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# A PUBLIC TRANSIT SYSTEM ACCESSIBILITY PLAN

volume three

RACINE URBANIZED AREA

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COMMUNITY ASSISTANCE PLANNING REPORT  
NUMBER 39

A PUBLIC TRANSIT SYSTEM ACCESSIBILITY PLAN

Volume Three

RACINE URBANIZED AREA

Prepared by the

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The preparation of this report was financed in part through a joint planning grant from the Wisconsin Department of Transportation; the U.S. Department of Transportation, Federal Highway and Urban Mass Transportation Administrations; and the U.S. Department of Housing and Urban Development.

June 1980

Inside Region \$2.00  
Outside Region \$4.00

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# Chapter I

## INTRODUCTION

### BACKGROUND

The Federal Rehabilitation Act of 1973, as amended, provides in Section 504 that "no otherwise qualified handicapped individual in the United States...shall solely by reason of his handicap, be excluded from the participation in, be denied the benefits of, or be subjected to, discrimination under any program or activity receiving federal financial assistance." In accordance with the passage of this Act by the Congress of the United States, President Gerald R. Ford, on April 28, 1976, issued an Executive Order declaring that "The Secretary of Health, Education and Welfare (HEW) shall coordinate the implementation of Section 504 of the Rehabilitation Act of 1973, as amended...by all federal departments and agencies empowered to extend federal financial assistance to any program or activity." This Executive Order also directed that "each Federal department and agency empowered to provide Federal financial assistance shall issue rules, regulations, and directives (implementing Section 504) consistent with standards, guidelines, and procedures to be established by the Secretary of HEW."

Pursuant to Section 504 of the Rehabilitation Act of 1973, as amended, the President's Executive Order, and the standards, guidelines, and procedures issued by the Secretary of HEW, the Secretary of the U. S. Department of Transportation (DOT) published a notice of proposed rulemaking on June 8, 1978 containing provisions implementing Section 504 as it applies to all programs and activities receiving federal financial assistance through the U. S. DOT. Public hearings were held concerning these proposed rules in September, 1978 in New York, Chicago, Denver, San Francisco/Oakland, and Washington, D.C.

Based on the comments made at these five public hearings and the comments received in over 650 written submissions to the U. S. DOT, the proposed rules implementing Section 504 of the Rehabilitation Act of 1973 were subsequently refined and Final Rule 49 CFR Part 27,<sup>1</sup> Nondiscrimination on the Basis of Handicap in Federally Assisted Programs and Activities Receiving or Benefitting from Federal Financial Assistance was then issued by the Office of the Secretary of the U. S. DOT on May 31, 1979.

### General Provisions of Final Rule CFR Part 27

Final Rule 49 CFR Part 27 concerning nondiscrimination on the basis of handicap in federally assisted programs and activities receiving or benefitting from federal financial assistance provides that all recipients of U. S. DOT funds conduct their respective programs and activities so that, when viewed in their entirety, these programs or activities are readily accessible to handicapped persons, including those persons with hearing and vision impairments and those persons who are nonambulatory wheelchair-bound. The rule also provides that an otherwise qualified handicapped person shall not be subjected to discrimination in employment under any program or activity receiving federal financial assistance. In accordance with these two general provisions, Final Rule 49 CFR Part 27 also contains certain transportation "mode specific" provisions in the form of standards, directives, and procedures which must be

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<sup>1</sup> The entire rule is reproduced in Appendix A.

satisfied within specified time periods for a recipient of federal funds to be in compliance with the intent of Final Rule 49 CFR Part 27. A recipient who is determined by the U. S. DOT to be in noncompliance with the provisions of Final Rule 49 CFR Part 27 may ultimately face legal proceedings brought by the U. S. Department of Justice and the suspension or termination of, or refusal to grant or continue federal financial assistance to the recipient's programs and activities which are not in compliance with the Rule.

Specific Provisions  
of Final Rule 49 CFR  
Part 27 Pertaining to Federally  
Assisted Fixed-Route Bus Systems

Final Rule 49 CFR Part 27 contains the following four provisions which specifically affect federally assisted fixed-route bus systems:

1. Fixed facilities for the public--Fixed facilities for the public, including public buildings, bus shelters, and park-ride lots which are a part of the overall operation of the fixed route bus system must be made accessible to<sup>2</sup> handicapped persons as soon as practicable but no later than three years after the effective date<sup>3</sup> of the Rule, except for those changes involving extraordinarily expensive structural changes or replacement of existing facilities, in which case, up to 10 years may be allowed to achieve accessibility. Design, construction, or major alteration

of new or existing fixed facilities after the effective date of the Rule must be in accordance with the minimum standards contained in the American National Standard Specifications for Making Buildings and Facilities Accessible to and Usable by the Physically Handicapped, published by ANSI, Inc. (ANSI A117.1 - 1961 (R 1971)).

2. Vehicles--One-half of the fixed-route buses "in service" during the peak hours must be accessible to handicapped persons. Buses accessible to handicapped persons must be used before inaccessible buses for off-peak service as soon as practicable, but no later than three years after the effective date of the Rule, except, however, that this time limit may be extended to 10 years for extraordinarily expensive structural changes to, or replacement of, existing vehicles. New buses of any size, purchased with federal financial assistance after the effective date of the Rule, must be accessible to handicapped persons.<sup>4</sup>
3. Program services, policies and practices--Existing program services, policies, and practices that prevent the fixed-route bus system from achieving accessibility must be modified as soon as practicable but no later than three years after the effective

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<sup>2</sup>Enterable and usable by handicapped persons, including those persons who are nonambulatory, wheelchair-bound and those persons with vision and hearing impairments.

<sup>3</sup>The effective date of Final Rule 49 CFR Part 27 is July 2, 1979.

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<sup>4</sup>Provisions 1 and 2 apply not only to the public facilities and vehicles owned by each recipient of federal funds which are a part of the overall fixed-route bus system, but also to public facilities and vehicles which are being used under contract or lease agreements to provide fixed-route bus services.



date of the Rule. While this Rule applies to any and all services, policies, and practices which discriminate against handicapped persons, the following 14 areas of issue must be reviewed and addressed as they relate to the provision of fixed route bus service and the effective use of this service by handicapped persons:

- a. Hiring and employment policies and practices;
- b. Safety and emergency policies and procedures;
- c. Periodic sensitivity and safety training for personnel;
- d. Accommodations for companions or aides of handicapped travelers;
- e. Intermodal coordination of transportation providers;
- f. Coordination with social service agencies that provide or support transportation for handicapped persons;
- g. Comprehensive marketing considerate of the travel needs of handicapped persons;
- h. Leasing, rental, procurement, and other related administrative practices;
- i. Involvement of existing private and public operators of transit and public paratransit in planning for and in providing other accessible modes of transportation and appropriate services;
- j. Regulatory reforms to permit and encourage accessible services;

- k. Management supervision of accessible facilities and vehicles;
- l. Maintenance and security of accessibility features;
- m. Labor agreements and work rules; and
- n. Appropriate insurance coverage.

4. Interim accessible transportation service--If a recipient of federal funds being used to assist in providing fixed-route bus service determines that the service will not be accessible within three years of the effective date of the Rule, the recipient must exhibit a reasonable level of effort to program each year in the urbanized area's transportation improvement program (TIP) transportation-related projects which are designed to provide interim accessible transportation service until such time as the regular fixed-route bus system is accessible. Reasonable progress in implementing these programmed projects must be exhibited annually.

Standards used in the provision of interim accessible transportation service must be developed in cooperation with an advisory committee of representatives of local handicapped persons and groups. Subject to the 2 percent expenditure limitation,<sup>5</sup> provided

<sup>5</sup>Until July 2, 1982, a recipient of federal funds is obligated to spend annually an amount of money equal to 2 percent of the financial assistance allocated to the recipient under Section 5 of the Urban Mass Transportation Act of 1964, as amended, on special

Footnote 5 (continued)

in Final Rule 49 CFR Part 27, interim accessible transportation service standards should ensure the provision of a transportation service that is available within the regular, fixed-route bus service area during normal service hours. In addition, to the extent feasible, the interim service must have no restrictions on trip purpose. Also, combined wait and travel time, transfer frequency, and fares must be comparable to that of the regular fixed-route bus system. The interim accessible service must be available to all handicapped persons who could otherwise use the regular fixed-route system if it were accessible, including persons confined to wheelchairs. Finally, there can be no waiting list which consistently excludes handicapped persons who have qualified or registered to use the interim accessible service.

#### Transition Plan

##### Requirements for Urbanized Areas

Final Rule 49 CFR Part 27 also requires that a transition plan be prepared for each urbanized area, including within that plan all of the federally assisted programs and activities of each recipient of Federal funds provided by the U.S. Department of Transportation/Urban Mass Transportation Administration

(UMTA). A transition plan is a staged multi-year planning document that describes the results of the local planning process used to identify the transportation-related capital improvement projects and modifications to existing facilities, vehicles, services, policies, and practices needed and to be undertaken so as to eliminate discrimination against otherwise qualified handicapped individuals, solely on the basis of handicap, in all programs and activities financially assisted with UMTA funds. The transition plan which is to be completed, adopted by the local transit operator and the metropolitan planning organization, and submitted to UMTA by July 2, 1980, must:

1. Identify the public transportation fixed facilities, vehicles, services, policies, and practices that do not currently meet the specific provisions of Final Rule 49 CFR Part 27;
2. Identify the improvement projects and modifications needed to achieve accessibility;
3. Establish priorities among the necessary improvements and modifications, reasonable implementation schedules, and system accessibility benchmarks;
4. Estimate total costs and identify sources of funding for implementing the necessary improvements and modifications;
5. Assign responsibility for implementing the necessary improvements and modifications;
6. Describe coordination activities to improve the efficiency and effectiveness of existing transportation services;
7. Describe the interim accessible transportation service that will be provided until regular transportation system accessibility is achieved and how service levels

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#### Footnote 5 (continued)

efforts accessible transportation service projects unless the local advisory committee involved in the provision of the special efforts accessible service agrees with the recipient that expenditures at a lower level will provide an adequate level of service. After July 2, 1982, a recipient of federal funds is obligated to spend 2 percent of the financial assistance received under Section 5 for the duration of the time in which interim accessible transportation service is provided.

and fares for this interim accessible service were determined, if the regular transportation system is not accessible by July 2, 1982;

8. Describe the community participation process used in the development of the transition plan; and
9. Identify responses to substantive concerns raised during public hearings on the transition plan.

The transition plan is to be developed and, as necessary, reappraised and refined under the direction of the Southeastern Wisconsin Regional Planning Commission as the designated Metropolitan Planning Organization (MPO) for the Racine urbanized area and with public participation in the planning process. From initial planning through implementation, public participation must include continuing consultation with handicapped persons, public and private social service agencies, public and private operators of existing transportation for handicapped persons, public and private transportation operators, and other interested and concerned persons. Prior to the submittal of the urbanized area transition plan, a public hearing on the plan must be held, and responses to substantive comments raised during the hearing must be included in the plan. In addition, the plan must be endorsed by each recipient of UMTA funds responsible for implementing portions of the transition plan and by the SEWRPC.

#### RECIPIENTS OF UMTA FUNDS<sup>6</sup> IN THE RACINE URBANIZED AREA

The Racine urbanized area, shown on Map 1, is located in southeastern Wisconsin. It is approximately 28.1 square miles in

size and, based on 1970 census data, has a total population of 117,408 persons. Within the Racine urbanized area, the City of Racine is the only direct recipient of federal funds provided through the U. S. Department of Transportation, Urban Mass Transportation Administration (UMTA). The City of Racine is a recipient of UMTA funds under Sections 3 and 5 of the Urban Mass Transportation Act of 1964, as amended, which partially support the operation of a City-owned fixed-route bus system. These funds may be used by the City to subsidize 80 percent of the cost of modernizing existing bus facilities and equipment and for purchasing new bus facilities and equipment such as buildings, buses, and bus passenger waiting shelters, and to subsidize, to a maximum level of 50 percent, the operating deficits incurred by the City in the provision of public transit services. Table 1 shows the amount of UMTA funds which have been allocated to and received by the City of Racine each year since the City began providing public mass transportation services in 1975. As a recipient of UMTA funds, the City of Racine must, therefore, comply with all of the previously mentioned applicable provisions of Final Rule 49 CFR Part 27 concerning nondiscrimination on the basis of handicap in federally assisted programs and activities receiving or benefitting from federal financial assistance.

There has also been one indirect recipient of federal funds provided through UMTA in the Racine urbanized area. In the federal fiscal year 1975 funding cycle, Lincoln Lutheran of Racine, Wisconsin, Inc., a private,

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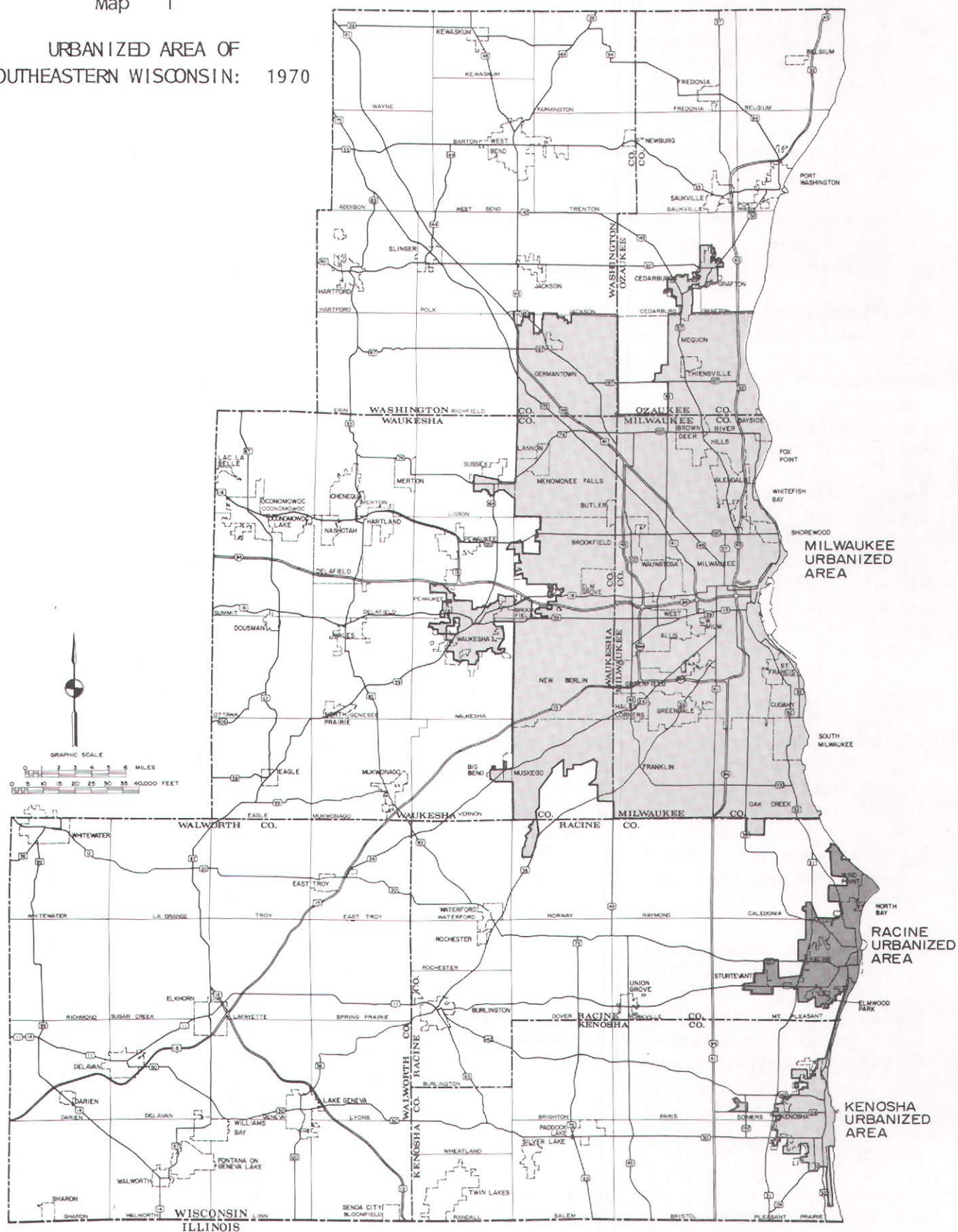
devoted to intensive urban land uses and areas contiguous to large central cities which together form the core of the urbanized area. Urbanized areas are intended to represent the total area which functions as the "true" city as opposed to the "artificial" cities, represented by civil boundaries.

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<sup>6</sup>Urbanized areas are geographic areas delineated by the U. S. Bureau of the Census. They consist of those areas

Map 1

URBANIZED AREA OF  
SOUTHEASTERN WISCONSIN: 1970



Source: U.S. Bureau of the Census.

Table 1

**UMTA SECTION 3 AND 5 FUNDING ACTIVITY IN THE RACINE URBANIZED AREA: 1975-1979**  
**(Recipient: City of Racine)**

Year	Section 5 Capital and Operating Assistance Funds <sup>b</sup>							Section 3 Capital <sup>e</sup> Assistance Funds	
	Fiscal Year Urbanized Area Allocation	Grant Number	Expended During Calendar Year			Urbanized Area Balance		Funds Received <sup>c</sup>	Grant Number
			Capital	Operating	Total	Annual	Cumulative		
1975	\$ 295,766	WI-05-4004	\$92,800	\$ 98,233	\$ 98,233	\$197,533	\$ 197,533	\$1,829,658	WI-03-0019
1976	492,943	WI-05-4005		267,273					
1977 <sup>a</sup>	764,021	WI-05-0002		360,073	132,870	330,403			
	764,021	WI-05-4020		359,604	404,417	734,820			
1978	764,021	WI-05-4033		401,906	362,115	1,096,935			
1979									
Capital/Operating Bus Capital	914,163	WI-05-4044		506,652 <sup>c</sup>	506,652 <sup>c</sup>	407,511	1,504,446		
	<u>295,750</u>			<u>295,750</u>	<u>295,750</u>				
1979 Total	\$1,209,913					\$703,261 <sup>d</sup>	\$1,800,196 <sup>d</sup>		

<sup>a</sup>1977 Section 5 funding allocation covers the 15-month period from July 1, 1976 to September 30, 1977 and reflects a change in the federal fiscal year.

<sup>b</sup>Section 5 funds can be used by eligible recipients either to defray transit operating expenses on a 50 percent federal-50 percent local matching basis, or to make routine transit capital improvements on an 80 percent federal-20 percent local matching basis.

<sup>c</sup>Unaudited.

<sup>d</sup>Projected.

<sup>e</sup>Section 3 funds can be used by eligible recipients on an 80 percent federal-20 percent local matching basis to defray the costs of special or one-time capital projects.

