current burden estimates, and as a result, no changes were made to the burden estimates.

The Paperwork Reduction Act (44 U.S.C. chapter 35) applies. The rule contains information collection requirements. The Office of Management and Budget (OMB) has cleared this information collection requirement under OMB Control Number 3090–0121, titled: Industrial Funding Fee and Sales Reporting.

Public reporting burden for this collection of information is estimated to average .0833 hours per response, including the time for reviewing instructions, searching existing data sources, gathering and maintaining the data needed, and completing and reviewing the collection information.

The annual reporting burden is estimated as follows:

Respondents: 19,000.
Responses per Respondent: 4.
Total Responses: 76,000.
Hours per Response: .0833.
Total Burden Hours: 6,330.80.

List of Subjects in 48 CFR Part 552

Government procurement.

Dated: March 20, 2014.

Jeffrey Koses,

Senior Procurement Executive, Office of Acquisition Policy, Office of Government-wide Policy.

Therefore, GSA amends 48 CFR part 552 as set forth below:

PART 552—SOLICITATION PROVISIONS AND CONTRACT CLAUSES

■ 1. The authority citation for 48 CFR part 552 continues to read as follows:

Authority: 40 U.S.C. 121(c).

■ 2. Amend section 552.238–74 by—
■ a. Revising the heading and date of the clause;
■ b. Removing from paragraph (a)(2) ''within'' and adding ''Federal Acquisition Services (FAS) within'' in its place;
■ c. Removing from paragraph (a)(4) ''Supply'' and adding ''Acquisition'' in its place; and removing ''FSS'' and adding ''FAS'' in its place (twice);
■ d. Removing from the introductory text of paragraph (b) and paragraph (b)(1) ''FSS'' and adding ''FAS'' in its place;
■ e. Revising paragraph (b)(2); and
■ f. Removing from paragraph (c) ''FSS'' and adding ''FAS'' in its place (twice).

The revised text reads as follows:

552.238–74 Industrial Funding Fee and Sales Reporting.

* * * * *

Modifications (Federal Supply Schedule) [May 16, 2014]

* * * * *

(b) * * *

(2) The IFF represents a percentage of the total quarterly sales reported. This percentage is set at the discretion of GSA's FAS. GSA's FAS has the unilateral right to change the percentage at any time, but not more than once per year. FAS will provide reasonable notice prior to the effective date of the change. The IFF reimburses FAS for the costs of operating the Federal Supply Schedules Program. FAS recoups its operating costs from ordering activities as set forth in 40 U.S.C. 321: *Acquisition Services Fund*. Net operating revenues generated by the IFF are also applied to fund initiatives benefitting other authorized FAS programs, in accordance with 40 U.S.C. 321. Offerors must include the IFF in their prices. The fee is included in the award price(s) and reflected in the total amount charged to ordering activities. FAS will post notice of the current IFF at *https://72a.gsa.gov/* or successor Web site as appropriate.

* * * * *

[FR Doc. 2014–08659 Filed 4–15–14; 8:45 am]

BILLING CODE 6820–61–P

DEPARTMENT OF TRANSPORTATION

Office of the Secretary

49 CFR Parts 21, 27, 37, and 38

RIN 2105–AE25

Miscellaneous Civil Rights Amendments (RRR)

AGENCY: Office of the Secretary (OST), Department of Transportation (DOT).

ACTION: Final rule.

SUMMARY: This final rule revises some of the Department's civil rights regulations by removing obsolete and inconsistent language.

DATES: This rule is effective April 16, 2014.

FOR FURTHER INFORMATION CONTACT: Jill Laptosky, Attorney–Advisor, Office of the General Counsel, 1200 New Jersey Avenue SE., Washington, DC 20590. She may also be reached by telephone at 202–493–0308 or by email at *jill.laptosky@dot.gov.*

SUPPLEMENTARY INFORMATION:

Part 21

In 1991, Congress redesignated the Urban Mass Transportation Administration (UMTA) as the Federal Transit Administration (FTA), as part of the Intermodal Surface Transportation Efficiency Act of 1991, Public Law 102–240 (Dec. 18, 1991). To reflect this change, this final rule updates Part 21 of DOT's regulations by replacing references to UMTA and its programs with references to FTA and FTA's equivalent programs. This final rule also amends statutory authority citations, as appropriate, to reflect UMTA's designation as the FTA. These amendments are nonsubstantive.

