a demand responsive system, and purchases or leases a new vehicle other than an automobile, a van with a seating capacity of less than eight persons (including the driver), it shall ensure that the vehicle is readily accessible to and usable by individuals with disabilities, including individuals who use wheelchairs, unless the system, when viewed in its entirety, meets the standard for equivalent service of § 37.105 of this part.

(d) *Vans with a capacity of fewer than 8 persons.* If the entity operates either a fixed route or demand responsive system, and purchases or leases a new van with a seating capacity of fewer than eight persons including the driver (the solicitation for the vehicle being made after February 25, 1992), the entity shall ensure that the vehicle is readily accessible to and usable by individuals with disabilities, including individuals who use wheelchairs, unless the system, when viewed in its entirety, meets the standard for equivalent service of § 37.105 of this part.

[56 FR 45621, Sept. 6, 1991, as amended at 76 FR 57936, Sept. 19, 2011]

§ 37.105 Equivalent service standard.

For purposes of §§ 37.101 and 37.103 of this part, a fixed route system or demand responsive system, when viewed in its entirety, shall be deemed to provide equivalent service if the service available to individuals with disabilities, including individuals who use wheelchairs, is provided in the most integrated setting appropriate to the needs of the individual and is equivalent to the service provided other individuals with respect to the following service characteristics:

- (a) (1) Schedules/headways (if the system is fixed route);
- (2) Response time (if the system is demand responsive);
- (b) Fares;
- (c) Geographic area of service;
- (d) Hours and days of service;
- (e) Availability of information;
- (f) Reservations capability (if the system is demand responsive);
- (g) Any constraints on capacity or service availability;