Source: City of Racine and SBWRPC.

non-profit agency, received UMTA monies through the Wisconsin Department of Transportation (WisDOT) to support the purchase of one 15-passenger wheelchair lift-equipped van and one 28-passenger wheelchair lift-equipped bus to provide specialized transportation service for their elderly and handicapped residents throughout the Racine metropolitan area. The total cost of these two vehicles was \$23,834. Of this amount, \$19,067, or 80 percent of the total purchase price, was funded with federal monies available to WisDOT under Section 16(b)(2) of the Urban Mass Transportation Act of 1964, as amended. Since WisDOT is the direct recipient of these Section 16(b)(2) funds, the provisions of Final Rule 49 CFR Part 27 require that WisDOT be responsible for ensuring that agencies to which they distribute funds in the form of transportation facilities and equipment are in compliance with the provisions of Final Rule 49 CFR Part 27 or that each such agency has a transition plan for achieving compliance as soon as practicable. Therefore, this planning report only contains an assessment of the City of Racine's compliance with all of the provisions of Final Rule

49 CFR Part 27 in the conduct of its federally assisted public transportation program and presents the City's endorsed transition plan for making the improvements and modifications necessary to bring the program into compliance.

#### EXISTING PLAN TO PROVIDE ACCESSIBLE PUBLIC TRANSPORTATION SERVICES IN THE RACINE URBANIZED AREA

##### Background

In August 1976, more than two years before the issuance of Final Rule 49 CFR Part 27, SEWRPC undertook a comprehensive study to determine the special transportation needs of transportation handicapped people<sup>7</sup> in southeastern

<sup>7</sup>Transportation handicapped people are defined as elderly and handicapped persons who, because of illness, injury, age, congenital malfunction, or other permanent or temporary incapacity or disability, including those who are nonambulatory wheelchair-bound and

Footnote 7 (continued)

Wisconsin and how to effectively accommodate those needs. This study was conducted in accordance with the provisions of Section 16(a) of the Urban Mass Transportation Act of 1964, as amended, and the provisions of specific federal rules<sup>8</sup> pertaining to "special efforts" transportation requirements for elderly and handicapped persons issued jointly by the Urban Mass Transportation and Federal Highway Administrations on April 30, 1976. Assisting the Regional Planning Commission staff throughout this study were three technical and citizens advisory committees consisting of from 18 to 33 members - each focusing on a specific subarea of the seven-county Southeastern Wisconsin Region: 1) Racine County; 2) Kenosha and Walworth Counties, combined; and 3) Milwaukee, Ozaukee, Washington, and Waukesha Counties combined. Each of these committees<sup>9</sup> was comprised of handicapped persons, including nonambulatory wheelchair-bound persons, representatives of advocacy organizations for handicapped persons, public and private social service agencies, public and private operators of existing transportation services for handicapped persons, public

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Footnote 7 (continued)

those with semi-ambulatory capabilities are unable, without special facilities or special planning or design to utilize public mass transportation facilities and services as effectively as persons who are not so affected.

<sup>8</sup>See Federal Register, Vol. 41, No. 85 - Friday, April 30, 1976, Part II: U.S. Department of Transportation, Urban Mass Transportation Administration, Federal Highway Administration, "Transportation for Elderly and Handicapped Persons."

<sup>9</sup>See Appendix A of SEWRPC Planning Report No. 31, A Regional Transportation Plan for the Transportation Handicapped in Southeastern Wisconsin: 1978-1982, April 1978, for a complete alphabetical listing of the members of these three committees.

and private operators of existing transportation services for the general public and other interested persons.

The findings and recommendations resulting from this study which took approximately 20 months to complete at a total estimated cost of \$226,500 are set forth in SEWRPC Planning Report No. 31, A Regional Transportation Plan for the Transportation Handicapped in Southeastern Wisconsin: 1978-1982. These findings and recommendations include:

1. Estimates of the number of transportation handicapped persons in the Region;
2. Information relating to the socioeconomic characteristics of transportation handicapped persons in the Region;
3. Data on the travel habits and patterns of transportation handicapped persons in the Region;
4. Inventories of the various types of public and private operators of existing transportation services for the transportation handicapped, including public transit systems, social service agencies, taxicab services, private chair-car carrier services, and nursing homes providing transportation services;
5. Estimates of the latent travel demand for accessible public transit systems at one-half the regular adult fare and for public or private demand responsive transportation services at various fare levels ranging from no fare to \$4.00 per one-way trip;
6. An evaluation of alternative transportation improvement plans for transportation handicapped persons; and
7. A five-year plan containing recommendations for implementing transportation projects specif-



ically designed to provide public transportation services that are accessible to transportation handicapped persons.

various stages of implementation throughout the Region.

Transportation Handicapped  
Population in the Racine Urbanized Area  
 Table 2, which is based on related findings of the transportation handicapped transportation study shows the estimated number of transportation handicapped persons residing in the Racine urbanized area by type of mobility limitation. As shown in the table, an estimated 5,540 persons, or

The contents of this five-year planning report were the subject of two public hearings held on January 24, 1978 and February 6, 1978, respectively. Following these hearings, the report was formally adopted by the Regional Planning Commission on April 13, 1978, and the recommendations are currently in

Table 2  
 ESTIMATES OF TRANSPORTATION HANDICAPPED PERSONS  
 IN THE RACINE URBANIZED AREA  
 BY TYPE OF LIMITATION AS DERIVED FROM INCIDENCE RATES  
 BASED ON SECONDARY SOURCE DATE: 1975

Limitation	Number of Persons
Chronically Disabled Living in Private Households: Mobility Limitation	
Has Trouble Getting Around	1,338
Uses Aid Other Than Wheelchair	573
Needs Help From Another Person	297
Uses Wheelchair	210
Confined to House	689
Subtotal	3,107
Acutely Disabled	338
Institutionalized	1,095
Total Transportation Handicapped Persons	5,540
Percent of Total Population <sup>a</sup>	3.7

<sup>a</sup>Based on the following 1975 Wisconsin Department of Administration population estimate: Racine Urbanized area--122,008 persons.

Source: SEWRPC Planning Report No. 31, A Regional Transportation Plan for the Transportation Handicapped in Southeastern Wisconsin: 1978-1982, by Applied Resource Integration, Ltd. and SEWRPC, April 1978.

3.7 percent, of the 122,008 total persons residing in the Racine urbanized area in 1975, were determined to be transportation handicapped.

Summary of Specific  
Adopted Plan Recommendations  
for Racine Urbanized Area

The adopted regional transportation plan for the transportation handicapped in southeastern Wisconsin contains three recommendations which pertain to Racine urbanized area:

1. That one-half of the entire fleet of buses used to carry out the City of Racine's federally assisted public transportation program be retrofitted to be accessible to the handicapped, including those persons who are nonambulatory wheelchair-bound;
2. That since fully accessible transit service cannot be expected to provide mobility opportunities to all transportation handicapped persons in the Racine urbanized area, a user-side subsidy program be implemented for those transportation handicapped persons living more than two blocks from a local bus route and for those transportation handicapped persons who will continue to be physically unable to use accessible bus service; and
3. That efforts be made to coordinate all existing public and private transportation services for the transportation handicapped.

According to this plan, the process of implementing these three recommendations was to have begun in July 1978.

However, on October 13, 1978, after careful consideration of these recommendations by the City of Racine--particularly the first recommendation, which would have required the City to retrofit buses in its existing bus fleet

with wheelchair lifts--the City requested an amendment to the plan permitting a two-year delay in the implementation of this recommendation.

Specifically, this amendment proposed: 1) to change the date for beginning the process of retrofitting 15 buses in the City's 25-bus fleet with wheelchair lifts from July 1978 to July 1980; and 2) to recommend, instead, an interim "special efforts" strategy requiring the expenditure by the City of Racine of no less than 5 percent of the Racine urbanized area's UMTA Section 5 allocation in support of a demand responsive transportation service comparable to the regular local bus service in terms of fares, hours of service, and total travel time, and guaranteeing any wheelchair user or person with semi-ambulatory capabilities in the Racine urbanized area the availability of this service, if requested, for up to ten round-trips per week. This amendment was subsequently adopted by the SEWRPC on December 7, 1978, after:

1. The Technical Coordinating and Citizens Advisory Committee on Transportation Planning for the Elderly and Handicapped in Racine County acted on November 14, 1978 to recommend the adoption of this amendment to the City of Racine and the SEWRPC;
2. A public hearing was held in the Racine Common Council Chambers on November 15, 1978, at which the consensus of those speaking supported the Advisory Committee-approved amendment;
3. The Racine Transit and Parking Commission voted unanimously on November 30, 1978 to recommend approval of the Advisory Committee-approved amendment to the Racine Common Council and further acted to allocate sufficient funds in its 1979 operating budget to establish and operate a demand responsive transportation service for disabled citizens in

the City of Racine and to begin implementing this service; and

4. The Racine Common Council voted on December 5, 1978 to request that SEWRPC adopt the Advisory Committee-approved amendment.

Further details concerning the implementation status of this planned amendment, including its compatibility with Final Rule 49 CFR Part 27, will be discussed in subsequent chapters of this report.

#### PURPOSE OF THIS REPORT

The purpose of this planning report is to document the results of the cooperative planning activities of the City of Racine, the Racine Parking and Transit Commission, the Transition Plan Citizens and Advisory Committee (see Appendix B) and the Southeastern Wisconsin Regional Planning Commission in their efforts to continue on from where the preceding transportation plan for the transportation handicapped left off and to comply with all of the provisions of Final Rule 49 CFR Part 27 as they specifically apply to the City of Racine's federally assisted public transportation program. This report will, therefore, provide:

1. A description of the City of Racine's public transportation program, including the existing services provided under the program, the basic policies and practices which are essential to the conduct of the program, and the results of an evaluation made to determine if the program's existing public transit services, policies, and practices discriminate against handicapped persons;
2. An identification of the fixed facilities and equipment which are an integral part of the City of Racine's public transportation program including public buildings, buses, and bus passenger

waiting shelters; and the physical barriers which make it difficult or impossible for handicapped persons to effectively utilize the public transit services available through the program;

3. A description of the planning process used to create an interim accessible transportation service which will serve the transportation needs of handicapped persons until the City of Racine's public transportation program is accessible and the operating characteristics of the interim transportation service if the regular transportation system is not accessible by July 2, 1982;
4. The transition plan, which is to be followed in an effort to achieve overall program accessibility as soon as practicable; and
5. A description of the transportation service coordination activities in the Racine urbanized area, including current progress and ongoing planning efforts.

#### FORMAT OF PRESENTATION

This planning report consists of six chapters including this introductory chapter and a summary chapter. Chapters II and III entitled "Existing Transit Program Characteristics" and "Transit Program Accessibility Analysis and Recommendations," respectively, together represent the City of Racine's adopted transition plan for accomplishing the necessary improvements or modifications in the City's federally assisted public transportation program to make it accessible to handicapped persons. Chapter IV, entitled "Current Special Efforts/Interim Service," describes the special efforts that are being made and that will continue to be made to provide an accessible public transportation service

that can effectively be utilized by handicapped persons until the City's federally assisted public transportation program is accessible to the handicapped. Chapter V, entitled "Overall Transportation Service Coordination," describes the progress being made toward coordinating the activities of all existing public, private, and private non-profit providers of human trans-

portation services in all of Racine County, as well as anticipated future efforts to achieve coordination.

Also presented in this planning report is a description of the advisory committee structure (see Appendix B); and a transcript of the proceedings of the public hearing concerning this planning report (see Appendix C).

## Chapter II

### EXISTING TRANSIT PROGRAM CHARACTERISTICS

#### INTRODUCTION

As explained in the preceding chapter, the City of Racine, as a recipient of federal funds used to partially support the operation of its public transportation program, must develop a transition plan for accomplishing the improvements or modifications necessary to make its public transportation program accessible to handicapped persons, including those persons who are nonambulatory wheelchair-bound and those persons with vision and hearing impairments. This transition plan covers all aspects of the City's public transportation program, including the program's services, policies and practices, as well as the facilities and equipment being used to carry out the program. The main objective of the plan is to ensure that no aspect of the City's public transportation program is deficient and prevents qualified handicapped persons from receiving the benefits offered under the program solely on the basis of their handicap.

To aid those interested and concerned persons involved in the overall review and development of the City of Racine's transition plan, this chapter will present a description of: a) the background of the current level of City involvement in the federally assisted public transportation program; b) the management, organization, and planning involved in carrying out the City's public transportation program; c) the transit service provided under the City's public transportation program and the equipment and facilities used in its provision; and d) the policies and practices of the public transportation program which either directly or indirectly affect the extent to which handicapped persons are able to benefit from the program, including:

1. Hiring and employment policies and practices;
2. Safety and emergency procedures;
3. Periodic sensitivity and safety training for personnel;
4. Accommodations for companions or aides of handicapped travelers;
5. Intermodal coordination of transportation providers;
6. Coordination with social service agencies that provide or support transportation for handicapped persons;
7. Comprehensive marketing consideration of the travel needs of handicapped persons;
8. Leasing, rental, procurement, and other related administrative practices;
9. Involvement of private and public operators of transit and public paratransit in planning for and providing other accessible modes of transportation and appropriate services;
10. Regulatory reforms to permit and encourage accessible services;
11. Management supervision of accessible facilities and vehicles;
12. Maintenance and security of accessibility features;
13. Labor agreements and work rules; and
14. Appropriate insurance coverage.

## BACKGROUND

The City of Racine first became financially involved in the provision of public transit service in the Racine urbanized area in November 1972, when the City entered into a contract agreement to subsidize the operating deficits of the Flash City Transit Company, the privately owned provider of local public transit service in the City, at the rate of \$1,000 per week. On August 7, 1973, less than a year after the City began subsidizing local public bus service, the City adopted a resolution calling for a study leading to the preparation of a transit development program (TDP). The study addressed not only the continued need for transit service in the area, but also future transit service levels; operating policies, ownership, and management; and the capital improvements required to maintain and improve transit service within the area. After completing and adopting a five-year (1975-1979) transit development program in June 1974, the City, in accordance with the recommendations set forth in the program, took the necessary steps to purchase the local bus system from the Flash City Transit Company and, without interrupting bus service, became the new owner of the local bus system on July 1, 1975, renaming it the Belle Urban System. With the aid of federal transit operating and capital assistance funds and state transit operating assistance funds, the City has since provided and improved the public transit service in the Racine urbanized area. As a result, transit ridership on the Belle Urban System has increased 236 percent since 1975, from approximately 616,300 revenue passengers in 1975 to approximately 2,072,700 revenue passengers in 1979.

## CURRENT BUDGET<sup>1</sup>

The total operating budget for the City of Racine's federally assisted public transportation program for calendar year 1980 is approximately \$1,716,300. Revenue from bus passenger fares for this period is expected to amount to about \$478,000, leaving an operating

deficit of \$1,238,300. To cover the shortfall in fare box revenues in 1980, it is anticipated that the U. S. Department of Transportation, Urban Mass Transportation Administration (UMTA) will provide \$619,000; the Wisconsin Department of Transportation (WisDOT) will provide \$362,000; the University of Wisconsin-Parkside, the Racine school system, and the Town of Caledonia together will provide \$99,400; and the City of Racine will provide \$157,900. Projected total ridership for calendar year 1980 on the City of Racine's federally assisted public transit service is 2,335,000 revenue passengers. Based on these figures, the City of Racine's public transportation program is providing transportation service to the general public at a total cost of \$0.74 per one-way trip and at a net public subsidy cost supported by federal, state, and local tax dollars of \$0.54 per one-way trip, of which UMTA provides \$0.27, WisDOT provides \$0.16, the University of Wisconsin-Parkside, the Racine school system and the Town of Caledonia together provide \$0.04, and the City of Racine provides \$0.07 per one-way passenger trip.

## MANAGEMENT, ORGANIZATION, AND PLANNING

The equipment, facilities, and operating rights for the public transportation program within the Racine urbanized area are the property of the City of Racine. Management of the day-to-day operations of the public transit system is the responsibility of Taylor Enterprises, Inc., a private management firm providing management services on a contract basis with the City of Racine. The policymaking body for the public transportation program is the Racine Transit

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<sup>1</sup> City of Racine, Wisconsin Grant Application for Operating Assistance from Section 5 of the Urban Mass Transportation Act of 1964, As Amended, January 1, 1980 - December 31, 1980.



and Parking Commission, composed of five members appointed by the Mayor and confirmed by the Racine Common Council. The City Transit Planner in the City Department of Transportation is responsible for supervision of the activities and performance of the management firm. Responsibilities for the administrative affairs associated with transit program planning, and application for and administration of the state and federal funding of grants which financially assist the City in providing the public transportation program, have also been delegated to the Transit Planner position in the City Department of Transportation. In addition, the City Transit Planner serves as staff to the Racine Transit and Parking Commission. While the City Department of Transportation and the Racine Transit and Parking Commission are responsible for the planning and administration of the public transportation program, the City of Racine Common Council has the ultimate responsibility for review and approval of certain important matters, including the management contract agreement and the budget and annual activities of the public transportation program.

Continuing planning of programs for major expansions, reductions, and modifications in public transit service, policies and practices is carried out cooperatively by the City of Racine's Department of Transportation and the Southeastern Wisconsin Regional Planning Commission (SEWRPC). As a method of obtaining community participation, the planning process is routinely carried out under the supervision of advisory committees. The committees are composed of interested citizens representing the local community and technical members representing the federal, state, and local agencies or departments concerned with transit program development within the area. The implementation of substantive program expansions, reductions, or modifications normally requires the review and approval of the Racine Parking and Transit Commission, the City of Racine Common Council, and the SEWRPC. The Regional Planning Commission, as the

designated metropolitan planning organization for the Racine urbanized area, is required by the federal government to review and endorse all federally assisted transportation programs to be undertaken in the urbanized area. This ensures that the programs are consistent with the area's long-range land use and transportation system development plans, as well as the area's overall social, economic, environmental, system performance, and energy conservation goals and objectives before a project is approved for funding by UMTA.

#### EXISTING PUBLIC TRANSPORTATION SERVICE, EQUIPMENT AND FACILITIES.

##### Public Transit Service

The City of Racine's federally assisted public transportation program, the Belle Urban System, provides regularly scheduled local bus service over ten fixed routes within the Racine urbanized area, as shown on Map 2. Of the ten fixed routes, nine are lineal in design. Seven of these routes provide service entirely within the City, and are routed to provide direct "no-transfer" service to the Racine central business district. Schedules for buses operating on these seven routes are designed so that buses from each route meet within approximately ten minutes of each other in the central business district. This allows bus passengers the opportunity to conveniently transfer between any of these bus routes and complete a trip with a minimum amount of delay. Unlike these seven routes, the eighth lineal route does not provide direct service to the Racine central business district. Oriented in a general north-south direction, this route intersects with each of the other lineal routes, providing an opportunity for transfers to be made between these routes.

Bus service is provided on these eight local routes for approximately 13½ hours per day, from 5:30 a.m. to 7:00 p.m., Mondays through Fridays, and 11 hours a day on Saturdays, from 7:00 a.m. to 6:00 p.m. There is no bus service on Sundays and holidays. Headways between buses on

FIXED-ROUTE PUBLIC TRANSIT SERVICE  
PROVIDED BY THE BELLE URBAN SYSTEM: 1980



these routes average 30 minutes at all times of operation, Mondays through Saturdays.