Part 27

The Department's regulations at 49 CFR Part 27 carry out section 504 of the Rehabilitation Act of 1973 (29 U.S.C. 794), as amended, to ensure that no otherwise qualified individual with a disability in the United States shall, solely by reason of his or her disability, be excluded from participation in, be denied the benefits of, or be subjected to discrimination under any program or activity receiving Federal financial assistance. This final rule updates terminology (e.g., changes ''handicapped person'' to ''person with a disability'') in Part 27 to make it consistent with current practice under the Americans with Disabilities Act (ADA). This updated, ''person-first'' terminology is already being used elsewhere in the Department's regulations, including its ADA and Air Carrier Access Act regulations. This change is nonsubstantive.

This final rule also corrects a reference to the subpart on Enforcement, which is subpart C. This correction removes a reference to subpart F in part 27, which no longer exists. This correction is nonsubstantive.

Part 37

The Access Board is a Federal agency whose primary mission is accessibility for individuals with disabilities. To facilitate the implementation of the ADA and related regulatory requirements, the Access Board publishes the Americans with Disabilities Act Accessibility Guidelines (ADAAG). Until October 30, 2006, DOT republished the Access Board's ADAAG as Appendix A to Part 37. Although DOT continues to require conformity with relevant ADAAG standards, DOT determined in 2006 that, because ''the entire text of the new ADAAG is available in materials published by the Access Board, the Department is not republishing the voluminous text'' as an appendix to Part 37. See 71 FR 63263, 63264. Because DOT ceased publishing the ADAAG as an appendix to Part 37, and because the Access Board periodically revises the ADAAG, certain Part 37 provisions referencing the old Appendix A are now obsolete. For example, 49 CFR 37.47 and 37.51 each defined certain regulatory requirements by reference to the Department's old part 37 Appendix A. When these

provisions were enacted, Appendix A was a republication of the ADAAG. Section 37.47(c)(1) required all ''key stations'' in light and rapid rail systems to achieve accessibility, defined as conformance with the ADAAG, by July 26, 1994. Similarly, 49 CFR 37.51(c)(1) required key stations in commuter rail systems to achieve accessibility by the same date. This final rule removes these provisions' specific references to Appendix A, but leaves intact the operators' obligation to conform to the Access Board's guidelines. This change is nonsubstantive.

This final rule also removes obsolete language from Part 37's Appendix D. Specifically, certain language in Appendix D purported to explain the text of 49 CFR 37.9 concerning ''bus stop pads.'' In 2006, however, 49 CFR 37.9(c) was modified so that it no longer addresses bus stop pads. 71 FR 63263, 63265. In addition, the ADAAG has been reorganized such that several existing citations to the ADAAG in Appendix D are outdated or obsolete. *See* 36 CFR 1191.1. To reflect these changes, therefore, this final rule removes this outdated language. These changes are nonsubstantive.

Additional revisions to Part 37 are necessary because of recent changes to the ADAAG. When the Department created Part 37 in 1991, § 37.3 defined ''transit facility'' in order to clarify certain ADAAG requirements concerning telecommunications devices for the deaf (TDD). At the time, DOT stated that its transit facility ''definition relates only to the Access Board requirement for TDDs, which applies to transit facilities.'' 56 FR 45584, 45585–86. More recent versions of the ADAAG, however, do not define compliance with TDD provisions in terms of transit facilities; it is therefore appropriate for DOT to remove this unnecessary definition of transit facility from the Department's regulations and its appendix. This change is nonsubstantive.

Further nonsubstantive revisions to Part 37 are required to accommodate changes to DOT's statutory grant-making authority. Specifically, several FTA grant programs were originally authorized by the Urban Mass Transportation Act (UMT Act) of 1964, Public Law 88–365. As discussed above, however, Congress redesignated the UMTA as the FTA in 1991. Shortly thereafter, in 1994, statutory authorizations for the FTA's grant programs were recodified without substantive change. Revision of Title 49, United States Code Annotated, ''Transportation,'' Public Law 103–272, (July 5, 1994). As a result of this recodification, grants previously authorized under section 18 of the UMT Act became authorized under 49 U.S.C. 5311; grants previously authorized under section 9 of the UMT Act became authorized under 49 U.S.C. 5307; and grants previously authorized under section 3 of the UMT Act became authorized under 49 U.S.C. 5309. This final rule amends Part 37 to reflect these statutory changes; these changes are nonsubstantive.