The ninth lineal route provides direct service to the Racine central business district. A major portion of its service is within the City of Racine. The route originates within the Racine central business district and extends approximately four miles outside of the City's corporate limits to provide direct service to the University of Wisconsin-Parkside, located in northern Kenosha County. Transfers between this route and the other lineal routes of the transit system can be made within the central business district or at several other points where the route intersects with other routes of the system. Public transportation service is provided over this route approximately 11 hours per day, from 7:30 a.m. to 6:30 p.m. during the fall and spring semesters, and summer school sessions of the University of Wisconsin-Parkside on days when classes are in session, generally Mondays through Fridays. No bus service is available on weekends or holidays. Headways on this route average 60 minutes between buses at all times of operation.

The tenth local bus route under the City's public transportation program is operated as a one-way loop route. It serves residents of the Town of Caledonia located immediately north of the City. Public transportation service is provided over this route six days a week by a single bus. The bus travels over the route in a clockwise direction for four round trips between 6:30 a.m. and 10:00 a.m. and in a counterclockwise direction for four round trips between 3:00 p.m. and 6:30 p.m. on Mondays through Fridays. On Saturdays, the bus travels in a clockwise direction for nine round trips between 9:30 a.m. and 5:00 p.m. No bus service over this route is available on Sundays and holidays. Headways between buses average 50 minutes during all times of operation Monday through Saturday. Transfers between this route and two of the nine

local routes operating within the City of Racine can be made at the Shorecrest Shopping Center located at the intersection of Erie Street and Three-Mile Road.

The one-way adult fare on the ten local bus routes is \$0.25 per passenger trip. Children under six years of age ride free, if accompanied by an adult. Persons who use the bus system must pay with the exact cash fare, as bus drivers are not allowed to make change, however, they may purchase a monthly pass which is good for unlimited riding during all hours of system operation. Free one-hour transfers are issued upon request at the time the fare is paid, and may be used to transfer to a route different from the route originally boarded for continuation of travel in the same general direction.

Special fare programs are in effect for students and elderly and handicapped riders. Students are eligible to ride buses of the Racine transit system free of charge on regular school days if they live within the City of Racine further than two miles from the school they attend and within certain boundaries jointly agreed upon by the City of Racine and the Racine Unified School District. Such students are issued a special bus pass for use only on regular school days, with the school district being charged at a rate of \$0.50 per pass per school day. A half-fare program is in effect for elderly and handicapped patrons during weekday non-peak periods of travel and all day on Saturdays. Persons qualifying for this program are entitled to use the local bus services for a one-way fare of \$0.10 during all hours of operation except on weekdays from 6:00 a.m. to 9:00 a.m. and from 3:00 p.m. to 6:00 p.m. To qualify for the half-fare program, a person must be at least 65 years of age or, if a person is under 65 years of age and disabled, have a doctor's certification of handicap, or obtain a certification of handicap from a local agency for handicapped persons. The person then completes an application for admission to the program

at the Racine City Hall, located at 730 Washington Avenue. A half-fare identification card, which includes a photograph, is issued. This card must be shown to the bus driver upon request at the time the half-fare is paid.

#### Equipment and Facilities

In addition to the public transportation service, an inventory was made of the equipment and facilities used in the public transportation program which must be accessible to handicapped persons. For the City's public transportation program, this inventory was limited to the buses, bus shelters, and buildings that are part of the operation of the City-owned public transit system. The following sections give the results of this inventory.

**Buses:** The bus fleet of the Belle Urban System consists of 25 buses. Table 3 presents a categorical listing of the buses in the bus fleet by type of bus, including bus make and model, number of seats per bus, and the year of manufacture. As shown in this table, the bus fleet is comprised of a total "active" fleet of 25 buses, all manu-

factured in 1976. All buses in the fleet have been equipped with a front-entrance, special-assist grab rail, and signs designating seats adjacent to the front-entrance for use by elderly and/or handicapped persons. None of the buses are equipped with wheelchair lifts. A total of 22 of the 25 buses in the active fleet are in service during the peak periods of system operation. The remaining three buses are vehicles that are being serviced or are maintained as spares.

**Bus Passenger Shelters:** The City of Racine has erected 21 passenger waiting shelters at 19 locations throughout the City. Each shelter is of a modular design, with the size of the shelter being determined by the number of back and side wall panels used in each shelter. Lexan panels are used for the walls and a translucent material is used for the molded roof to provide for visibility and natural lighting. Each shelter is equipped with a front wind-screen, two open access points, and a bench for waiting transit patrons. Based on the average number of passengers waiting to board buses, two different sizes of bus passenger shelters were used by the City. Seventeen shelters at 17 locations are approximately five feet wide and 10 feet long. Four shelters at two locations within a one-block area in the Racine central business district are approximately 10 feet wide and 15 feet long to accommodate the high passenger-waiting demand in this area.

All shelters are erected on poured-in-place concrete pads abutting the sidewalk and level with the concrete sidewalks, thus providing a smooth transition from surface to surface. Where there is a grass parkway between the sidewalk and the curb, a concrete pad of the same length as the bus shelter pad has been constructed. The location of each passenger waiting shelter is shown on Map 3.

**Buildings:** Activities related to the management and operation of the City of Racine's federally assisted public

Table 3

#### THE BUS FLEET OF THE BELLE URBAN SYSTEM

Type of Bus <sup>a</sup>		Number of Buses	Seats Per Bus	Year of Manufacture
Make	Model			
GMC	4523A	25	41	1976
Active Fleet		25		
Weekday Peak Period Bus Requirement		22		
Weekday Base Period Bus Requirement		21		

<sup>a</sup>All buses in the City of Racine's bus fleet have been equipped with a front-entrance, special-assist grab rail and signs designating the seats adjacent to the front entrance for use by elderly and/or handicapped persons.

Source: City of Racine Transportation Department and SEWRPC.



transportation program are conducted in two City-owned building complexes located in separate areas of the City of Racine. These facilities are: 1) the Kentucky Street storage, maintenance, and office complex, and 2) the Racine City Hall. The location of these facilities is shown on Map 4. Following is a brief description of the physical location of these facilities and the transit system-related activities conducted in each facility.

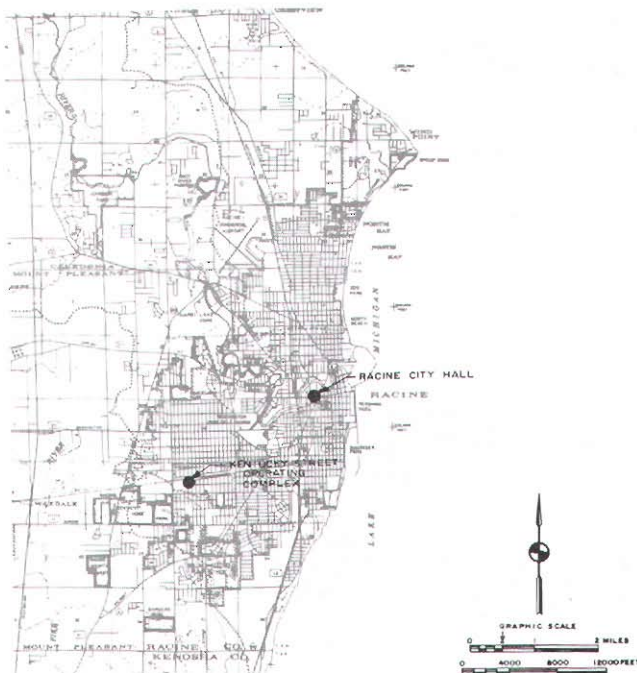
Facility 1--The Kentucky Street storage, maintenance, and office complex is located in the block bounded by Kentucky Street on the east, 20th Street on the south, Indiana Street on the west, and the Chicago, Milwaukee, St. Paul & Pacific (Milwaukee Road) Railroad right-of-way on the north. The complex consists of two single-story buildings, which are used exclusively for transit program functions. One building is used

exclusively for bus-related activities, including storage, cleaning, and servicing of vehicles. The second building houses the bus maintenance and parts storage facilities, employee facilities (including locker and meeting rooms), and the general management offices of the public transit system. Figure 1 shows the layout of this complex. A total of 70 employees of Taylor Enterprises, Inc., are based at this complex. This total includes 55 bus operators, 6 mechanics and maintenance personnel, 6 office and clerical personnel, 2 supervisors, and the president of the transit system management firm.

Transit system services provided to the general public by the management offices located in this building complex are the sale of monthly bus passes and the dissemination of transit system information through the distribution of route schedules and maps and the operation of a telephone information service.

Map 3

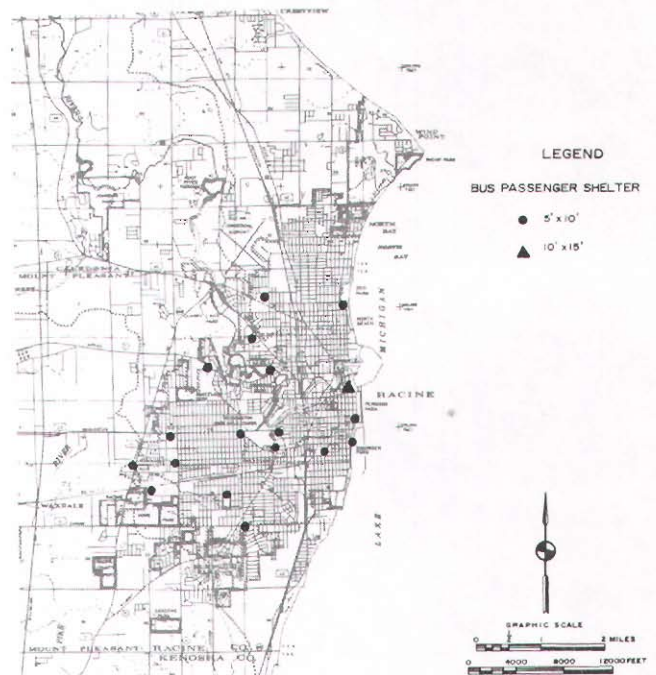
#### LOCATION OF BUS PASSENGER WAITING SHELTERS OF THE BELLE URBAN SYSTEM



Source: City of Racine Department of Transportation and SEWRPC.

Map 4

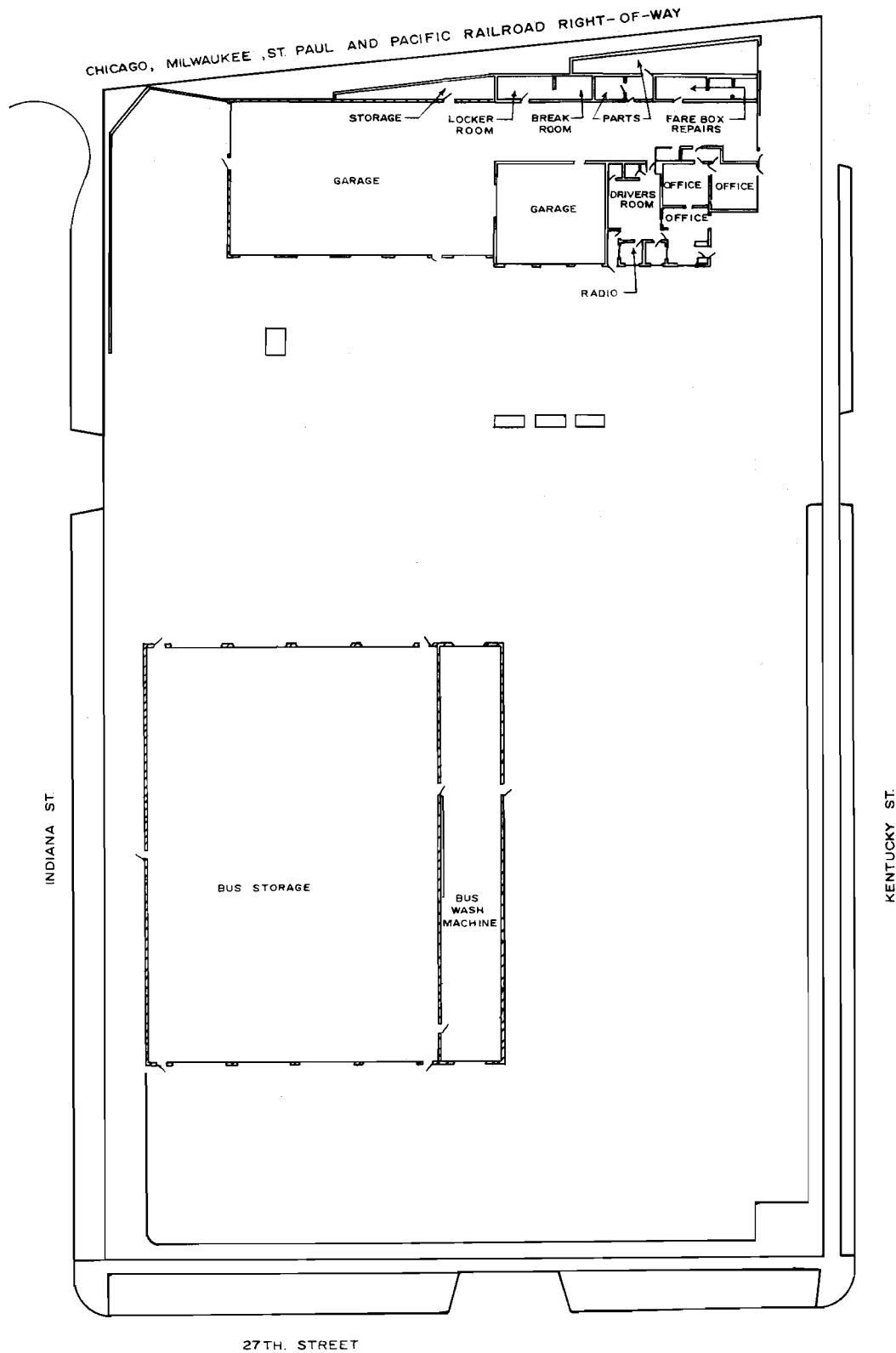
#### LOCATION OF FIXED FACILITIES USED BY THE BELLE URBAN SYSTEM



Source: City of Racine Department of Transportation and SEWRPC.

Figure 1

KENTUCKY STREET STORAGE, MAINTENANCE, AND OFFICE COMPLEX



Source: City of Racine Department of Transportation and SEWRPC.



Facility 2--The Racine City Hall is a multi-story building located on the western edge of the Racine central business district at 730 Washington Avenue. Transit program functions conducted within this building are carried out in the offices and public meeting rooms of the Mayor of the City of Racine, the members of the Racine Common Council, and the members of the Racine Transit and Parking Commission who are responsible for developing and approving all major policy and budgetary matters related to the City's federally assisted public transportation program. Additional transit program-related functions conducted within this building are carried out in the offices of the City of Racine Department of Transportation. The City Department of Transportation, the management staff of Taylor Enterprises, Inc., and the staff of the SEWRPC are responsible for the planning, design, and construction of all transit system projects and activities. This includes the preparation and administration of all transit system reports and state and federal funding applications and grants. One Transportation Department staff person, the City Transit Planner, is permanently assigned to work on projects and activities pertaining to the City's public transportation programs.

Transit system services provided by the City Department of Transportation to the public in this building consist of the sale of monthly bus passes and the distribution of transit system information, including route maps and schedules. Information related to the transit system can also be obtained from the staff of the City Department of Transportation. Another public service performed in this building is the issuing of photograph identification cards to qualified applicants who wish to participate in the transit system's half-fare program. The building also contains public meeting rooms used for transit-related meetings and public hearings.

Former Waukesha County Courthouse: In addition to the two City-owned facilities described above, the former Waukesha County Courthouse, located in Waukesha County, is used by the staff of the SEWRPC to conduct planning activities related to the City of Racine's federally assisted public transportation program. This three-story building, located in the City of Waukesha at 901 N. East Avenue, is owned by Waukesha County. The Planning Commission leases the space on the second floor, parts of the first and third floors, and part of the basement for use as staff offices. At present, a total of 129 SEWRPC employees work in this facility on a broad range of land use, transportation, and environmental planning activities. Recently completed and current activities of the Commission staff which either directly or indirectly affect the City of Racine's federally assisted public mass transportation program, in addition to the development of this transition plan, include but are not limited to, the development of:

1. A Racine Area Transit Development Program: 1974-1979;
2. A Transportation Systems Management Plan for the Kenosha, Milwaukee, and Racine Urbanized Areas in Southeastern Wisconsin: 1980;
3. A Transportation Improvement Program for the Kenosha, Milwaukee, and Racine Urbanized Areas in Southeastern Wisconsin: 1980-1984;
4. A Regional Transportation Plan for the Transportation Handicapped in Southeastern Wisconsin: 1978-1982; and
5. A Regional Land Use Plan and A Regional Transportation Plan for Southeastern Wisconsin: 2000.

## TRANSIT SYSTEM POLICIES AND PRACTICES

In addition to the public transportation services and equipment and facilities used in providing services, the policies and practices of the current City public transportation program must be examined to see if they prevent the fixed-route bus system from achieving accessibility. Specifically, 14 policy and practice areas which either directly or indirectly affect the extent to which handicapped persons are able to benefit from the current program must be reviewed. The following sections present a brief description of these areas as they are presently addressed in the City of Racine's public transportation program.

### Hiring and Employment Policies and Practices

Hiring and employment practices of the Belle Urban System for handicapped individuals are part of the broader policy covering all persons currently employed or seeking employment in all City programs. In Section 3.40 of the Municipal Code, entitled "Affirmative Action and Human Rights Ordinance," Section 3.40.010 states:

"It is hereby declared to be the public policy of the City of Racine to assure equal opportunities to all citizens of the City of Racine, regardless of age, sex, race, color, Vietnam era veterans, disabled veterans, religion, handicap, national origin, marital status or economic status, and to that end to prohibit discrimination based on these factors. Since the prohibition of discriminatory practices is not sufficient to effectuate the principle of equal employment without affirmative and direct action, the City of Racine adopts this Ordinance designed to increase the representation of under-represented groups in all departments, job classifications, and salary categories in City employment. The City of Racine, in developing its affirmative action plan, shall require similar efforts from vendors, contractors, and firms with which it does business."

Consequently, it is prohibited as a discriminatory practice for the City of Racine to hire, promote, discharge, or make any other personnel transaction in the City's public transportation program based upon certain personal characteristics, including handicap of the employee or applicant affected by the action. As a contractor of the City of Racine, Taylor Enterprises, Inc., must also comply with this Ordinance.

The City of Racine also has established an Affirmative Action and Human Rights Commission. The function of this Commission is to regularly review the City's affirmative action and equal opportunity hiring and employment policies and practices, make recommendations concerning revisions to these policies, advise affected groups or individuals of their rights, disseminate information, review contract compliance requirements, and hear complaints concerning application of this policy.

### Safety and Emergency Procedures

The City of Racine has not established formal, written safety and emergency policies and procedures for its public transportation program. However, an informal set of safety and emergency procedures has been developed as needed, and are in practice in certain areas of the public transportation program. Periodic fire drills are conducted in all buildings used by the public transit system. Bus drivers' driving and safety habits are checked periodically and randomly. All buses used by the public transit system are equipped with two-way radios and with signs designating that the seats adjacent to the front-entrance are for elderly and handicapped persons. Bus drivers are instructed on procedures to be followed in case of vehicular or passenger accidents, and are directed to use their radios to summon emergency police or medical assistance as needed.

No formal written policies or procedures have been developed regarding handicapped bus riders. Drivers are encouraged to provide assistance to handicapped patrons in getting on and off the

bus or moving within the bus. However, the extent of assistance provided is left to the discretion of individual bus drivers. There is no formal procedure at present for emergency evacuation of passengers from city buses.

#### Periodic Sensitivity and Safety Training for Personnel

All bus operators must complete a driver training program prior to assuming regular driver duties with the transit system. The major emphasis of this training program is on seeing that the bus operator has the driving skills and technical knowledge necessary to perform his/her duties proficiently. Part of the bus operators' training program deals with how to handle the public in a courteous and helpful manner. As stated in the previous section, it is normal procedure to check all bus drivers periodically and to randomly assess how he/she handles the technical aspects of bus driving as well as the human aspects of dealing with the general public. Should deficiencies be found with any driver's skills or public attitude as a result of the routine checking process, vehicular or passenger accidents, or complaints by the public, the bus operator is re-instructed on the proper procedures to follow and appropriate disciplinary action is taken.

No special training is given on the needs of handicapped persons or on providing assistance to them. As stated in the previous section, drivers are encouraged, but not required, to provide assistance to handicapped riders. Consequently no formal training in this area is provided.

#### Accommodations for Companions or Aides of Handicapped Travelers

The Belle Urban System has an established policy which allows guide dogs for blind individuals on the buses of the City's transit system. Aides or companions of handicapped persons are required to pay full fare for their transportation.

#### Intermodal Coordination of Transportation Providers

The City of Racine's federally assisted public transportation program provides the only public urban common-carrier transit service within the Racine urbanized area. A single route of the Belle Urban System serves the University of Wisconsin-Parkside, located in Kenosha County, where cash transfers can be made to the fixed-route bus system serving the City of Kenosha. In addition, intra-state and interstate bus service is provided through the Racine urbanized area by Wisconsin Coach Lines, Inc., and Greyhound Lines-West. No passenger who has an origin and destination in the area served by the City bus system may be carried by these two private transit operators. City bus routes run within one-half block of the bus terminal for these two intercity bus operators. At the present time, none of the fixed-route bus services with which the City's bus system interfaces use wheelchair lift-equipped buses. No attempts have been made to coordinate the schedules or fares of the City's bus system with the schedules or fares of the Kenosha Transit System or the private intercity bus operators.

The National Railroad Passenger Corporation (AMTRAK) provides railroad passenger service to the Village of Sturtevant, located in the western portion of the Racine urbanized area. The City of Racine's public transit system does not provide service to the AMTRAK passenger station. The terminus of the closest City bus route is approximately 2.6 miles from the AMTRAK station.

In addition to the above fixed-route common-carrier bus services, specialized public transportation services are provided by public and private social service agencies in the Racine area, including Goodwill Industries, Careers for Retarded Adults, and Lincoln Lutheran of Racine. With the exception of the Lincoln Lutheran Specialized Transportation Program, no arrangements for coordination with specialized trans-

portation service providers are in effect. Lincoln Lutheran Specialized Transportation, a countywide brokered transportation program, provides countywide transportation services for elderly and handicapped individuals. The City of Racine is coordinating its City-owned public transit service with this program to provide accessible public transportation services to handicapped City residents who are unable to use the public transit service provided by the City-owned bus system.

Coordination With Social Service  
Agencies that Provide or Support  
Transportation for Handicapped Persons

The City of Racine is coordinating specialized transportation service for disabled persons provided or supported by area social service agencies through its involvement with the Lincoln Lutheran Specialized Transportation Program. The Lincoln Lutheran Specialized Transportation Program was created in 1975 by consolidation of the client population of the Racine Senior Citizen Transportation Program and the Lincoln Lutheran of Racine "Pick-Me-Up" program. It provides transportation services to elderly and handicapped persons throughout Racine County. The service was developed through a multiparty contract among the Southeastern Wisconsin Area Agency on Aging, the Racine Community Developmental Disabilities Service Board, the City of Racine, and Lincoln Lutheran of Racine. Every effort is made to coordinate the transportation service offered by this program with the needs of the clientele of other social service agencies and programs. A complete description of the development of the Lincoln Lutheran Specialized Transportation Program and the role it plays in coordination of specialized transportation services in the Racine urbanized area will be presented in Chapter V of this report. Representatives of the City of Racine Transportation Department involved with the City-owned public transportation system are on the Review and Evaluation Committee of the Lincoln Lutheran Specialized Transportation Program. They aid in the coordination of

the two systems and assist in operational and administrative decisions regarding the specialized transportation program.

Comprehensive Marketing  
Considerate of the Travel  
Needs of Handicapped Persons

The marketing program for the City's public transportation program is carried out cooperatively by the City of Racine Department of Transportation and the private management firm. In the past, the marketing program has been primarily aimed at disseminating user information to all persons in the City who might avail themselves of the service offered by the public transit system. For this reason, the City Department of Transportation has published and made available schedules and maps for each bus route on the system. This information is available from the drivers on each city bus, from the offices of the City Department of Transportation in the Racine City Hall, or from the management offices of the transit system at the Kentucky Street operating complex. Telephone information service is also available to answer individual questions regarding specific bus routes and schedules.

The City of Racine is participating in an on-board bus training program for developmentally disabled individuals. Through the program, the City provides free transportation for a travel instructor who shows handicapped individuals where to board the bus, how to pay fares, how to get off the bus, and gives additional information required for successful completion of a trip on the city bus system. The instructor provides this training on a one-to-one basis, beginning at the handicapped individual's residence and continuing through the trip to the final destination. As an extension of this program, communications between bus drivers, the dispatcher, and the social service agency have been provided. This has proven valuable when agency clients have become confused and have had difficulty in completing the trip.

The marketing program has not extensively attempted to disseminate information or provide advertising aimed at handicapped persons. Blind persons who cannot use the route schedules or maps distributed by the transit system can obtain specific information about the transit service by using the telephone information service. Conversely, deaf persons who cannot use the telephone information service can obtain information using the route schedules and maps. Telephone information operators are aware of the half-fare program for the elderly and handicapped offered by the transit system. They provide instruction on the procedures to be followed for obtaining the special photo identification pass for anyone who inquires about the program.

An expanded marketing program has been planned for and included in the 1980 operating budget. Preliminary plans call for more use of multimedia campaigns, such as information brochures and newspaper and radio advertising, to provide information on the transit service to potential users. No specific plans have been made for special marketing efforts aimed at specific user groups, including handicapped individuals.

#### Leasing, Rental, Procurement, and Other Related Administrative Practices

All practices by the City of Racine in this area follow the UMTA-prescribed Affirmative Action, Equal Employment Opportunity, and Minority Business Enterprise guidelines. In this regard, it is the policy and practice of the City of Racine that all vendors, contractors, and firms providing products and services for the public transit system must make assurances that they do not discriminate in hiring and employment practices on the basis of handicap and demonstrate that they have an affirmative policy toward the hiring of handicapped persons.

#### Involvement of Private and Public Operators of Transit and Public Paratransit for and in Providing Other Accessible Modes of Transportation and Appropriate Services

The City of Racine has a representative on the Review and Evaluation Committee of the Lincoln Lutheran Specialized

Transportation Program. This Committee is composed of representatives of public and private social service agencies providing funds or which are applicants for funds used to support the specialized transportation services provided by the program. The Review and Evaluation Committee acts as the policy and planning body for the specialized transportation program and meets regularly to discuss program progress and problems. The Lincoln Lutheran Specialized Transportation Program currently contracts with two private sources, the Graf Bus Company and OMNI Services to provide transportation service made available to elderly and handicapped individuals under the program.

The City of Racine and SEWRPC have cooperatively followed a planning process in the preparation of major plan elements for the public transit system. The planning is routinely carried out under the guidance of advisory committees composed of both citizens and technical members. It has been a standard practice for membership on these committees to include representatives of various social service agencies and elderly and handicapped specialized transportation providers operating in the Racine urbanized area. Plans developed using this advisory committee structure include the existing plan to provide accessible public transportation service in the Racine urbanized area as documented in SEWRPC Planning Report No. 31, A Regional Transportation Plan for the Transportation Handicapped in Southeastern Wisconsin: 1978-1982.

#### Regulatory Reforms to Permit and Encourage Accessible Service

There are no known regulatory constraints that prevent the Belle Urban System from being made accessible to the handicapped.

#### Management Supervision of Accessible Facilities and Vehicles

The City of Racine's public transportation program has no formal policy in this area.

#### Maintenance and Security of Accessibility Features

The City of Racine's public transportation program has no policy in this area.

#### Labor Agreements and Work Rules

The labor agreements and work rules do not specifically address handicapped employees but, rather, cover all employees of the public transit system regardless of handicap. Work rules do not prevent drivers from offering or providing assistance to handicapped persons experiencing difficulties in getting on or off the bus or moving within the bus. Conversely, no specific actions are required of the bus drivers in this area by the work rules.

#### Appropriate Insurance Coverage

Current insurance coverage for the Racine public transit system is provided through standard industry insurance policies issued to the City of Racine and Taylor Enterprises, Inc. The insurance policies provide up to \$1,000,000 coverage for each accident. There are no restrictions on the insurance coverage which relate to or discriminate against handicapped persons.

#### SUMMARY

This chapter has described the federally assisted public transportation program of the City of Racine. The description

has included information concerning the events leading up to the City's current level of involvement in the ownership and operation of the public bus system; the current magnitude of the federally assisted public transportation program in terms of projected 1980 annual ridership and total system operating costs; and the management and organization involved in the planning, programming, implementation, and administration of the transit system. This chapter has also provided a description of the basic operating characteristics of the City's bus system; the equipment and facilities used in the operation and administration of the bus system, including buses, bus shelters, and buildings; and the current transit policies and practices of the public transportation program pertaining to 14 areas of handicap accessibility issues. An analysis for deficiencies related to handicap accessibility of the public transit service, the equipment, and facilities used in its operation, and the policies and practices followed in its administration will be presented in the following chapter. Specific recommendations will be made for overcoming the deficiencies and making the City's public transit system accessible to handicapped individuals.

## Chapter III

### TRANSIT PROGRAM ACCESSIBILITY ANALYSIS AND RECOMMENDATIONS

#### INTRODUCTION

The previous chapter of this volume described the basic operating characteristics of the City of Racine's public transit system; the equipment and facilities used in its operation and administration; and the current policies and practices of the public transit system pertaining to 14 areas of handicapped-related issues which either directly or indirectly affect the extent to which handicapped persons can benefit from the program. This chapter will present the results of the analysis undertaken to determine deficiencies in the public transportation program which might prevent otherwise qualified handicapped persons from participating in or benefitting from the City's federally assisted public transportation program. For each area of the public transportation program in which a deficiency affecting handicapped accessibility exists, actions to eliminate or reduce the effect of these deficiencies will be recommended. Finally, this chapter presents a schedule for implementing each improvement or modification, indicates the cost and funding sources involved in accomplishing each action, and identifies the agency responsible for implementing each action.

#### EXISTING PUBLIC TRANSIT SERVICE, EQUIPMENT, AND FACILITIES

##### Public Transit Service

The preceding chapter of this volume described the basic operating characteristics of the Belle Urban System. The public transit service provided by the Belle Urban System has been developed under the concept of providing all residents of the City of Racine with a comparable level of public transit service and an equal opportunity for use of the service provided. To accomplish this, the local public transit system

has been designed with a maximum distance of one-half mile between routes in densely developed residential areas of the City. As a result, the local transit system provides virtually complete coverage of the City of Racine, with almost all residential areas and major trip generators (including handicapped population concentrations and major trip destinations) within the quarter mile service area of at least one transit route.

Based upon a review of the operating characteristics of the Belle Urban System, including routes, service area, frequency of service, hours of operation, and fares, there is no indication that these elements of the public transit service discriminate against persons solely on the basis of handicap, as they are common for all persons residing within the service area of a route. Deficiencies in the public transit service related to equal opportunity for use of the public transit service by handicapped individuals are, rather, the result of the use of inaccessible transit vehicles and facilities and the policies and practices currently followed in the operation and administration of the public transit system. The particular deficiencies identified in these areas will be discussed in the following sections.

##### Bus Fleet

Accessibility Assessment: As stated in Chapter I of this volume, an important provision of U.S. Department of Transportation (DOT) Final Rule 49 CFR Part 27 concerning nondiscrimination on the basis of handicap is that the bus fleet used to provide a local, federally assisted public mass transportation service must be accessible to handicapped persons. Accessible in this provision means that, at a minimum, one-half (50 percent) of the buses "in

service" during the weekday peak period of transit ridership must be wheelchair lift-equipped and have the capacity to safely accommodate one or more persons in wheelchairs aboard the bus. The weekday peak period for the Belle Urban System is defined as the hours of day-time operation from 6:00 a.m. to 9:00 a.m. and from 3:00 p.m. to 6:00 p.m. It also means that wheelchair lift-equipped buses must be used during base period (nonpeak period) bus service before nonlift-equipped buses. This bus accessibility provision must be met as soon as practicable, but no later than July 2, 1982. This time limit may be extended by the Urban Mass Transportation Administration (UMTA) to July 2, 1989, if compliance over any shorter time period would result in extraordinarily large annual capital equipment expenditures and if an interim accessible transportation service is provided.

As described in the preceding chapter, the active bus fleet for the Belle Urban System is comprised of 25 GMC 41-pas-

senger buses manufactured in 1976. All buses in the existing fleet have been equipped with a front-entrance special-assist grab rail, and signs designating that seats adjacent to the front door are for use by elderly and/or handicapped persons. None of the buses are equipped with wheelchair lifts. Consequently, the present bus fleet is inaccessible to wheelchair-bound handicapped persons.

**Bus Fleet Replacement and Expansion Program:** The current bus fleet replacement and expansion program for the City of Racine is shown in Table 4. The program presented in this table indicates that by July 1983 the Belle Urban System plans to expand its active bus fleet from 25 buses to a total of 42 buses through purchasing 17 new 35-foot, 36- to 37-passenger buses, which will be used to make headway reductions and service improvements on several routes of the present transit system. Table 5 indicates that all buses purchased for making service improvements would be

Table 4

BUS FLEET REPLACEMENT AND EXPANSION PROGRAM  
FOR THE BELLE URBAN SYSTEM: 1979-1988

Bus Fleet				Active Fleet (number of buses)									
Make	Model	Size (in feet)	Year of Manu facture	July 1979	July 1980	July 1981	July 1982	July 1983	July 1984	July 1985	July 1986	July 1987	July 1988
GMC	4523A	35	1976	25	25	25	25	25	25	25	25	25	22
		35	1982	--	--	--	--	17	17	17	17	17	17
		35	1987	--	--	--	--	--	--	--	--	--	3
Active Fleet Size.....				25	25	25	25	42	42	42	42	42	42
Accessible Fleet.....				--	--	--	--	17	17	17	17	17	20
Percent Accessible.....				--	--	--	--	40	40	40	40	40	47
Peak Period Bus Requirements.....				21	22	22	22	37	37	37	37	37	37
Accessible Buses in Peak Period Fleet.....				--	--	--	--	16	16	16	16	16	19
Percent of Peak Period Fleet Accessible.....				--	--	--	--	43	43	43	43	43	51
Percent Spares.....				16	12	12	12	12	12	12	12	12	12
Percent Accessible Spares.....				--	--	--	--	6	6	6	6	6	5

Source: City of Racine Department of Transportation and SEMRPC.



Table 5

## BUS CAPITAL EXPENDITURE PROGRAM FOR THE BELLE URBAN SYSTEM: 1980-1986

Year of Grant Application	Project Description	Anticipated Project Cost by Funding Source <sup>a</sup>			Implementing Agency
		UMTA Sections 3 and 5 <sup>b</sup>	City of Racine <sup>c</sup>	Total	
1981	Purchase of 17 Wheelchair Lift-Equipped 35-foot Buses (fleet expansion to permit system improvement)	\$2,019,600	\$504,900	\$2,524,500	City of Racine
1986	Purchase of 3 Wheelchair Lift-Equipped 35-foot Buses (fleet replacement)	\$ 356,400	\$ 89,100	\$ 445,500	City of Racine

<sup>a</sup>Assumes an estimated cost in 1980 constant dollars of \$135,000 per bus, plus 10 percent for contingencies.

<sup>b</sup>Assumes 80 percent federal funding under UMTA Section 3 and Section 5 capital assistance programs.

<sup>c</sup>Assumes funding of 20 percent of total project costs by the City of Racine. Additional funding may be available to the City of Racine under the Wisconsin Transit Capital Grant Program, which authorizes one-time grants for up to 50 percent of the nonfederal share of the costs incurred by Wisconsin urban transit operators in the purchase of buses. Final administrative rules for this program have not been issued as of this date.

Source: City of Racine Department of Transportation and SEWRPC.

equipped with wheelchair lift devices and allow space for at least one wheelchair-bound passenger as required by current federal regulations. Expansion of the existing bus fleet in this manner will result in 40 percent accessibility of the total active fleet of 42 buses, and 43 percent accessibility of the anticipated peak period bus requirement of 37 buses by July 1983.<sup>1</sup>

Since the City of Racine is using relatively new equipment--the average in-service age of all buses in the fleet is about four years--in operating the Belle Urban System, and since the average

reliable service life of a heavy-duty urban transit bus is considered to be 12 years, replacement of vehicles in the current active fleet is not scheduled to begin until 1987 or 1988. At that time, the 25 buses in the active fleet will have an in-service age of over ten years and it is anticipated that a portion of the fleet will have surpassed its reliable service life. Tables 4 and 5 indicate that by July 1988 the City of Racine plans to replace at least three of the 25 buses purchased in 1976 by purchasing new equipment accessible to wheelchair-bound handicapped individuals. At that time, it is anticipated that 47 percent of the total active fleet, and 51 percent of the peak period fleet will be accessible to wheelchair-bound transit system patrons. Achievement of this level of fleet accessibility assumes that improvements in wheelchair lift technology can be made by industry producers, resulting in enough increased service reliability for lift equipment to allow the Belle Urban System to retain only one accessible spare bus to provide accessible transit service.

<sup>1</sup>It should be noted that the program presented here for expansion of the existing transit fleet is subject to modification, based on the findings and recommendations of a revised five-year transit development program for the Racine urbanized area. The document is scheduled for completion by the City of Racine Department of Transportation and SEWRPC in 1981.

Recommendations: From the information presented in the previous section, it is apparent that the Belle Urban System will not achieve accessibility in 50 percent of its peak period bus fleet by the July 2, 1982, deadline established in U.S. DOT Final Rule 49 CFR Part 27. The bus fleet accessibility provision prescribed by this Rule would, however, be met by July 1988. This date is within the seven-year extension of the original deadline date allowed to fixed-route bus systems with newer fleets for achieving fleet accessibility through replacement of and accretion to the existing bus fleet, providing an interim accessible transportation service is made available to handicapped individuals until fleet accessibility is attained.