In addition, among the many provisions of the Department's 1991 rule implementing the ADA, *see* 56 FR 45625, 49 CFR 37.7 sets forth compliance standards for accessible vehicles. Pursuant to this section, a vehicle is considered to be accessible if it complies with Access Board guidelines, which are incorporated into the Department's rules at 49 CFR Part 38. Paragraph (b) of § 37.7 allows an entity to petition the Administrator for a determination of equivalent facilitation, which, if granted, allows an entity to deviate from Part 38 standards through the use of a comparable method of compliance. In the original 1991 final rule, § 37.7(b) required an entity petitioning the Administrator to show an ''inability to comply'' with a particular standard in order to deviate from Part 38 requirements. Interpretive language appearing in Appendix D to Part 37 explains that this provision required an entity to ''make a case to the Administrator that it is unable to comply with a particular portion of Part 38, as written, for specified reasons, and that it is providing comparable compliance by some alternative method.'' However, the original rule was amended in 1996 to remove ''inability to comply'' with existing requirements as a condition of obtaining an equivalent facilitation determination. *See* 61 FR 25409. Notwithstanding this amendment, this interpretive language in Appendix D was not removed and, therefore, still implies that an entity may petition the Administrator if it is unable to comply with a particular Part 38 standard. This language is outdated and inconsistent with current regulation. Therefore, this final rule removes this obsolete language from Appendix D. This conforming change is nonsubstantive.

This final rule will also update Part 37 by updating the addresses for the FTA regional offices in Appendix B. It will correct a typographical error by replacing direct ''treat'' with direct ''threat'' in Appendix D.

Part 38

The Department's final rule implementing the transportation provisions of the ADA also sets forth minimum accessibility standards for transportation vehicles. These standards, published in 49 CFR Part 38, include minimum requirements for public information systems found on accessible vehicles, including buses, vans, rapid rail vehicles, light rail vehicles, commuter rail cars, and intercity rail cars.[1] In order to be in compliance with Part 38 requirements, these vehicles must be ''equipped with a public address system permitting the driver, or recorded or digitized human speech messages, to announce stops and provide other passenger information within the vehicle.''

The Appendix to Part 38 provides guidance material to assist entities with the interpretation of these standards. Guidance language relating to public information systems is found in Section V of the Appendix. This guidance, which has remained unchanged since the original 1991 publication, states that ''there currently is no requirement that vehicles be equipped with an information system which is capable of providing the same or equivalent information to persons with hearing loss.''

Notwithstanding this language, the Department encourages the use of public address systems which are accessible to persons who are deaf, hearing impaired, and those with hearing loss. Accordingly, the Appendix provides information regarding the use and implementation of both visual display systems and assistive listening systems on transportation vehicles. The regulatory text also leaves open the option of equipping some vehicles with an alternative system or device capable of providing such access.[2] Therefore, the language in the Appendix which indicates that there is ''no requirement'' to use a public information system capable of providing information to persons with hearing loss is both unhelpful and outdated. This final rule removes this language from the Appendix. This change to the guidance is nonsubstantive.

This final rule also removes language from the Appendix that discusses a technological study conducted during fiscal year 1992. The Department recognizes that technology has changed significantly since publication of the original rule and that technology which is capable of providing equivalent information now exists and is already in use in many cases. Therefore, this

[1] *See* 49 CFR 38.35, 38.61, 38.87, 38.103, 38.121.

[2] *See* 49 CFR 38.121 (''Alternative systems or devices which provide equivalent access are also permitted.'')

outdated language will be removed from the Appendix. This change is nonsubstantive.

Public Participation

This final rule is exempt from Administrative Procedure Act (APA) notice and comment requirements. This final rule does not affect any substantive changes to the regulations or alter any existing compliance obligations. The revisions to Part 21 replace outdated references to UMTA with current references to FTA. With respect to Part 27, this final rule would only make editorial corrections to the regulations by replacing references to ''handicapped people'' with references to ''persons with disabilities.'' Another edit to Part 27 corrects an outdated subpart designation without affecting the substance of the underlying rulemaking document. With respect to Part 37, the corrections contained in this final rule are consistent with the changes adopted by the Department in 1996. The Department already sought comment from the public on the deletion of the requirement that an entity demonstrate an inability to comply with existing requirements as a condition of obtaining a determination of equivalent facilitation. *See* 59 FR 37208. This final rule merely makes the guidance consistent with the regulations. This final rule is removing references in Part 37 to an appendix that no longer exists and removes languages that is now obsolete due to Access Board revisions to the ADAAG. Part 37 is also revised to replace references to UMTA's programs to FTA's programs. As previously discussed, UMTA was redesignated by Congress as FTA in 1991. With respect to Part 38, this final rule will not affect any existing compliance obligations. The Department is removing language in the guidance regarding public information systems; however, the underlying compliance obligation remains the same. For the reasons stated above, notice and comment procedures are unnecessary within the meaning of the APA. *See* 5 U.S.C. 553(b)(3)(B).