In light of the above discussion, the following recommendations are made for complying with the federal regulation prescribing bus fleet accessibility:

1. That the Belle Urban System<sup>2</sup> take appropriate action to ensure implementation of the bus fleet replacement and expansion program schedule set forth in Tables 4 and 5, as scheduled.
2. That the Belle Urban System develop a prioritized list of bus routes, to be followed in assigning accessible buses to routes of

the transit system as new accessible equipment is delivered and made available for revenue service. Since the first accessible buses are scheduled to be in service by July 1983, the prioritized list should be completed prior to that time.

3. That the current "special efforts" strategy adopted by the City of Racine, which consists of providing a specialized demand-responsive transportation service to wheelchair-bound and semi-ambulatory handicapped persons residing within the service area of the City-owned fixed-route bus system, be continued and modified as necessary. The continuation will meet the interim accessible service provision required under current federal regulations until bus fleet accessibility is achieved in July 1988. Beyond that date, continuation of the specialized service would be at the option of the City of Racine. A description of the recommended interim accessible service will be provided in Chapter IV of this report.

Bus Passenger Waiting Shelters Accessibility Assessment: As described in the preceding chapter, the City of Racine has erected 21 passenger waiting shelters at various locations throughout the City. No formal accessibility survey of the waiting shelters, based on the standards contained in the American National Standard Specifications for Making Buildings and Facilities Accessible to and Useable by the Physically Handicapped, as published by the American National Standards Institute, Inc., (ANSI), has been conducted to determine handicap accessibility barriers. All bus passenger waiting shelters, however, were designed in consultation with local handicapped persons. Access points for each bus shelter are approximately 32 inches wide at the 17 smaller shelters and approximately 40 inches wide at the four larger shelters.

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<sup>2</sup>All recommendations made indicating the Belle Urban System as the responsible party refer to the city-owned public transit system administered by the City of Racine Department of Transportation and operated and managed on a contract basis by the private management firm of Taylor Enterprises, Inc. It is the joint responsibility of the City of Racine Department of Transportation and the private management firm to determine who can most effectively perform the activities required to comply with each recommendation.

Recommendations: Based on the above information, it can be seen that the City of Racine has taken into consideration the accessibility needs of handicapped individuals in the design of all bus passenger waiting shelters used in the public transit system. However, the adequacy of the current bus shelter design in providing for handicapped accessibility, based upon ANSI standards, is unknown and must be considered a deficiency. It is, therefore, recommended:

1. That the Belle Urban System undertake a formal accessibility study of the bus passenger waiting shelters during 1981, using the published ANSI standards to determine the adequacy of the shelter design in providing for handicap accessibility, and identify any barriers resulting from the present design and placement that affect accessibility by handicapped persons.
2. That, based on the findings of the study recommended above, a schedule be developed during 1981 for the elimination of any handicap accessibility barriers resulting from the shelter design and placement.

#### Buildings

Accessibility Assessment: No formal study based upon the ANSI standards has been made to determine the handicap accessibility barriers which exist in the City-owned buildings used in the operation and administration of the public transit system, including the Kentucky Street storage, maintenance and office complex, the Racine City Hall, and the former Waukesha County Courthouse (SEWRPC offices).

Recommendations: Based upon the above information, it is recommended:

1. That in conjunction with the accessibility study recommended above for bus passenger waiting shelters, the Belle Urban System

undertake, in 1981, a formal accessibility study of the buildings used in the operation and administration of the public transit system, including the Kentucky Street storage, maintenance, and office complex and the Racine City Hall. The study should determine the extent and nature of physical barriers in and around these buildings which affect handicap public and employee accessibility, based upon the published ANSI standards. The cost for an accessibility study of the bus shelters and buildings is estimated at \$15,000.

2. That, based upon the findings of the study recommended above, a schedule be developed in 1981 to eliminate identified handicapped public and employee accessibility barriers.
3. That Waukesha County, at the request of the SEWRPC, complete a study in 1981 (at an estimated cost of \$3,500) to determine physical barriers in and around the former Waukesha County Courthouse which affect handicapped public and employee accessibility. The County should then set forth an implementation schedule for making building modifications to eliminate accessibility barriers.
4. That, regardless of the implementation schedule above, Waukesha County, as the owner of this facility, provide an accessible building entrance and accessible toilet facilities by the end of 1981, at an estimated cost of \$30,000.

#### TRANSIT SYSTEM POLICIES AND PRACTICES

As explained in Chapter I of this report, the transition plan for the City of Racine's federally assisted public transportation program must identify and

address deficiencies in 14 specific policy and practice areas of the program which prevent otherwise qualified handicapped persons from benefiting from the program solely on the basis of their handicap. A brief description of these policies and practices as they are addressed in the public transportation program was presented in the previous chapter. The following sections present a listing of deficiencies identified in the existing policies and practices and the actions recommended to correct each deficient policy or practice.

#### Policy and Practice

##### Deficiencies and Recommendations

Hiring and Employment Policies and Practices: The current efforts of the City of Racine to eliminate nondiscrimination in the hiring and employment of individuals solely on the basis of handicap are considered adequate at this time to assure equal employment opportunities and affirmative action for handicapped individuals.

Safety and Emergency Procedures: In the description of the bus safety and emergency procedures, it was noted that Taylor Enterprises, Inc., does not currently require drivers to follow any specific policy or procedure in assisting handicapped bus passengers. On this matter, there are unanswered questions regarding implications for the safety of the other passengers on the bus when a bus operator leaves his seat to physically assist a passenger. There is also the implication of such a policy on the employee work rules and wage rates of bus operators.

Since the entire bus fleet is currently inaccessible to wheelchair-bound handicapped persons, no policy or procedure for transporting wheelchair-bound persons has been needed, and, consequently, none has been developed. Finally, no formal procedure has been established for the evacuation of passengers from a bus during an emergency.

Based on these deficiencies, the following actions are recommended:

1. That the Belle Urban System conduct a study by July 1981, to determine the need for, and consequences of, the establishment of a formal policy requiring all bus drivers to provide assistance to semi-ambulatory handicapped bus passengers upon request or when the need is evident to assure the safety of these individuals in boarding, alighting from, and moving within the bus. The findings of this study are to be reported to the advisory committee designated to monitor the implementation of the transition plan for their review and recommendation.
2. That a written procedure be developed by the Belle Urban System by July 1981 for the evacuation of all passengers from city buses in cases of emergency. Procedures developed for this purpose should be cognizant of the mobility problems experienced by persons with physical handicaps.
3. That, by July 1983, and prior to initiation of public transit service with wheelchair lift-equipped vehicles, the Belle Urban System develop a written procedure for transporting wheelchair-bound individuals on the new accessible equipment. Such a procedure should address all phases of safely transporting wheelchair-bound individuals. The procedure would include driver instruction on the steps to be followed in lift operation to safely provide assistance to wheelchair-bound bus patrons in boarding and alighting from the bus, and the measures required to assure the security of the wheelchair on a moving bus.

Periodic Sensitivity and Safety Training for Personnel: The current bus operator training program used by Taylor Enterprises, Inc., contains no special training on the needs of handicapped persons

or on how to provide physical assistance to them. The training program focuses mainly on the technical skills required by the driver for safe operation of the bus and general passenger-driver relations. Since there is no formal policy requiring bus operators to provide assistance to handicapped bus passengers, bus operators do not receive specialized training in recognizing or assisting bus passengers with handicaps or disabling conditions. It is therefore recommended:

1. That, following the establishment of a formal policy on passenger assistance as discussed above:

- A. The Belle Urban System develop a bus passenger assistance training program for new bus operators which would initially include at least the following elements:

- Recognition of basic characteristics of major disabling conditions;
- Identification of common assistance devices used by handicapped persons;
- Techniques for assisting elderly and handicapped passengers including: procedures for boarding and alighting from the bus, fare management, and responding to passenger signals for bus stops;
- Safety and emergency procedures; and
- Responses to typical situations involving elderly and handicapped bus passengers.

- B. That at least once a year, Taylor Enterprises, Inc., provide continuing training, including passenger assistance training, to all bus operators.

- C. That all full time bus operator training staff receive instruction in teaching passenger assistance training to bus operators.

2. That, prior to initiation of service with accessible buses by July 1983, all bus operators receive instruction on the safe operation of wheelchair lift and kneeling features of new equipment and the use of wheelchair tie-downs and that this instruction be incorporated into the training program for all new bus operators recommended above.

Accommodations for Companions or Aides of Handicapped Travelers: The policy of the public transportation program in this area requires aides or companions of handicapped bus patrons to pay full fare for their transportation. Pending a favorable decision concerning legality, it is recommended that by July 1981, the Belle Urban System adopt a policy which will allow a companion or aide to ride free when accompanying a handicapped bus passenger presenting a valid half-fare identification card during nonpeak hours.<sup>3</sup>

Intermodal Coordination of Transportation Providers: At present, efforts of the Belle Urban System to achieve intermodal coordination of transportation providers are considered adequate.

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<sup>3</sup> Section 194.19 of the Wisconsin State Statutes presently prohibits fares for urban common carriers which are "unjustly discriminatory, prejudicial or preferential." A formal opinion concerning the legality of free fares for aides or companions of handicapped persons should be obtained by the City of Racine from the Wisconsin Department of Transportation and the Wisconsin Attorney General's Office prior to policy adoption.

Problems related to handicapped accessibility to other fixed-route bus operations with which the Racine bus system interfaces are the result of the use of inaccessible equipment by the transit operators and not of the transit system's policy. As a partial remedy to this problem, it is recommended that the Belle Urban System consider providing accessible bus service on routes which interface with the Kenosha transit system and the two intercity bus operators, Greyhound Lines-West and Wisconsin Coach Lines, Inc., when or if accessible bus service is provided by these other transit operators.

Coordination with Social Service Agencies that Provide or Support Transportation for Handicapped Persons: The efforts of the Belle Urban System to achieve coordination with social service agencies that provide or support transportation for handicapped persons by participating in the Lincoln Lutheran Specialized Transportation Program are considered adequate at this time.

Comprehensive Marketing Considerate of the Travel Needs of Handicapped Individuals: In developing marketing programs that are considerate of the travel needs of handicapped individuals, two areas are generally considered important by handicapped persons and advocacy organizations for achieving increased ridership by handicapped persons: 1) the development of a good public information program; and 2) mobility training.

The public information program for the City of Racine transit system has been aimed primarily at dissemination of user information to the general population of the City, with limited efforts to disseminate information specifically to handicapped persons. Information necessary for transit system use, consisting of route maps and schedules, is available to handicapped persons from the drivers on each bus, from the offices of the Racine Department of Transportation in the Racine City Hall, and from the transit system management offices, located at the Kentucky Street operating

complex. Handicapped persons with hearing capabilities can also obtain answers to specific questions by using the telephone information service offered by the public transit system.

Mobility training is a program providing instruction to handicapped persons on how to use the routes and schedules of the public transit system. The purpose of this training is to give handicapped nonusers of the transit system the confidence and basic information concerning fares, routes, schedules, and use of accessibility features on buses. Such training will enable handicapped persons to use the public transit system and thereby eliminate the need to provide many of these individuals with more costly specialized transportation service. As stated in the previous chapter, the City of Racine is currently participating in a mobility training program for developmentally disabled handicapped persons. The program provides these individuals with the necessary understanding of the routes, schedules, and fares of the public transit system to enable them to effectively use the fixed-route bus service offered by the Belle Urban System. Since none of the buses in the transit fleet are equipped with wheelchair lifts or kneeling features, no instruction for physically handicapped persons on the use of these features has been required.

Based upon this information concerning the marketing efforts directed toward handicapped persons, the following actions are recommended:

1. That the Belle Urban System develop a comprehensive public program for providing information on the local bus system to elderly and handicapped persons, including a "New Rider's Kit." The kit would contain basic information on how to use the public transit system and, upon initiation of service with accessible buses, a brochure containing information on the operation and use of wheelchair lift and

kneeling features on the buses, as well as the location of accessible city bus routes and points of interest served by accessible routes.

2. That the Belle Urban System ensure that each bus operator maintains an adequate supply of bus schedules on the bus at all times.
3. That the Belle Urban System expand its telecommunication capabilities for providing transit system user information to handicapped individuals through the purchase and installation of a teletypewriter service at an estimated cost of \$1,000 or through contracting for such services with social service organization or institution having such capabilities.
4. That, following the delivery of the accessible buses, the Belle Urban System cooperate with interested handicapped social service agencies and handicapped groups in scheduling available accessible buses for use in providing mobility training to the physically handicapped.

Leasing, Rental, Procurement, and Other Related Administrative Practices: The current policies and practices of the City of Racine concerning leasing, rental, procurement and other related administrative practices for the Belle Urban System are considered adequate to assure affirmative action toward and equal employment opportunities for handicapped persons.

Involvement of Existing Private and Public Operators of Public Transit and Paratransit in Planning for and Providing Other Accessible Modes and Appropriate Services: The efforts to involve private and public providers of public transit and paratransit services in planning for and providing other accessible modes of transportation and appropriate services are considered adequate at this time to promote accessible transit services.

Regulatory Reforms to Permit and Encourage Accessible Services: As stated in Chapter II of this report, there are no known regulatory constraints that prevent the City of Racine's public transportation program from achieving accessibility.

Management Supervision of Accessible Vehicles: As stated previously in this chapter, the Belle Urban System utilizes equipment which is not equipped with wheelchair lifts or kneeling features. Consequently, no supervisory procedures have been developed to monitor the operation of accessible equipment. As the bus fleet is supplemented or replaced with accessible equipment, and as the facilities of the public transit system are made accessible to handicapped use through elimination of barriers, supervision of the facilities and equipment will be necessary to ensure efficient and accessible transit system operation. To accomplish this, it is recommended:

1. That, upon initiation of accessible bus service by July 1983, the Belle Urban System closely monitor the daily operation of accessible equipment on bus routes and be prepared to respond to any disruptions in service caused through the use or malfunction of accessibility features on buses assigned to each route so that the effects of the disruptions on accessible bus service and schedule adherence can be minimized.
2. That all route supervisory personnel of the Belle Urban System be trained in the operation of wheelchair lifts and kneeling features including emergency procedures for mechanical operation in case of breakdown of accessibility features on buses in service.
3. That upon achievement of accessibility for a particular facility, the Belle Urban System monitor and adequately maintain the accessibility features to ensure the accessibility of each facility.

Maintenance and Security of Accessible Features: As stated in the previous chapter, the City of Racine's public transportation program has no formal policy concerning maintenance and security of accessible features due primarily to the present lack of such features in the operation of the public transit system. As accessible buses will be used in the near future, and as accessibility features may be added to transit system facilities to achieve accessibility, it is recommended:

1. That the Belle Urban System develop and implement by July 1983, prior to initiation of transit service with accessible equipment, a program for maintaining the operability of wheelchair lift and kneeling features on all accessible buses. Such a program should provide for checking for operating malfunctions on a daily basis and major inspection and maintenance at regular intervals based upon vehicle usage and the manufacturer's recommendations.
2. That the Belle Urban System ensure that the length of bus stops and snow removal at bus stops on accessible bus routes is adequate to allow operation of accessibility features on city buses.
3. That the Belle Urban System ensure that accessibility features installed in facilities used in the operation and administration of the public transit system are maintained in an operable condition.

Labor Agreements and Work Rules: There is no indication that the union labor agreement or work rules discriminate against handicapped employees. Issues of concern affecting elderly and handicapped bus passengers were found in the employee work rules which fail to address: 1) provision of physical assistance to elderly and handicapped bus passengers; and 2) announcing of street names at approaching bus stops.

While bus operators are presently not required to physically assist any bus passenger experiencing difficulty in boarding, alighting from, or moving within a bus, operators are informed by the management that providing assistance when needed would be appreciated by the bus passenger. Beyond this, the transit system management and city officials have stated that a work rule requiring bus operators to physically assist bus passengers would almost certainly have significantly increased transit system operating cost implications. Increased cost would result from union demands for higher wages since the bus operator's duties and responsibilities have expanded. Such a work rule would also have implications for the safety of other bus passengers because the operator would leave his seat to provide assistance and the bus controls would be unattended. Many, but not all, of the bus operators voluntarily comply with requests for passenger assistance. Similarly, bus operators are presently not required to routinely call out the names of streets when approaching bus stops. A practice of this nature would greatly aid those bus passengers who have vision impairments. Management and city officials question the need for such a service when a handicapped individual is not on board the bus.

To address these problems and to provide better travel assistance to elderly and handicapped bus passengers, it is recommended that the management of the Belle Urban System and the nonmanagement employee union representatives meet to consider the need for and the effects of modifying and expanding the employee work rules to provide for:

1. The provision of physical assistance to handicapped bus passengers in boarding, alighting from, or moving within the bus whenever such assistance is needed; and
2. The announcing of street names by bus driver's when approaching bus stops.

The findings and recommendations from this meeting are to be reported no later



than July 1981 to the advisory committee responsible for monitoring the implementation of the transition plan.

Appropriate Insurance Coverage: The insurance coverage for the City of Racine's public transportation program is considered adequate at this time to assure coverage of all transit system employees and passengers, regardless of handicap.

#### MONITORING OF TRANSITION PLAN IMPLEMENTATION

In compliance with U.S. DOT Final Rule 49 CFR Part 27, the preceding sections of this chapter have presented an analysis of the major elements of the City of Racine's federally assisted public transportation program for deficiencies which, either through discriminatory practices or accessibility barriers, prevent otherwise qualified handicapped persons from benefiting from the program solely on the basis of handicap. The chapter has recommended a series of actions to correct the identified deficiencies and achieve program accessibility in the ten-year period allowed under the aforementioned regulations. During the period of time required to fully implement the recommendations of the transition plan and achieve program accessibility (for the Belle Urban System, until July 1988), Final Rule 49 CFR Part 27 requires the preparation of annual status reports, indicating progress in implementing and compliance with the recommendations contained in the transition plan. Final Rule 49 CFR Part 27 also requires an adequate level of citizen participation not only during the initial development of the transition plan, but also 1) at least annually

during its implementation period, 2) during any period when significant changes are made in the transition plan, and 3) at the time of any request for a waiver from any obligations with respect to accessibility for handicapped persons. In order to meet these citizen participation requirements, it is recommended that the advisory committee that aids in the development of the transition plan for the City of Racine's public transportation program remain active upon completion of the transition plan and meet annually to monitor the progress of transition plan implementation and aid the City of Racine and SEWRPC in the preparation of the annual status reports for submission to the U.S. DOT, UMTA.

#### SUMMARY

This chapter has analyzed the federally assisted public transportation program for deficiencies which, through either discriminatory actions or accessibility barriers, prevent otherwise qualified handicapped persons from benefiting from the public transportation program solely on the basis of their handicap. This analysis was conducted on the major elements of the public transportation program including the operating characteristics of the transit service, the equipment and facilities used in the operation and administration of the public transit system, and the policies and practices followed by the public transit system pertaining to 14 areas of handicapped-related issues. Finally, this chapter presented a series of actions recommended to resolve the deficiencies identified in the public transportation program so that the public transit program will achieve full accessibility by July 1988.

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## Chapter IV

### SPECIAL EFFORTS/INTERIM SERVICE

#### INTRODUCTION

Section 27.97 of the U. S. Department of Transportation (DOT) Final Rule 49 CFR Part 27 requires that operators of public mass transportation systems receiving federal financial assistance provide an interim accessible transportation service beginning July 2, 1982, if the regular fixed-route bus system is not accessible by that time. The bus fleet replacement and expansion program described in the preceding chapter indicates that the City of Racine does not expect to have acquired enough new wheelchair lift-equipped buses so that, at a minimum, 50 percent of the buses operating during the peak period will be accessible to the handicapped in accordance with the provisions of U. S. DOT Final Rule 49 CFR Part 27 until July 1988. As a result, the City of Racine must provide an interim accessible transportation service beginning in July 1982 and continuing until July 1988, which is the period of time required for the public transit program to achieve accessibility. During this time, the City of Racine must spend an amount equal to 2 percent of the financial assistance it receives under Section 5 of the Urban Mass Transportation Act (UMTA) of 1964 (as amended) on the interim accessible transportation service, unless the advisory group participating in the design of the interim service finds that a lower level of expenditure provides an adequate level of service.

Section 27.97 of the U. S. DOT Final Rule 49 CFR Part 27 also requires that during the period from the effective date of the Rule (May 31, 1979) to July 2, 1982--the date when interim accessible transportation service must be provided--a "reasonable" level of special efforts must be made to plan and

program transportation projects and project elements designed to benefit handicapped persons. A "reasonable" level is defined as the average annual expenditure equivalent to at least 5 percent of the UMTA Section 5 funding allocation available to subsidize the operation of the regular fixed-route bus system in 1977 and 1978, and 2 percent of all UMTA Section 5 funds received for the years thereafter, at least until the fixed-route bus system is accessible.

Special efforts and interim service projects are to be programmed each year in the annual element of the urbanized area's transportation improvement program (TIP). Reasonable progress must also be demonstrated in implementing previously programmed projects, including the special efforts projects programmed in the annual elements of TIP's submitted to the Urban Mass Transportation Administration (UMTA) for 1977, 1978, and 1979. Once fixed-route bus system accessibility is achieved, however, the recipient of federal funds used to support the bus system is under no further federal requirements to provide funding for specialized accessible transportation services.

To facilitate appropriate U. S. DOT review of this transition plan for the Belle Urban System, this chapter documents the special efforts that have been made and will continue to be made by the City of Racine until July 2, 1982, as well as the special efforts after that date to provide the interim accessible transportation service required by the Final Rule. This documentation will include: 1) a brief statement of the City of Racine's adopted special efforts strategy; 2) a status report on the implementation of previously programmed special efforts projects; 3) a description of the proposed interim accessible

transportation service; and 4) a schedule for implementing the special efforts and interim service projects.

## SPECIAL EFFORTS

### Adopted Special Efforts Strategy

The adopted regional transportation plan for transportation handicapped persons, as documented in the Southeastern Wisconsin Regional Planning Commission (SEWRPC) Planning Report No. 31, A Regional Transportation Plan for the Transportation Handicapped in Southeastern Wisconsin: 1978-1982, recommended that, in the Racine urbanized area, 15 of the 25 buses in the fleet be retrofitted with wheelchair lifts and other convenience features in order to make them accessible to wheelchair-bound individuals and semi-ambulatory handicapped persons. The retrofit program recommended by the plan would have resulted in more than one-half of the entire bus fleet being accessible to handicapped persons. At the request of the City of Racine's Common Council, the plan was amended by the SEWRPC on December 7, 1978, to delay the original plan recommendation to retrofit 15 buses in the fleet with wheelchair lifts for two years, and to provide an alternative specialized service for the transportation handicapped in the interim. With the promulgation by the Urban Mass Transportation Administration of Section 504 regulations in May 1979, which discourage retrofitting existing buses, the Racine Transit and Parking Commission requested the SEWRPC to prepare a Section 504 transition plan to amend the adopted regional transportation plan for transportation handicapped persons to provide for fleet accessibility through replacement and expansion of the existing bus fleet.

In light of the above discussion, the special efforts strategy adopted by the City of Racine has been to spend an average annual amount in UMTA and local (state, county, and city) funds equivalent to at least 5 percent of the UMTA Section 5 funds allocated to the Racine urbanized area in 1977 and 1978, and at

least 2 percent of the UMTA Section 5 funds received thereafter on two special efforts projects: 1) the provision of a demand-responsive transportation service which will guarantee any wheelchair user or person with semi-ambulatory capabilities residing within the service area of the Belle Urban System that public transportation service is available at fares and service levels comparable to those experienced by persons using the City-owned fixed-route bus system; and 2) the purchase of only wheelchair lift-equipped new buses in expanding and replacing vehicles in the bus fleet. The City of Racine will continue this special efforts strategy until at least one-half of the bus fleet for the Belle Urban System operating during the peak service hours is accessible to handicapped persons. The above special efforts projects have been and will continue to be programmed for implementation in the annual elements of the TIP for the Racine urbanized area, which must be prepared by the SEWRPC and submitted to the UMTA each year. The following sections describe the progress which has been made in implementing previously programmed special efforts.

### Status of Special Efforts Project Implementation

1977 and 1978: No special efforts projects were programmed for implementation by the City of Racine in the 1977 or 1978 TIP's for the Racine urbanized area. However, as far back as 1973, the City of Racine began providing specialized transportation (initially only to elderly people 60 years of age or older) by operating a two-bus advance reservation dial-a-bus system using volunteer help. In March 1976, the City was one of the founders of Lincoln Lutheran Specialized Transportation (LLST), an accessible advanced reservation door-to-door transportation system serving both elderly and handicapped people throughout Racine County, and within the City of Racine. In 1977, an estimated 30,400 one-way rides--an average of over 2,500 rides per month--were made on this transportation system. Of this total number of rides, over 15,400 were made

by elderly and handicapped people within the City of Racine's transit system service area. Approximately 21 percent, or nearly 3,300 of the 15,400 rides, were made by wheelchair users and people with semi-ambulatory capabilities.

In 1978, the City of Racine contributed approximately \$28,400 toward the operation of LLST. These funds, together with funds obtained from Racine County; the Racine County Developmental Disabilities Board; from Titles VII, XIX, and XX; and from the CETA program, provided LLST with a total transportation system operating budget for 1978 of \$195,000. With these funds, an estimated 47,700 one-way rides were made on the LLST service in 1978. Of this total, about 23,700 rides were made by elderly and handicapped people within the City of Racine's transit system service area. About 5,000 of the rides were made by wheelchair users and people with semi-ambulatory capabilities.

1979: On April 1, 1979, the City of Racine, through a contract with LLST, initiated the specialized demand-response transportation service previously described as their special efforts strategy. The specialized transportation service was offered on a one-hour advance reservation basis to all disabled elderly and handicapped persons residing within the service area of the City's fixed-route bus system who were unable to use the fixed-route transit service. The service was available between the hours of 6:45 a.m. and 8:15 p.m. weekdays and 7:00 a.m. and 6:00 p.m. on Saturdays. It could be used by an individual for a fare of \$0.25 per ride--the same as the base adult fare charged on the City-owned fixed-route bus system. The service was offered as an expansion of the countywide advance reservation transportation service offered by the LLST for disabled people.

During 1979, the City of Racine budgeted \$60,000 for the provision of the specialized demand-responsive transportation service. This amount is equivalent to 5 percent of the City's 1979 UMTA

Section 5 funding allocation of \$1,209,913. An estimated 28,400 one-way rides were made using this service during 1979.

1980: During 1980, the City of Racine again budgeted \$60,000 toward the continuation of the specialized transportation service provided by LLST. This amount is equivalent to 5 percent of the City's anticipated 1980 UMTA Section 5 funding allocation of \$1,209,913 and exceeds the new funding requirement of 2 percent of UMTA Section 5 funds received.

#### RECOMMENDED INTERIM ACCESSIBLE TRANSPORTATION SERVICE

As discussed previously in this chapter, the City of Racine, because of the Belle Urban System's anticipated failure to meet the July 2, 1982, deadline for achieving fleet accessibility, must provide an interim accessible transportation service from July 2, 1982, until the public transportation program achieves accessibility in 1988. During the time required to achieve accessibility, the City of Racine must spend annually an amount equal to 2 percent of the UMTA Section 5 funds received on the support of an interim accessible transportation service. However, the advisory group aiding in the development of the interim accessible service may determine that a lesser amount will provide an adequate level of service. The City of Racine, however, is under no obligation to spend any amount in excess of the 2 percent funding requirement.

In addition to providing the minimum funding requirement, the City of Racine must make every effort to see that the interim accessible service provided is designed and operated in a manner that meets specified service requirements. These requirements include the following:

1. The interim accessible service must be available within the normal service area and during the normal service hours of the fixed-route bus system.

2. To the extent feasible:

- a. The interim accessible service should be comparable to the fixed-route bus service with respect to combined wait and travel time, transfer frequency, and fares.
- b. The interim accessible service should be available to all semiambulatory and wheelchair-bound handicapped persons.
- c. The interim accessible service should be unrestricted as to trip purpose.
- d. The interim accessible service should not utilize waiting lists that would consistently exclude handicapped persons who have qualified or registered for the service.

The degree to which the interim accessible service meets these requirements is subject to the level of funding committed by the City of Racine for its support.

#### Interim Accessible Service Description

In Chapter III of this volume, a recommendation was made that the interim accessible service requirement be met through the continuation--and modification as necessary--of the current special efforts project which provides specialized demand-responsive transportation service to wheelchair-bound and semi-ambulatory handicapped persons residing within the service area of the Belle Urban System. This specialized transportation service is currently being provided by LLST as an expansion of the countywide advance reservation specialized transportation service being offered to elderly and handicapped persons under this program. The City of Racine, along with the Wisconsin Department of Transportation (WisDOT), Racine County, and various public and private social service organizations, contributes funds to support the operation of this specialized transportation program.

Using the above requirements as service standards for the interim accessible service, the following sections describe the operating characteristics of demand-responsive service currently provided by LLST.

#### Operating Characteristics

The LLST program currently utilizes up to eight buses to provide specialized transportation services to elderly and handicapped persons throughout Racine County. Within the western, nonurbanized portion of the County, this service is provided by three vehicles on an advance reservation basis. Within the eastern portion of the County and the Racine urbanized area, which includes the entire service area of the Belle Urban System, the service is provided on a door-to-door demand-responsive basis by up to five vehicles. Response time to requests for service seldom exceeds one hour. The demand-responsive service is presently provided for 13½ hours each weekday between the hours of 6:45 a.m. and 8:15 p.m., and for 11 hours on Saturdays between the hours of 7:00 a.m. and 6:00 p.m. No service is available on Sundays or holidays.

The specialized demand-responsive service offered by LLST is available to all elderly and handicapped persons residing within the service area of the Belle Urban System who by nature of their disability are unable to use the buses in the City transit fleet. All vehicles used by LLST within the urbanized area are equipped with accessibility features to accommodate wheelchair-bound individuals. To be eligible to use the demand-responsive service, individuals must be certified as handicapped by a medical physician. The availability of the demand-responsive service is guaranteed to all eligible handicapped individuals within the service area of the Belle Urban System. Fares for this service are currently \$0.25 per trip--the same as the base adult fare for the Belle Urban System.

The LLST demand-responsive transportation service is able to respond to about 98 percent of the requests for service

in a timely manner on the day the service is requested. However, because the service offered by LLST is presently being utilized to its maximum capacity, the high demand for service which occurs at certain times of the day has resulted in response times exceeding one hour and, in some cases, the rescheduling of trips for a different day of the week. Generally, every effort is made to respond to service requests on the day the request is made.

#### Analysis and Recommendations

A review of the operating characteristics of the demand-responsive transportation service offered by LLST for compliance with the requirements for interim accessible service indicates possible problems in two areas: 1) hours of operation; and 2) comparability of service with regard to combined wait and travel time.

The weekday hours of operation for the LLST service of 6:45 a.m. to 8:15 p.m. differ slightly from those for the fixed-route bus system of 5:30 a.m. to 7:00 p.m. As a result of this difference, the LLST demand-responsive service, while providing the same number of daily service hours, is not available for a period in the early morning when fixed-route bus service is available. Conversely, the fixed-route bus service is not available for a period during the early evening when the LLST demand-responsive service is available. However, the service hours of the LLST demand-responsive service are designed to be responsive to the travel demand of the elderly and handicapped users. Consequently, the lack of service availability for a period in the early morning hours when the apparent demand for travel by handicapped individuals is light should be considered offset by the provision of an equal period of service during the early evening hours when a greater need for travel exists.

The comparability of the LLST demand-responsive service and the fixed-route bus service with regard to combined wait and travel times is difficult to measure. While the door-to-door limited

stop service provided by LLST results in less time spent in using the transit vehicle than in using the fixed-route transit service, the up-to-one-hour wait time for the LLST service more than offsets the reduced in-vehicle time for demand-responsive service. As a result, the total travel time for the use of the LLST demand-responsive service is generally greater than that required for using fixed-route bus service. To provide travel times on the LLST demand-responsive service comparable to those on the fixed-route bus system would require additional vehicles and drivers for the LLST demand-responsive service and would result in increased operating costs and increased subsidy requirements for the City of Racine and all other LLST funding sources. Since the City of Racine has budgeted \$60,000 to support the operation of the LLST demand-responsive service in 1980--almost 10 percent of the Section 5 funds it expects to receive and significantly exceeding the 2 percent funding requirement--it is doubtful that the funds required to support any improvements in the LLST demand-responsive service would be available.

In conclusion, a review of the operating characteristics of the specialized demand-responsive service provided by LLST indicates that a high level of accessible transportation is provided to elderly and handicapped individuals residing within the service area of the Belle Urban System. The LLST service meets the requirements for interim accessible transportation service to the extent feasible in light of the 2 percent funding requirement and the present commitment of funds in support of the service by the City of Racine. It is, therefore, recommended that the City of Racine continue its financial support of the LLST demand-responsive service as a special effort strategy and utilize this service to provide the interim accessible transportation service to handicapped persons required by federal regulations until accessibility of the City's public transit program is achieved in 1988.



## SPECIAL EFFORTS/INTERIM ACCESSIBLE SERVICE PROJECT SCHEDULE

As previously stated in this chapter, the adopted special efforts strategy for the City of Racine has been the support of the specialized demand-responsive transportation service provided by LLST in the Racine urbanized area, and the purchase of only wheelchair lift-equipped buses for the expansion and replacement of the bus fleet. A schedule for implementation of special efforts projects for the City of Racine is presented in Table 6. As shown in this table and in Table 5, the City of Racine has programmed the purchase of 17 new buses in 1981. As required by federal regulations, all buses purchased will be equipped with wheelchair lifts and be capable of accommodating at least one wheelchair-bound individual. Table 6 also indicates the City of Racine has scheduled the continuation of its support of the service provided by LLST to elderly and handicapped persons residing within the Racine urbanized area through 1988 at a funding level equivalent to the 1980 funding level. Since the Belle Urban System will not have a sufficient number of wheelchair lift-equipped buses until 1988 to ensure that 50 percent of the buses operated during the peak periods of transit ridership will be accessible, the City of Racine has scheduled continuation of financial support for the LLST service to provide the required interim accessible transportation service until fleet accessibility is achieved. However, the amount of funds shown in this table appropriated for the support of the LLST program is contingent upon annual approval by the City of Racine Common Council.

As further shown in Table 6, the total average annual expenditure of UMTA and City funds on special efforts and interim accessible service projects for the 11-year period from 1978-1988 is estimated to be \$72,579. This expenditure level is equivalent to 8.2 percent of the annual average UMTA Section 5 funds expected to be received by the

City of Racine over the period, and exceeds the 5 percent UMTA expenditure requirement for 1978 and the 2 percent requirement for the years beyond 1978 up until the system is accessible in 1988.

### Continuation of Special Efforts After System Accessibility

The advisory committee aiding in the development of the transition plan for making the Belle Urban System accessible to handicapped persons believed it important to provide transportation handicapped persons with the same opportunity for use of public transportation as the general public. In this respect, the Committee recognized the importance of using accessible transit vehicles in the provision of fixed-route public transit service to the residents of the Racine urbanized area. The Committee approved the Belle Urban System's program to achieve accessibility, which will result in over 50 percent of the peak period bus fleet being accessible to wheelchair-bound individuals by July 1988. However, the Committee also believed that, while accessible bus service would provide many of the Racine area's transportation handicapped population with the same opportunity to use public transportation as the general public, severely physically and developmentally disabled persons, would, by the nature of their disability, still be unable to use accessible mainline bus service. In addition, the Committee recognized the existence of other travel barriers, such as crowds, the inability to get to or from a bus stop, and inclement weather. These barriers would not be removed simply by providing an accessible bus. In light of the above concerns, the Committee believed that a need for a specialized transportation service available to certain transportation handicapped individuals would exist even after the Belle Urban System achieved accessibility in July 1988. At that time, federal obligation for the provision of an interim accessible transportation service would expire. The Committee, therefore, recommended that, in recognition of the inability of accessible mainline bus service to

Table 6

### SPECIAL EFFORTS-- INTERIM ACCESSIBLE SERVICE PROJECT IMPLEMENTATION SCHEDULE: 1978-1988

Year	Project Description	Estimated Project Cost <sup>b</sup>	Funding Source				UMTA Section 5 Funds Received			Required Expenditure <sup>f</sup>		Actual Eligible Expenditures		Project Implementation	
			UMTA <sup>d</sup>	State <sup>e</sup>	Local		Capital Purchase	Operating Assistance	Total	Amount	Percent	Amount	Percent	Status	Completion Date
					City of Racine	Other Agency									
1978	Lincoln Lutheran Specialized Transportation Service for Elderly and Handicapped Persons.....	\$ 169,759	--	\$ 32,797	\$ 28,367	\$ 108,595	--	\$ 401,906	\$ 401,906	\$ 38,201	5.0	\$ 28,367	3.7	Completed	1978
1979	Lincoln Lutheran Specialized Transportation Service for Elderly and Handicapped Persons.....	\$ 213,300	--	\$ 36,419	\$ 60,000	\$ 116,881	--	\$ 506,652	\$ 506,652	\$ 10,133	2.0	\$ 60,000	12.4	Completed	1979
1980	Lincoln Lutheran Specialized Transportation Service for Elderly and Handicapped Persons.....	\$ 301,400	--	\$ 68,400	\$ 60,000	\$ 173,000	--	\$ 619,100	\$ 619,000	\$ 12,380	5.0	\$ 60,000	9.7	Underway	1980
1981	Lincoln Lutheran Specialized Transportation Service for Elderly and Handicapped Persons.....	\$ 301,400	--	\$ 68,400	\$ 60,000	\$ 173,000	--	--	--	--	--	--	--	Scheduled	1980
	Purchase of Wheelchair Lifts for 17 Vehicles.....	\$ 170,000 <sup>c</sup>	\$136,000	--	\$ 34,000	--	--	--	--	--	--	--	--	Scheduled	1983
	Subtotal	\$ 471,400	\$136,000	\$ 68,400	\$ 94,000	\$ 173,000	\$2,019,600	\$ 619,100	\$2,638,700	\$ 52,774	2.0	\$230,000	8.7	--	--
1982	Lincoln Lutheran Specialized Transportation Service for Elderly and Handicapped Persons.....	\$ 301,400	--	\$ 68,400	\$ 60,000	\$ 173,000	--	\$ 619,100	\$ 619,000	\$ 12,380	2.0	\$ 60,000	9.7	Scheduled	1982
1983	Lincoln Lutheran Specialized Transportation Service for Elderly and Handicapped Persons.....	\$ 301,400	--	\$ 68,400	\$ 60,000	\$ 173,000	--	\$ 771,500	\$ 771,500	\$ 15,430	2.0	\$ 60,000	7.8	Scheduled	1983
1984	Lincoln Lutheran Specialized Transportation Service for Elderly and Handicapped Persons.....	\$ 301,400	--	\$ 68,400	\$ 60,000	\$ 173,000	--	\$ 771,500	\$ 771,500	\$ 15,430	2.0	\$ 60,000	7.8	Scheduled	1984
1985	Lincoln Lutheran Specialized Transportation Service for Elderly and Handicapped Persons.....	\$ 301,400	--	\$ 68,400	\$ 60,000	\$ 173,000	--	\$ 771,500	\$ 771,500	\$ 15,430	2.0	\$ 60,000	7.8	Scheduled	1985
1986	Lincoln Lutheran Specialized Transportation Service for Elderly and Handicapped Persons.....	\$ 301,400	--	\$ 68,400	\$ 60,000	\$ 173,000	--	--	--	--	--	--	--	Scheduled	1986
	Purchase of Wheelchair Lifts for 3 Vehicles.....	\$ 30,000 <sup>c</sup>	\$24,000	--	\$ 6,000	--	--	--	--	--	--	--	--	Scheduled	1988
	Subtotal	\$ 331,400	\$24,000	\$ 68,400	\$ 66,000	\$ 173,000	\$ 356,400	\$ 771,500	\$1,127,900	\$ 22,558	2.0	\$ 60,000	5.3	--	--
1987	Lincoln Lutheran Specialized Transportation Service for Elderly and Handicapped Persons.....	\$ 301,400	--	\$ 68,400	\$ 60,000	\$ 173,000	--	\$ 771,500	\$ 771,500	\$ 15,430	2.0	\$ 60,000	7.8	Scheduled	1987
1988	Lincoln Lutheran Specialized Transportation Service for Elderly and Handicapped Persons.....	\$ 301,400	--	\$ 68,400	\$ 60,000	\$ 173,000	--	\$ 771,500	\$ 771,500	\$ 15,430	2.0	\$ 60,000	7.8	Scheduled	1988
Total Expenditures 1978-1988		--	--	--	--	--	\$2,376,000	\$7,394,858	\$9,770,858	\$225,576	--	\$798,367	8.2	--	--
Average Annual		--	--	--	--	--	\$ 216,000	\$ 672,260	\$ 888,260	\$ 20,507	--	\$ 72,579	8.2	--	--

<sup>a</sup>Prior to July 2, 1982, the total cost of accessibility features on new buses can be considered as eligible special efforts expenditures.