The Department finds good cause for this final rule to become effective immediately under 5 U.S.C. 553(d)(1). This final rule is only removing outdated, obsolete, and inconsistent language in the regulations or revising the guidance material without altering any existing compliance obligations contained in the current regulations. Since this final rule is nonsubstantive and will not affect any regulated entity's compliance with the current regulations, the Department finds good cause for it to become effective immediately.

Regulatory Analyses and Notices

Executive Order 12866 (Regulatory Planning and Review), Executive Order 13563 (Improving Regulation and Regulatory Review), and DOT Regulatory Policies and Procedures

The DOT has determined that this action is not a significant regulatory action within the meaning of Executive Order 12866, and within the meaning of the Department of Transportation's regulatory policies and procedures. Since this rulemaking merely removes obsolete and inconsistent language and makes editorial corrections and does not have any substantive impact on the regulated community, the DOT anticipates that this rulemaking will have no economic impact.

Additionally, this action fulfills the principles of Executive Order 13563, specifically those relating to retrospective analyses of existing rules. This rule is being issued as a result of the reviews of existing regulations that the Department periodically conducts. In addition, these changes will not interfere with any action taken or planned by another agency and would not materially alter the budgetary impact of any entitlements, grants, user fees, or loan programs. Consequently, a full regulatory evaluation is not necessary.

Regulatory Flexibility Act

Since notice and comment rulemaking is not necessary for this rule, the provisions of the Regulatory Flexibility Act (Pub. L. 96–354, 5 U.S.C. 601–612) do not apply. However, the DOT has evaluated the effects of this action on small entities and has determined that the action would not have a significant economic impact on a substantial number of small entities. The rule removes obsolete guidance language and updates outdated terminology and, therefore, does not add to or alter any existing obligations.

Unfunded Mandates Reform Act of 1995

This final rule would not impose unfunded mandates as defined by the Unfunded Mandates Reform Act of 1995 (Pub. L. 104–4, 109 Stat. 48, March 22, 1995) as it will not result in the expenditure by State, local, or tribal governments, in the aggregate, or by the private sector, of $148.1 million or more in any one year (2 U.S.C. 1532).

Executive Order 13132 (Federalism Assessment)

Executive Order 13132 requires agencies to ensure meaningful and timely input by State and local officials in the development of regulatory policies that may have a substantial, direct effect on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government. This action has been analyzed in accordance with the principles and criteria contained in Executive Order 13132, dated August 4, 1999, and the DOT has determined that this action would not have a substantial direct effect or sufficient federalism implications on the States. The DOT has also determined that this action would not preempt any State law or regulation or affect the States' ability to discharge traditional State governmental functions. Therefore, consultation with the States is not necessary.

Paperwork Reduction Act

Under the Paperwork Reduction Act of 1995 (PRA) (44 U.S.C. 3501, *et seq.*), Federal agencies must obtain approval from the Office of Management and Budget for each collection of information they conduct, sponsor, or require through regulations. The DOT has analyzed this final rule under the PRA and has determined that this rule does not contain collection of information requirements for the purposes of the PRA.

National Environmental Policy Act

The agency has analyzed the environmental impacts of this proposed action pursuant to the National Environmental Policy Act of 1969 (NEPA) (42 U.S.C. 4321 et seq.) and has determined that it is categorically excluded pursuant to DOT Order 5610.1C, Procedures for Considering Environmental Impacts (44 FR 56420, Oct. 1, 1979). Categorical exclusions are actions identified in an agency's NEPA implementing procedures that do not normally have a significant impact on the environment and therefore do not require either an environmental assessment (EA) or environmental impact statement (EIS). See 40 CFR 1508.4. In analyzing the applicability of a categorical exclusion, the agency must also consider whether extraordinary circumstances are present that would warrant the preparation of an EA or EIS. *Id.* Paragraph 3.c.5 of DOT Order 5610.1C incorporates by reference the categorical exclusions for all DOT Operating Administrations. This action is covered by the categorical exclusion listed in the Federal Highway Administration's implementing procedures, ''[p]romulgation of rules, regulations, and directives.'' 23 CFR

771.117(c)(20). The purpose of this rulemaking is to make editorial corrections and remove obsolete and inconsistent language in the Department's civil rights regulations. The agency does not anticipate any environmental impacts, and there are no extraordinary circumstances present in connection with this rulemaking.