<sup>b</sup>All costs indicated are in 1980 constant dollars.

<sup>c</sup>Assumes an estimated cost of \$10,000 per wheelchair lift.

<sup>d</sup>UMTA Section 5 Capital Assistance Funds (80 percent federal, 20 percent local).

<sup>e</sup>Wisconsin Department of Transportation Section 85.08(5) funds.

<sup>f</sup>The required expenditure for 1978 reflects the old funding requirement of 5 percent of the UMTA Section 5 funds allocated to the urbanized area which for 1979 was a total of \$1,209,913. The required expenditure for 1979 and subsequent years reflects the current funding requirement of 2 percent of all UMTA Section 5 funds received.

Source: City of Racine Department of Transportation and SEMRPC.

serve the public transportation needs of the area's transportation handicapped population, the City of Racine should voluntarily continue to support some form of specialized transportation service after July 1988 for those handicapped individuals who are unable to use the accessible bus service provided by the Belle Urban System.

#### SUMMARY

This chapter has described the adopted special efforts strategy of the City of Racine. This special efforts strategy consists of: 1) the financial support of a demand-responsive transportation service provided by Lincoln Lutheran Specialized Transportation in the Racine urbanized area to handicapped persons unable to use the fixed-route bus system; and 2) the purchase of only wheelchair lift-equipped buses in the expansion and replacement of the existing bus fleet. Projects related to this special efforts strategy have been programmed and implemented since 1978 and will continue to be implemented until the Belle Urban System achieves accessibility in 50 percent of the buses used during the peak periods of system operation. This goal should be reached by July 1988. Special efforts projects are programmed for implementation in the annual elements of the Transportation Improvement Program for the Racine urbanized area for the years 1978-1980 and are completed or currently underway.

Since the Belle Urban System is not expected to achieve accessibility by July 2, 1982, this chapter also presented a description of the interim accessible transportation service required to be provided by the City of Racine. It is recommended that the interim accessible service be provided by LLST as a continuation of the current special efforts project providing accessible, demand-responsive transportation service to handicapped persons residing in the Racine urbanized area. Use of the LLST demand-responsive service would provide a high level of accessible transportation to handicapped persons in the service area of the Belle Urban System. It would also meet the requirement for interim accessible transportation service to the extent feasible, considering the limitations of the obligatory annual funding requirement of 2 percent of the UMTA Section 5 funds received and the current level of financial support of the service by the City of Racine.

Finally, this chapter presented a schedule for implementing the City of Racine's special efforts and interim service projects for the period 1978-1988. The total average annual expenditure on special efforts and interim service projects for the 11-year period is estimated to be \$72,579. This level of expenditure is equivalent to 8.2 percent of the average annual UMTA Section 5 funds the City of Racine expects to receive.

## Chapter V

### OVERALL TRANSPORTATION SERVICE COORDINATION

#### INTRODUCTION

Section 27.103(c)(5) of U. S. Department of Transportation (DOT) Final Rule 49 CFR Part 27 requires that each transition plan include "(the) identification of the coordination activities to improve the efficiency and effectiveness of existing (transportation) services." Major efforts toward, and achievements in, coordinating agency transportation services in Racine County have been made through the Lincoln Lutheran Specialized Transportation (LLST) program. This chapter describes the development of the coordinated agency transportation system provided under the LLST program.

#### LINCOLN LUTHERAN SPECIALIZED TRANSPORTATION PROGRAM

##### Historical Background

On January 15, 1973, the City of Racine submitted an application under Title III of the Older American Act for \$37,319.00, representing 75 percent of the project cost for an elderly transportation program. The project was named "Racine Senior Citizen Transportation Project" and included funds to purchase and operate two vehicles to provide transportation to older Americans in Racine. The local share of project costs was to be provided through in-kind services. The grant was approved and the City obtained two Chevrolet Chassis, Carpenter body, 18-passenger mini-buses for the provision of the specialized transportation services. Administration and operation of the elderly transportation program was awarded to the Racine Areawide Model Project on Aging (RAMP).

Throughout 1973 and in early 1974, the RAMP office coordinated the elderly transportation program and recruited volunteers to provide the transportation

service. The actual operation of the transportation service began on April 3, 1974, using the volunteer drivers, dispatchers, and attendants recruited during the previous period. The elderly transportation program provided service on Mondays, Wednesdays, and Fridays from 9:00 a.m. to 12:00 noon and from 1:00 p.m. to 4:30 p.m. at no charge to retired or part-time employed elderly persons over 55 years of age residing in the City of Racine. The elderly transportation service was provided on an advance reservation basis with appointments for service made from one to five days in advance of the time needed.

In May 1974, City control of the elderly transportation program was passed from the City of Racine Department of Public Works to the then-existing Traffic Department. At that time, the City was also informed that the RAMP office would cease to coordinate the elderly transportation program as of July 1, 1974, due to the closing of the local office of the State Division of Aging. Subsequently, the Racine County Planning Council offered a proposal to assume under contract the functions of the local office of the State Division of Aging. The functions included coordination of the elderly transportation program, continuation of volunteer recruitment, the review of program progress, and the preparation of reports. Project coordination was transferred to the Racine County Planning Council on August 1, 1974, with no changes in program services. Ridership on the specialized transportation service offered by the program during 1974 increased from 393 rides in April to 664 rides in December, with a high of 791 rides occurring in July. Toward the end of 1974, the high utilization of the service resulted in a turndown rate of 15-20 percent.

In November 1974, the City of Racine Common Council passed a resolution authorizing the purchase of one additional vehicle for the elderly transportation program. In February 1975, the Racine County Planning Council determined that \$17,000 in RAMP funds had not been spent. Consequently, the City requested, and was granted, permission to use this money for the purchase of a third vehicle. In July 1975, bids were opened and the City purchased a Winnebago Series 19 bus with Dodge RM (400) chassis specifically equipped with a wheelchair lift to accommodate handicapped passengers. The elderly transportation program continued to offer the same service during 1975 as was offered during 1974. Ridership on the service ranged from a low of 610 rides in February to a high of 763 rides in March.

On January 8, 1975, Lincoln Lutheran of Racine, at the request of the Racine County Commission on Aging and under contract with the Southeastern Wisconsin Area Agency on Aging, initiated a transportation program for people 60 years of age or older residing in Racine County outside the City of Racine. Transportation service under this program was made available for slightly over seven months during 1975 to elderly persons for eight hours each weekday on an advance reservation basis. Trips made were scheduled on a priority basis with medical-purpose trips given the highest priority and social-recreational trips given the lowest priority. The transportation service was contracted for from two private bus companies--Flash City Transit Company and Graf Bus Company--with each company supplying one bus.

Several factors contributed to the formation of a coordinated agency transportation system at the end of 1975. First, the Southeastern Wisconsin Area Agency on Aging was going to reduce its funding for the countywide transportation program administered by Lincoln Lutheran of Racine. Second, the City of Racine was in the process of applying

for funds from the U. S. DOT, Urban Mass Transportation Administration (UMTA), for the purchase and operation of the local City bus system owned and operated by the Flash City Transit Company. As a consequence of receiving these funds, the City would be obligated to make special efforts to assure the availability of public transportation service which could be effectively utilized by elderly and handicapped persons. Finally, the Racine Community Developmental Disabilities Service Board had a need for, and was interested in, providing transportation services for its developmentally disabled clients.

Consequently, a series of meetings were held in late 1975 among representatives for the Southeastern Wisconsin Area Agency on Aging, Lincoln Lutheran of Racine, the Racine Community Developmental Disabilities Service Board, and the City of Racine's elderly transportation program to develop a coordinated transportation program which would provide public transportation service to the consolidated client population of the named parties. As a result of the meetings, a proposal was put together that combined; 1) funds from the Racine Community Disabilities Board and the Southeastern Wisconsin Area Agency on Aging; 2) vehicles, maintenance, and volunteers from the City of Racine's elderly transportation program; and 3) office space, in-kind services, and operating expertise from Lincoln Lutheran of Racine to form a countywide transportation program for elderly and handicapped persons. It was determined that Lincoln Lutheran of Racine, being a private organization and not directly affiliated with government, would be in the best position to coordinate the proposed service and accommodate the regulations associated with each funding source. The service was, consequently, named Lincoln Lutheran Specialized Transportation.

#### Coordination and Service Efforts

In developing the LLST program, it was decided that each agency or group "purchasing" transportation service for

their clients from the program would be represented on a Review and Evaluation Committee. The purpose of this committee would be to review program progress and problems, and to set policy for the transportation program. The Review and Evaluation Committee would meet at least monthly at the invitation of the Racine County Planning Council.

In planning for service in 1976, the Review and Evaluation Committee of LLST prepared a budget using funds from the above agencies of about \$55,400, with about \$15,000 provided as in-kind services. The LLST program operated with the three vehicles formerly used in the City of Racine elderly transportation program to provide public transportation service to elderly persons 60 years of age or older and handicapped individuals throughout Racine County. Eligible handicapped individuals were defined as:

"any individual who, as a result of illness, injury, age, congenital malfunction, or other permanent or temporary incapacity or disability, is unable, without special facilities or special planning or design, to utilize mass transportation facilities and services as effectively as persons who are not so affected."

During 1975, LLST provided transportation services at no cost to the user for eight hours a day, 40 hours a week per vehicle on the same advance reservation and priority basis as the old Lincoln Lutheran countywide transportation service. Monthly ridership on the service during 1976 started at 1,371 rides during March, the first month of operation, and increased to 2,073 rides during December, with the highest monthly ridership occurring in October when 2,105 rides were made. Upon initiation of service in March 1976, LLST was immediately operating at capacity and problems in meeting the total demand for the service quickly arose. To accommo-

date the high demand, the City of Racine authorized the use of a spare bus as a back-up vehicle to the program, thereby eliminating the need to cancel trips due to vehicle breakdown and accounting for the large increase in monthly ridership which occurred in the latter months of 1976. A total of 17,739 rides were made by 2,762 individual clients during 1976.

In planning the 1977 LLST program, the Review and Evaluation Committee began an investigation, as early as August 1976, for obtaining funds from additional sources, including Titles XIX and XX of the Older Americans Act, and the CETA vehicle-use program sponsored by Societies Assets, a local handicapped advocacy group. Funds contributed from these sources would supplement the lump sum amounts contributed by the Racine County Community Disabilities Service Board and the Southeastern Wisconsin Area Agency on Aging, and the three vehicles and in-kind services to keep them operating supplied by the City of Racine. Planning for the likelihood of additional funding sources, the Review and Evaluation Committee developed a budget of \$88,736 for 1977. In February 1977, Societies Assets began participation in the LLST program by supplying CETA funds to support the cost of contracting for an additional vehicle for eight hours a day and a driver for four hours a day from a private bus company. The Racine Community Developmental Disabilities Service Board paid the cost of the driver for the additional vehicle for the remaining four hours a day. In March 1977, funds from both Titles XIX and XX of the Older Americans Act became available to the program retroactive to January 1, 1977, paying for service provided to elderly users on a per-trip basis.

As previously mentioned, problems in satisfying the demand for service were experienced in 1976 and continued in 1977 due to unexpected mechanical breakdowns of the three vehicles supplied by the City of Racine. To correct these problems, the Review and Evaluation Committee, in a letter sent in March

1977, requested that the City of Racine consider converting its in-kind support to a cash support of the LLST program to enable the program to contract for equipment and drivers from private transportation providers. The City complied with this request and retired the vehicles from service in July 1977. LLST subsequently began the purchase of transportation service from three private bus companies--Graf Bus Company, OMNI Services, and Racine Bus Company--to replace the three vehicles retired by the City. A total of 27,143 rides were made on the LLST service during 1977.

With the passage of the 1977 State Budget Act, a new elderly and handicapped transportation assistance program was created under Section 85.08(5) of the Wisconsin State Statutes. This program, administered by the Wisconsin Department of Transportation, authorizes the provision of financial assistance to counties within the State for specialized transportation programs serving elderly and handicapped persons who would not otherwise have an available accessible mode of transportation. These funds were made available, beginning in 1978, to fund elderly and handicapped transportation programs on a 90 percent State-10 percent local matching basis.

In preparing the 1978 budget for LLST, the Review and Evaluation Committee was informed that approximately \$32,800 would be made available to Racine County by the 85.08(5) program and that LLST would be the recipient of these funds. LLST subsequently used the funds obtained from this program to replace funding received during 1977 from the Southeastern Wisconsin Area Agency on Aging, which would not be available during 1978. The preliminary operating budget for the LLST program during 1978 was set at approximately \$189,900, with all funding sources from the previous year (with the above exception) involved with the program again in 1978.

To help support the LLST program, the Review and Evaluation Committee determined that beginning in 1978 a fare

of \$0.50 per one-way trip should be charged to users who were not clients of sponsoring social service agencies. However, the fare was reduced to \$0.25 after being in effect for three months. The Committee also abolished the practice of scheduling trips by priorities in April 1978. Response to service requests still, generally, required a long lead time. Total one-way ridership on the service was about 47,700 rides during 1978.

During 1979, LLST expanded its county-wide advance reservation transportation service through initiation of a demand-responsive transportation service with a one-hour response time to service requests from elderly and handicapped residents of the City of Racine. This service, described in detail in Chapter IV of this Volume, was initiated at the request of the City of Racine. Its purpose is to comply with the amended recommendations of the adopted transportation plan for transportation handicapped persons and with the requirements of the UMTA concerning special efforts in providing public transportation service to elderly and handicapped persons. It has been recommended that LLST continue to provide this demand-responsive service during 1980 and subsequent years to assist the City of Racine in meeting the special efforts and interim accessible transportation service requirements until the City of Racine public transportation program achieves accessibility in 1988.

In conclusion, it can be seen that over the past four years LLST has attempted to provide for the transportation needs of elderly and handicapped clients of various public and private social service agencies and organizations, as well as other interested groups. LLST has replaced the many expensive, overlapping, and underutilized specialized transportation services with one specialized transportation provider serving a consolidated client population. The LLST program represents a prime example of an effective countywide brokered transportation service. It is the result of successful efforts made by Lincoln Lutheran of Racine and the LLST



Review and Evaluation Committee to combine funds available from several Federal, State, and local sources to support a single transportation service capable of meeting the various requirements of each funding program and the transportation needs of the elderly and handicapped population of Racine County. The present membership of the LLST Review and Evaluation Committee is listed in Appendix D.

#### SUMMARY

This chapter has presented a review of efforts of the LLST program to provide coordinated transportation services to

elderly and handicapped persons residing within Racine County, including those residing within the Racine urbanized area. To accomplish this, major efforts were made to combine funds available under several agency programs from Federal, State, and local sources to support a single specialized transportation service capable of meeting the transportation needs of a consolidated client population. From the information presented herein, it is apparent that successful efforts are being made to coordinate transportation services for elderly and handicapped persons to improve their effectiveness and efficiency.

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## Chapter VI

### SUMMARY

On May 31, 1979, the U. S. Department of Transportation (U.S.DOT) issued Final Rule 49 CFR Part 27, Nondiscrimination on the Basis of Handicap in Federally Assisted Programs and Activities Receiving or Benefitting From Federal Financial Assistance. This Rule is in response to Section 504 of the Federal Rehabilitation Act of 1973, as amended, which states, "no otherwise qualified handicapped individual in the United States...shall solely by reason of his handicap, be excluded from the participation in, be denied the benefits of, or be subjected to, discrimination under any program or activity receiving Federal financial assistance." In accordance with Section 504, the Rule prohibits any recipient of U.S.DOT funds from discriminating against otherwise qualified handicapped persons in employment and further requires that recipients of U.S.DOT funds conduct their respective federally assisted programs and activities such that, when viewed in their entirety, they are accessible to handicapped persons.