Executive Order 13175 (Tribal Consultation)

The DOT has analyzed this action under Executive Order 13175, dated November 6, 2000, and believes that the action would not have substantial direct effects on one or more Indian tribes, would not impose substantial direct compliance costs on Indian tribal governments, and would not preempt tribal laws. This final rule merely updates outdated terminology, and removes inconsistent language relating to compliance with the Department's accessible vehicle standards and equivalent facilitation determinations. It does not impose any new requirements on Indian tribal governments. Therefore, a tribal summary impact statement is not required.

Executive Order 13211 (Energy Effects)

The DOT has analyzed this action under Executive Order 13211, Actions Concerning Regulations That Significantly Affect Energy Supply, Distribution, or Use. The DOT has determined that this is not a significant energy action under this order since it is not a significant regulatory action under Executive Order 12866 and is not likely to have a significant adverse effect on the supply, distribution, or use of energy. Therefore, a Statement of Energy Effects is not required.

List of Subjects in 49 CFR Parts 21, 27, 37 and 38

Administrative practice and procedure, Buildings and facilities, Buses, Civil rights, Government contracts, Grant programs-transportation, Individuals with disabilities, Intermodal transportation, Mass transportation, Minority businesses, Railroads, Reporting and recordkeeping requirements, Transportation.

Issued in Washington, DC, on April 9, 2014, under authority delegated in 49 CFR part 1.27(a) and (c):

Kathryn B. Thomson,

General Counsel.

The Final Rule

For the reasons stated in the preamble, the Office of the Secretary amends 49 CFR Part 21, 49 CFR Part 27, 49 CFR Part 37, and 49 CFR Part 38 as follows:

PART 21—NONDISCRIMINATION IN FEDERALLY-ASSISTED PROGRAMS OF THE DEPARTMENT OF TRANSPORATION—EFFECTUATION OF TITLE VI OF THE CIVIL RIGHTS ACT OF 1964

■ 1. The authority citation is revised to read as follows:

Authority: 42 U.S.C. 2000d–2000d–6.

■ 2. Amend Appendix A to Part 21 by:

■ a. Revising paragraph 13 as set out below,

■ b. Removing paragraphs 14–17, and

■ c. Redesignating paragraph 18 as paragraph 14.

Appendix A to Part 21—Activities to Which This Part Applies

13. Use of grants and loans made in connection with public transportation programs (49 U.S.C. chapter 53).

* * * * *

■ 3. Amend Appendix C to Part 21 by revising paragraphs (a)(1)(ix) and (a)(3) to read as follows:

Appendix C to Part 21—Application of Part 21 to Certain Federal Financial Assistance of the Department of Transportation

(a) * * *

(1) * * *

(ix) Employment at obligated airports, including employment by tenants and concessionaires shall be available to all regardless of race, creed, color, sex, or national origin. The sponsor shall coordinate his airport plan with his local transit authority and the Federal Transit Administration to assure public transportation, convenient to the disadvantaged areas of nearby communities to enhance employment opportunities for the disadvantaged and minority population.

* * * * *

(3) *Federal Transit Administration.*

* * * * *

PART 27—NONDISCRIMINATION ON THE BASIS OF DISABILITY IN PROGRAMS OR ACTIVITIES RECEIVING FEDERAL FINANCIAL ASSISTANCE

■ 4. The authority citation for part 27 is revised to read as follows:

Authority: Sec. 504 of the Rehabilitation Act of 1973, as amended (29 U.S.C. 794); 49 U.S.C. 322.

■ 5. In 49 CFR Part 27:

■ a. The term ''handicapped person'' is revised to read ''person with a disability'' wherever it occurs;

■ b. The term ''handicapped persons'' is revised to read ''persons with a disability'' wherever it occurs;

■ c. The term ''qualified handicapped person'' is revised to read ''qualified person with a disability'' wherever it occurs;

■ d. The term ''qualified handicapped persons'' is revised to read ''qualified persons with a disability'' wherever it occurs;

■ e. The term ''handicapped and nonhandicapped persons'' is revised to read ''persons with and without a disability'' wherever it occurs;

■ f. The term ''the handicapped'' when not followed by ''person'' or ''persons'' is revised to read ''persons with a disability'' wherever it occurs;

■ g. The term ''handicapped'', when not followed by ''person'' or ''persons'' or preceded by ''the'', is revised to read ''disabled'' where it appears; and

■ h. The term ''nonhandicapped'' is revised to read ''persons without a disability'' wherever it occurs.

§ 27.19 [Amended]

■ 6. In the last sentence of § 27.19(a), remove the term ''subpart F'' and add in its place ''subpart C''.

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

■ 7. The authority for part 37 continues to read as follows:

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

Subpart A—General

§ 37.3 [Amended]

■ 8. Amend § 37.3 by removing the definition of ''transit facility.''

Subpart C—Transportation Facilities

■ 9. In § 37.47, revise paragraph (c)(1) to read as follows:

§ 37.47 Key stations in light and rapid rail systems.

* * * * *

(c) * * *

(1) Unless an entity receives an extension under paragraph (c)(2) of this section, the public entity shall achieve accessibility of key stations as soon as possible, but in no case later than July 26, 1994.

* * * * *

■ 10. In § 37.51, revise paragraph (c)(1) to read as follows:

§ 37.51 Key stations in commuter rail systems.

* * * * *

(c)(1) Except as provided in this paragraph, the responsible person(s) shall achieve accessibility of key stations as soon as possible, but in no case later than July 26, 1994.

* * * * *

Subpart D—Acquisition of Accessible Vehicles by Public Entities

■ 11. In § 37.77, revise paragraph (d) to read as follows:

§ 37.77 Purchase or lease of new non-rail vehicles by public entities operating a demand responsive system for the general public.

* * * * *

(d) A public entity receiving FTA funds under 49 U.S.C. 5311 or a public entity in a small urbanized area which receives FTA funds under 49 U.S.C. 5307 from a state administering agency rather than directly from FTA, which determines that its service to individuals with disabilities is equivalent to that provided other persons shall, before any procurement of an inaccessible vehicle, file with the appropriate state program office a certificate that it provides equivalent service meeting the standards of paragraph (c) of this section. Public entities operating demand responsive service receiving funds under any other section of the FT Act shall file the certificate with the appropriate FTA regional office. A public entity which does not receive FTA funds shall make such a certificate and retain it in its files, subject to inspection on request of FTA. All certificates under this paragraph may be made and filed in connection with a particular procurement or in advance of a procurement; however, no certificate shall be valid for more than one year. A copy of the required certificate is found in appendix C to this part.

* * * * *

Subpart F—Paratransit as a Complement to Fixed Route Service

■ 12. In § 37.135, revise paragraphs (f)(1)(i) and (ii) and (f)(2) to read as follows:

§ 37.135 Submission of paratransit plan.

* * * * *

(f) * * *

(1) * * *

(i) A recipient of funding under 49 U.S.C. 5311;

(ii) A small urbanized area recipient of funding under 49 U.S.C. 5307 administered by the State;

* * * * *

(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 49 U.S.C. 5307; entities submitting a joint plan (unless they meet the requirements of paragraph (f)(1)(iii) of this section), and a public entity not an FTA recipient.

■ 13. In § 37.145, revise paragraph (a) to read as follows:

§ 37.145 State comment on plans.

* * * * *

(a) Ensure that all applicable recipients of funding under 49 U.S.C. 5307 or 49 U.S.C. 5311 have submitted plans.

* * * * *

■ 14. Revise appendix B to part 37 to read as follows:

Appendix B to Part 37—FTA Regional Offices

Region 1, Federal Transit Administration, Transportation Systems Center, Kendall Square, 55 Broadway, Suite 920, Cambridge, MA 02142

Region 2, Federal Transit Administration, One Bowling Green, Room 429, New York, NY 10004

Region 3, Federal Transit Administration, 1760 Market Street, Suite 500, Philadelphia, PA 19103

Region 4, Federal Transit Administration, 230 Peachtree NW., Suite 800, Atlanta, GA 30303

Region 5, Federal Transit Administration, 200 West Adams Street, Suite 320, Chicago, IL 60606

Region 6, Federal Transit Administration, 819 Taylor Street, Room 8A36, Fort Worth, TX 76102

Region 7, Federal Transit Administration, 901 Locust Street, Suite 404, Kansas City, MO 64106

Region 8, Federal Transit Administration, 12300 West Dakota Avenue, Suite 310, Lakewood, CO 80228

Region 9, Federal Transit Administration, 201 Mission Street, Suite 1650, San Francisco, CA 94105

Region 10, Federal Transit Administration, Jackson Federal Building, 915 Second Avenue, Suite 3142, Seattle, WA 98174

■ 15. In Appendix C to Part 37, revise the final full paragraph under the heading ''Certification of Equivalent Service'' to read as follows:

Appendix C to Part 37—Certifications

* * * * *

In accordance with 49 CFR 37.77, public entities operating demand responsive systems for the general public which receive financial assistance under 49 U.S.C. 5311 must file this certification with the appropriate state program office before procuring any inaccessible vehicle. Such public entities not receiving FTA funds shall also file the certification with the appropriate state program office. Such public entities receiving FTA funds under any other section of the FT Act must file the certification with the appropriate FTA regional office. This certification is valid for no longer than one year from its date of filing.

* * * * *

■ 16. Amend Appendix D to Part 37 by:

■ a. Revising the tenth paragraph under the heading ''Section 37.3 Definitions'';

■ b. Removing the sixteenth paragraph under the heading ''Section 37.3 Definitions'' that begins, ''The definition of 'transit facility' applies only with reference to the TDD requirement . . . .'';

■ c. In the eighth paragraph under the heading ''Section 37.5 Nondiscrimination'' by removing the phrase ''direct treat'' and adding in its place ''direct threat'';

■ d. Revising the first paragraph under the heading ''Section 37.7 Standards for Accessible Vehicles'';

■ e. Removing the seventh paragraph under the heading ''37.9 Standards for Transportation Facilities'',

■ f. Revising the eighth paragraph under the heading ''37.23 Service Under Contract''; and

■ g. Revising the first paragraph under the heading ''37.143 Paratransit Plan Implementation''.

The revisions read as follows:

Appendix D to Part 37—Construction and Interpretation of Provisions of 49 CFR Part 37

* * * * *

On the other hand, we would regard a system that permits user-initiated deviations from routes or schedules as demand-responsive. For example, if a rural public transit system (e.g., a recipient of funds under 49 U.S.C. 5311) has a few fixed routes, the fixed route portion of its system would be subject to the requirements of subpart F for complementary paratransit service. If the entity changed its system so that it operated as a route-deviation system, we would regard it as a demand responsive system. Such a system would not be subject to complementary paratransit requirements.

* * * * *

This section makes clear that, in order to meet accessibility requirements of this rule, vehicles must comply with Access Board standards, incorporated in DOT rules as 49 CFR part 38. Paragraph (b) of § 37.7 spells out a procedure by which an entity (public or private) can deviate from provisions of part 38 with respect to vehicles. The entity would have to describe how its alternative mode of compliance would meet or exceed the level of access to or usability of the vehicle that compliance with part 38 would otherwise provide.

* * * * *

In addition, the requirement that a private entity play by the rules applicable to a public entity can apply in situations involving an ''arrangement or other relationship'' with a public entity other than the traditional contract for service. For example, a private

utility company that operates what is, in essence, a regular fixed route public transportation system for a city, and which receives funding under 49 U.S.C. 5307 or 49 U.S.C. 5309 via an agreement with a state or local government agency, would fall under the provisions of this section. The provider would have to comply with the vehicle acquisition, paratransit, and service requirements that would apply to the public entity through which it receives the FTA funds, if that public entity operated the system itself. The Department would not, however, construe this section to apply to situations in which the degree of FTA funding and state and local agency involvement is considerably less, or in which the system of transportation involved is not a *de facto* surrogate for a traditional public entity fixed route transit system serving a city (e.g., a private non-profit social service agency which receives funds under 49 U.S.C. 5310 to purchase a vehicle).

* * * * *

As already discussed under § 37.135, the states will receive FTA recipient plans for recipients of funding under 49 U.S.C. 5311 administered by the State or any small urbanized area recipient of funds under 49 U.S.C. 5307 administered by a state. Public entities who do not receive FTA funds will submit their plans directly to the applicable Regional Office (listed in appendix B to the rule).

PART 38—AMERICANS WITH DISABILITIES ACT (ADA) ACCESSIBILITY SPECIFICATIONS FOR TRANSPORTATION VEHICLES

■ 17. The authority for Part 38 continues to read as follows:

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

■ 18. In the appendix to part 38, revise the first paragraph under the heading ''V. Public Information Systems'' to read as follows:

Appendix to Part 38—Guidance Material

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Entities are encouraged to employ any available services, signage, or alternative systems or devices that are capable of providing the same or equivalent information to persons with hearing loss. Two possible types of devices are visual display systems and listening systems. However, it should be noted that while visual display systems accommodate persons who are deaf or are hearing impaired, assistive listening systems aid only those with a partial loss of hearing.

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[FR Doc. 2014–08525 Filed 4–15–14; 8:45 am]

BILLING CODE 4910–9X–P

DEPARTMENT OF TRANSPORTATION

Surface Transportation Board

49 CFR Part 1333

[Docket No. EP 707]

Demurrage Liability

AGENCY: Surface Transportation Board (Board or STB), DOT.

ACTION: Final rule.

SUMMARY: The Board is adopting final rules establishing that a person receiving rail cars from a rail carrier for loading or unloading who detains the cars beyond the ''free time'' provided in the carrier's governing tariff will generally be responsible for paying demurrage, if that person has actual notice, prior to rail car placement, of the demurrage tariff establishing such liability. The Board also clarifies that it construes the provisions of 49 U.S.C. 10743, titled ''Liability for payment of rates,'' as applying to carriers' line-haul rates, but not to carriers' charges for demurrage.

DATES: This rule is effective on July 15, 2014.

FOR FURTHER INFORMATION CONTACT: Amy Ziehm at (202) 245–0391. Assistance for the hearing impaired is available through the Federal Information Relay Service (FIRS) at (800) 877–8339.

SUPPLEMENTARY INFORMATION: Demurrage is a charge for detaining rail cars for loading or unloading beyond a specified amount of time called ''free time.'' Demurrage has compensatory and penalty functions. It compensates rail carriers for the use of railroad equipment and assets; and, by penalizing those who detain rail cars for too long, it also encourages prompt return of rail cars into the transportation network. Because of these dual roles, demurrage is statutorily recognized as an important tool in ensuring the smooth functioning of the rail system. *See* 49 U.S.C. 10746.

The Interstate Commerce Act, as amended by the ICC Termination Act of 1995 (ICCTA), Public Law 104–88, 109 Stat. 803 (1995), provides that demurrage is subject to Board regulation. Specifically, 49 U.S.C. 10702 requires railroads to establish reasonable rates and transportation-related rules and practices, and 49 U.S.C. 10746 requires railroads to compute demurrage and to establish demurrage-related rules ''in a way that fulfills the national needs related to'' freight car use and distribution and that will promote an adequate car supply. In the simplest case, demurrage is assessed on the ''consignor'' (the shipper of the goods) for delays in loading cars at origin, and on the ''consignee'' (the receiver of the goods) for delays in unloading cars and returning them to the carrier at destination.[1]

This agency has long been involved in resolving demurrage disputes, both as an original matter and on referral from courts hearing railroad complaints seeking recovery of charges.[2] The disputes between railroads and parties that originate or terminate rail cars can involve relatively straightforward application of the carrier's tariffs[3] to the circumstances of the case. Complications can arise, however, in cases involving warehousemen or other third-party intermediaries who handle the goods but have no property interest in them. A consignee that owned the property being shipped had common-law liability (for both freight charges and demurrage) when it accepted cars for delivery. *See Pittsburgh, Cincinnati, Chicago & St. Louis Ry.* v. *Fink,* 250 U.S. 577, 581 (1919). Warehousemen, however, are not typically owners of the property being shipped (even though, by accepting the cars, they are in a position to facilitate or impede car supply). Under the legal principles that developed, in order for a warehouseman to be subject to demurrage or detention charges, there had to be some other basis for liability beyond the mere fact of handling the goods shipped. *See, e.g.,*

[1] The Interstate Commerce Act does not define ''consignor'' or ''consignee.'' Black's Law Dictionary defines ''consignor'' as ''[o]ne who dispatches goods to another on consignment,'' and ''consignee'' as ''[o]ne to whom goods are consigned.'' Black's Law Dictionary 327 (8th ed. 2004). The Federal Bills of Lading Act defines these terms in a similar manner. 49 U.S.C. 80101(1) & (2).

[2] *E.g., Springfield Terminal Ry.—Pet. for Declaratory Order—Reasonableness of Demurrage Charges,* NOR 42108 (STB served June 16, 2010); *Capitol Materials Inc.—Pet. for Declaratory Order—Certain Rates & Practices of Norfolk S. Ry.,* NOR 42068 (STB served Apr. 12, 2004); *Unger ex rel. Ind. Hi-Rail Corp.—Pet. for Declaratory Order—Assessment & Collection of Demurrage & Switching Charges,* NOR 42030 (STB served June 14, 2000); *South-Tec Dev. Warehouse, Inc.—Pet. for Declaratory Order—Ill. Cent. R.R.,* NOR 42050 (STB served Nov. 15, 2000); *Ametek, Inc.—Pet. for Declaratory Order,* NOR 40663, *et al.* (ICC served Jan. 29, 1993), *aff'd, Union Pac. R.R.* v. *Ametek, Inc.,* 104 F.3d 558 (3d Cir. 1997).

[3] Historically, carriers gave public notice of their rates and general service terms in tariffs that were publicly filed with the ICC and that had the force of law under the so-called ''filed rate doctrine.'' *See Maislin Indus., Inc.* v. *Primary Steel, Inc.,* 497 U.S. 116, 127 (1990). The requirement that rail carriers file rate tariffs at the agency was repealed in ICCTA. Nevertheless, although tariffs are no longer filed with the agency, rail carriers may still use them to establish and announce the terms of the services they hold out.