U.S.DOT Final Rule 49 CFR Part 27 also specifically requires that a transition plan be developed for each urbanized area and submitted to the Urban Mass Transportation Administration (UMTA) by July 2, 1980. The transition plan is to cover all of the currently nonaccessible federally assisted programs and activities of each recipient of federal funds provided under the Urban Mass Transportation Act (UMTA) of 1964, as amended. A transition plan is a staged, multi-year planning document which describes the results of a local planning process. The plan identifies the transportation-related capital improvement projects and modifications to fixed facilities, vehicles, equipment, services, policies, and practices needed to eliminate any discrimination against

handicapped persons and to facilitate the achievement of federally assisted program or activity accessibility. Necessary capital improvement projects and program modifications must be programmed for implementation in each year's element of the transportation improvement program (TIP) required for urbanized areas and satisfactory progress must be demonstrated each year toward their implementation. Recipients of funds for local public mass transportation programs who cannot achieve program accessibility by July 2, 1982, must establish an interim accessibility transportation program for all handicapped persons who could otherwise have used the regular transportation system if it had been accessible. This interim transportation program must continue until the regular transportation system is accessible. Within the Racine urbanized area, the recipient of UMTA funds is the City of Racine for the Belle Urban System. This volume of South-eastern Wisconsin Regional Planning Commission (SEWRPC) Community Assistance Planning Report No. 39 has presented the transition plan for making the Belle Urban System accessible.

Table 7 presents a summary of the transition plan for the Kenosha Transit System. For each of the major elements of the transit program addressed in the transition plan--transit system equipment and facilities, and policies and practices--the table summarizes the accessibility findings and recommendations for making each element of the program accessible to handicapped persons. Also shown are the estimated costs (in 1980 dollars) of implementing each recommendation and the anticipated funding sources. The specific details concerning each of these transit program elements are presented in Chapter II, "Existing Transit Program Character-

Table 7

## TRANSITION PLAN SUMMARY FOR THE BELLE URBAN SYSTEM

Accessibility Analysis Category	Accessibility Analysis Element	Accessibility Assessment	Recommendations	Estimated Incremental Cost <sup>b</sup> Attributable to Meeting Section 504 Regulations			
				Federal	State	Local	Total
Transit Service Provision	Transit System Operating Characteristics	Current Operating Characteristics considered nondiscriminatory to handicapped persons	--	--	--	--	--
Transit System Equipment and Facilities	Buses	No vehicles in fleet are accessible to wheelchair-bound handicapped persons	City of Racine to Undertake staged acquisition of new wheelchair lift-equipped buses over the period 1981-1988	\$ 160,000 <sup>c</sup>	--	\$ 40,000 <sup>c</sup>	\$ 200,000 <sup>c</sup>
			City of Racine to develop a prioritized list of bus routes for assignment of accessible buses prior to July 1983	--	--	--	--
			City of Racine to provide an interim accessible transportation service for handicapped persons who cannot use the buses of the Belle Urban System from July 2, 1982, until bus fleet accessibility is achieved in July 1988	--	\$ 478,800 <sup>d</sup>	\$1,631,000 <sup>d</sup>	\$2,109,800 <sup>d</sup>
	Racine City Hall, Kentucky Street Operating Complex, Bus Passenger Waiting Shelters	Full extent of accessibility barriers currently unknown	City of Racine to complete a study in 1981 to identify accessibility barriers in all buildings and facilities used in the operation and administration of the Belle Urban System, and set forth an implementation schedule for making necessary modifications	--	--	\$ 15,000	\$ 15,000
	Former Waukesha County Courthouse	Full extent of accessibility barriers currently unknown	At the request of SEWRPC, Waukesha County to complete a study in 1981 to identify accessibility barriers and set forth an implementation schedule for making necessary building modifications	--	--	\$ 3,500	\$ 3,500
			Irrespective of the schedule called for above, Waukesha County to provide an accessible building entrance and toilet facilities in 1981	--	--	\$ 30,000	\$ 30,000
Transit System Policies and Practices	Hiring and Employment	Current policies and practices considered nondiscriminatory to handicapped persons	--	--	--	--	--
	Safety and Emergency Procedures	No current policy requiring bus operators to provide assistance to handicapped passengers in boarding, alighting from, or moving in bus	The Belle Urban System to study the need for, and consequences of, establishing such a policy	--	--	--	--
			Prior to initiation of service with wheelchair lift-equipped vehicles in 1983, the Belle Urban System to develop a written procedure for transporting wheelchair-bound individuals	--	--	--	--
		No formal procedure for evacuation of bus passengers during emergencies	The Belle Urban System to develop a written procedure for bus passenger evacuation by July 1981	--	--	--	--
	Sensitivity and Safety Training	Bus operators receive minimal bus passenger assistance training	Following establishment of a formal policy on passenger assistance recommended above, the Belle Urban System to: a. develop a bus passenger assistance training program for new operators b. provide continuing training, including passenger assistance training, annually to all bus operators c. provide instruction in passenger assistance training to bus operator trainers	--	--	--	--
			Prior to initiation of service with accessible buses, operators to receive instruction of safe use of accessibility features and measures for securing wheelchair bound passengers	--	--	--	--
	Accommodations for Companions or Aides of Handicapped Travelers	Current policy requires companions or aides to pay full fare for their transportation	The Belle Urban System adopt a policy to allow companions or aides of handicapped travelers to ride free during nonpeak hours	--	--	--	--

**Table 7**  
**(continued)**

Accessibility Analysis Category	Accessibility Analysis Element	Accessibility Assessment	Recommendations	Estimated Incremental Cost <sup>b</sup> Attributable to Meeting Section 504 Regulations			
				Federal	State	Local	Total
Transit System Policies and Practices (continued)	Intermodal Coordination of Transportation Providers	Current efforts considered nondiscriminatory and adequate	After accessible service is initiated in 1983, the Belle Urban System consider providing it on routes connecting with accessible fixed-route bus service provided by other public and private transit operators	--	--	--	--
	Coordination with Social Service Agencies that Provide or Support Transportation for Handicapped persons	Current efforts considered nondiscriminatory and adequate	--	--	--	--	--
	Comprehensive Marketing Considerate of the Travel Needs of Handicapped Persons	Need for improved public information program	The Belle Urban System develop a comprehensive public information program for providing transit system information to potential handicapped users	--	--	--	--
			The Belle Urban System ensure that an adequate amount of bus schedules are on buses at all times	--	--	--	--
			The Belle Urban System expand its telecommunications system to include teletypewriter services for use by deaf individuals	--	--	\$ 1,000	\$ 1,000
			After delivery of new accessible buses, the Belle Urban System cooperate in scheduling the available accessible buses for use by handicapped groups for mobility training	--	--	--	--
	Leasing, Rental, Procurement, and Other Related Administrative Practices	Current practices considered nondiscriminatory and adequate	--	--	--	--	--
	Involvement of Private and Public Operators of Public Transit and Paratransit in Planning for and Providing Other Accessible Modes and Appropriate Services	Current efforts considered nondiscriminatory and adequate	--	--	--	--	--
	Regulatory Reforms to Permit and Encourage Accessible Services	No regulatory constraints prevent achievement of accessibility	--	--	--	--	--
	Management Supervision of Accessibility Features and Vehicles	No supervisory procedures have been needed or exist	The Belle Urban System monitor the daily operation of accessible vehicles to be able to quickly respond to disruptions in service caused by use of, or malfunction of, accessibility features on buses	-- <sup>e</sup>	-- <sup>e</sup>	-- <sup>e</sup>	-- <sup>e</sup>
			All supervisory personnel of the Belle Urban System be trained in the normal and emergency operation of accessibility features on buses	--	--	--	--
			The Belle Urban System monitor and adequately maintain accessibility features in system facilities	-- <sup>e</sup>	-- <sup>e</sup>	-- <sup>e</sup>	-- <sup>e</sup>
	Maintenance and Security of Accessibility Features	No procedures have been needed or presently exist	The Belle Urban System implement by July 1983 a maintenance program for wheelchair-lift devices on buses	-- <sup>e</sup>	-- <sup>e</sup>	-- <sup>e</sup>	-- <sup>e</sup>
			The Belle Urban System ensure that bus stops are of adequate length and have snow removed to allow operation of accessibility features on buses	-- <sup>e</sup>	-- <sup>e</sup>	-- <sup>e</sup>	-- <sup>e</sup>
			The Belle Urban System ensure that accessibility features installed in system facilities are maintained in operable condition	-- <sup>e</sup>	-- <sup>e</sup>	-- <sup>e</sup>	-- <sup>e</sup>

Table 7  
(continued)

Accessibility Analysis Category	Accessibility Analysis Element	Accessibility Assessment	Recommendations	Estimated Incremental Cost <sup>b</sup> Attributable to Meeting Section 504 Regulations			
				Federal	State	Local	Total
Transit System Policies and Practices (continued)	Labor Agreements and Work Rules	Bus operators not required to physically assist passengers or call out street names at approaching bus stops	The Belle Urban System meet with employee union to consider work rules requiring bus operator to physically assist bus passenger and call out street names at approaching bus stops	-- <sup>e</sup>	-- <sup>e</sup>	-- <sup>e</sup>	-- <sup>e</sup>
	Appropriate Insurance Coverage	Current insurance coverage considered adequate	--	--	--	--	--

<sup>a</sup>The schedule for achieving bus fleet accessibility for the Belle Urban System is as follows:

Year of Grant Application	Year of Bus Delivery	Number of New Buses	Cumulative Accessible Fleet	Percent of Total Fleet Accessible	Percent of Peak Period Fleet Accessible
1981	1983	17	17	40	43
1986	1988	3	20	47	51

<sup>b</sup>All costs presented in 1980 constant dollars and are allocated among funding sources assuming the continued availability of sufficient federal and state funds based on current funding allocation formulas. No project costs are shown where it is assumed a recommendation can be implemented by existing staff or does not involve significant expenditures, unless otherwise noted.

<sup>c</sup>Costs shown include only the costs of accessibility features for 20 buses at \$10,000 per bus.

<sup>d</sup>Costs shown represent total costs for the years 1982-1988 for the countywide Lincoln Lutheran Specialized Transportation Program, assuming the 1980 expenditure level. The City of Racine would contribute an annual amount of \$60,000 in support of the accessible demand-responsive service provided by the program to elderly and handicapped persons residing in the City of Racine, subject to the annual approval of the City of Racine Common Council.

<sup>e</sup>Costs associated with this recommendation cannot be estimated at this time.

Source: SEMRPC.

istics," and Chapter III, "Transit Program Accessibility Analysis and Recommendations."

The bus fleet replacement and expansion program described in Chapter III indicates that, until 1988, the City of Racine does not expect to acquire a sufficient number of new wheelchair lift-equipped buses to guarantee that, in accordance with U.S.DOT Final Rule 49 CFR Part 27, a minimum of 50 percent of the buses operated by the Belle Urban System during the peak period will be accessible to the handicapped. Consequently, the City of Racine will be required under the Final Rule to provide an interim accessible transportation service after July 2, 1982, continuing until the Belle Urban System achieves accessibility. It is recommended that the City of Racine satisfy this requirement by continuing to financially support the demand-responsive transportation service provided to elderly and handicapped persons within the City

of Racine by the Lincoln Lutheran Specialized Transportation (LLST) program.

As documented in Chapter IV, "Special Efforts/Interim Service," the City of Racine has been providing financial support for the demand-responsive transportation service offered by LLST to satisfy part of its adopted special efforts strategy for providing public transportation services which can be effectively utilized by elderly and handicapped persons. The second part of the City's adopted special efforts strategy is the purchase of only wheelchair lift-equipped new buses in expanding the bus fleet and replacing buses. The City of Racine is committed to continuing projects of this nature until at least one-half of the bus fleet for the Belle Urban System operated during the peak service hours is accessible to handicapped persons. The average annual expenditure of UMTA and local funds on eligible special efforts and interim

accessible service projects over the 11-year period from 1978 through 1988 is scheduled to be an estimated \$72,579. This expenditure level is equivalent to 8.2 percent of the average annual total UMTA Section 5 funds the City of Racine expects.

The advisory committee aiding in the development of the transit plan for making the Belle Urban System accessible to handicapped persons believed it important to provide transportation handicapped persons with the same opportunity for use of public transportation as the general public. In this respect, the committee recognized the importance of using accessible transit vehicles in the provision of fixed-route public transit service to the residents of the Racine urbanized area. The committee approved the Belle Urban System's program to achieve accessibility which will result in over 50 percent of the peak period bus fleet being accessible to wheelchair-bound individuals by July 1988. However, the committee also believed that, while accessible bus service would provide many of the Racine area's transportation handicapped population with the same opportunity to use public transportation as the general public, severely physically and developmentally disabled persons would, by nature of their disability, still be unable to use accessible mainline bus service. In addition, the Committee recognized the existence of other travel barriers, such as crowds, the inability to get to or from a bus stop, and inclement weather. These barriers would not be removed simply by providing an accessible bus. In light of the above concerns, the Committee believed that a need for a specialized transportation service available to certain transportation handicapped individuals would exist even after the Belle Urban System achieved accessibility in July 1988. At that time, federal obligation for the provision of an interim accessible transportation service would expire. The Committee, therefore, recommended that, in recognition of the inability of accessible mainline bus service to

adequately serve the public transportation needs of the area's transportation handicapped population, the City of Racine should voluntarily continue to support some form of specialized transportation service after July 1988 for those handicapped individuals who are unable to use the accessible bus service provided by the Belle Urban System.

Major efforts and accomplishments in coordinating transportation services within Racine County have been made by the LLST program. The LLST program has attempted to provide for the transportation needs of elderly and handicapped clients of various public and private social service agencies and organizations, as well as other interested groups. The program has replaced several expensive, overlapping, and underutilized specialized transportation services with one specialized transportation provider serving a consolidated client population. The program is a prime example of an effective countywide brokered transportation service and is the result of successful efforts made by Lincoln Lutheran of Racine and the program's Review and Evaluation Committee to combine funds available under several agency programs from federal, State, and local sources to support a single transportation service capable of meeting the needs of elderly and handicapped persons and the various requirements of each supportive funding program. These efforts are described in Chapter V, "Overall Transportation Service Coordination."

#### PUBLIC HEARING--REACTION TO THE PLAN

The public hearing on this transition plan was held on Wednesday, May 28, 1980, at 7:00 p.m. in the Common Council Chambers of the Racine City Hall, located at 730 Washington Avenue in Racine, Wisconsin. The hearing was conducted by the Chairman of the Advisory Committee involved in the preparation of the plan. Two weeks prior to the public hearing, efforts were made to inform interested persons of the hearing. A public hearing notice was prepared and

published in the only daily local newspaper in the Racine urbanized area, the Racine Journal Times. A news release was also prepared and distributed to the local newspapers and radio and television stations within the Racine urbanized area.

A copy of the entire transition plan report, as well as a copy of the public hearing notice, was made available for public review at: the town, village, and city halls of the local municipalities within the Racine urbanized area; the management offices of the Belle Urban System; and the offices of the City of Racine Department of Transportation, the Southeastern Wisconsin Regional Planning Commission, and Society's Assets, Inc., a local handicapped advocacy organization. Copies of the summary chapter of the transition plan report were made available for public distribution at each of the

offices mentioned above. In addition, a tape recording of the summary chapter was made available at the City of Racine Department of Transportation. An interpreter for the deaf was provided at the public hearing.

A total of 15 persons attended the public hearing. No one chose to comment on or ask questions about the plan. Consequently, no issues were raised which have not been previously considered and addressed in this report. A complete transcript of the public hearing is provided in Appendix C of this report.

#### Conclusion

Based upon the foregoing, the Advisory Committee involved in the preparation of the transition plan for the Belle Urban System determined to endorse the transition plan as it was presented at the public hearing without change.



## **APPENDICES**

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**Thursday  
May 31, 1979**

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**Part II**

**Department of  
Transportation**

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**Office of the Secretary**

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**Nondiscrimination on the Basis of  
Handicap in Federally-Assisted Programs  
and Activities Receiving or Benefiting  
From Federal Financial Assistance**

**Department of  
Transportation  
Office of the Secretary**

**DEPARTMENT OF TRANSPORTATION**  
**Office of the Secretary**

**49 CFR Part 27**

**Nondiscrimination on the Basis of Handicap in Federally-Assisted Programs and Activities Receiving or Benefitting From Federal Financial Assistance**

**AGENCY:** Department of Transportation.

**ACTION:** Final Rule.

**SUMMARY:** This final rule implements section 504 of the Rehabilitation Act of 1973, which provides that "no otherwise qualified handicapped individual \* \* \* shall, solely by reason of his handicap, be excluded from the participation in, be denied the benefits of, or be subjected to discrimination under any program or activity receiving Federal financial assistance \* \* \*." The rule requires recipients of financial assistance from the Department of Transportation to make their existing and future facilities and programs accessible to handicapped persons so that they can effectively use these facilities and programs. In addition, the rule prohibits employment discrimination by recipients against handicapped persons and requires recipients to make reasonable accommodations to the handicaps of otherwise qualified employees so that they may enjoy full access to employment opportunities in programs funded by the Department of Transportation.

**EFFECTIVE DATE:** July 2, 1979.

**FOR FURTHER INFORMATION CONTACT:** Robert C. Ashby, Office of the Assistant General Counsel for Regulation and Enforcement, U.S. Department of Transportation, 400 7th Street, SW., Washington, D.C. 20590. 202/426-4723.

**SUPPLEMENTAL INFORMATION:**

**Synopsis**

**Introduction**

Section 504 of the Rehabilitation Act of 1973 prohibits discrimination on the basis of handicap in any program receiving Federal assistance. Pursuant to Executive Order 11914, the Department of Health, Education and Welfare (HEW) issued Guidelines concerning the responsibilities of each Federal agency under section 504. In providing generally that the transportation systems which receive financial assistance from the Department of Transportation (DOT, the Department) must be accessible to the handicapped, this rule constitutes DOT's action in accordance with those Guidelines.

**HEW Guidelines**

In general terms, the Guidelines require that each program or activity receiving Federal financial assistance shall be operated so that, when viewed in its entirety, the program or activity is readily accessible to handicapped persons. If structural changes are necessary to achieve this accessibility, the Guidelines require such changes to be made as soon as practicable, but in no event later than three years after the effective date of this rule. If extraordinarily expensive structural changes to, or replacement of, existing facilities would be necessary to achieve program accessibility, and if other accessible modes of transportation are available, the Guidelines permit DOT to establish, by regulation, a deadline for compliance that is more than three years after the effective date of this rule.

The Guidelines also provide that new facilities and, to the maximum extent feasible, alterations to existing facilities, must be readily accessible to handicapped persons.

Finally, the Guidelines provide generally that no handicapped person shall be subjected to discrimination in employment under any program or activity receiving Federal financial assistance.

**Highlights of the Rule**

This rule is the result of extensive efforts on the part of DOT to design a workable program to meet the transportation needs of the handicapped population as well as the general public. It has been refined since the Notice of Proposed Rulemaking (NPRM) stage on the basis of public comment both from public hearings in five cities and in over 650 written submissions. The commenters included representatives of interested and affected organizations, including groups representing handicapped persons and state and local authorities.

The rule is designed to provide accessibility to all modes of public transportation, as required by the HEW Guidelines, as expeditiously as is feasible. The Department is convinced that the rule responds to the needs of handicapped persons in compliance with the law and in a prudent and financially responsible manner. The rule builds upon earlier Departmental efforts to enhance transportation accessibility.

Recipients are encouraged to undertake additional steps on their own initiative to provide accessibility to handicapped persons, and to seek financial assistance from DOT to carry out those steps in accordance with

existing DOT funding procedures. Nothing in these regulations is included to prevent recipients from taking these actions.

Briefly, the new rule requires that:

1. *Public transit buses*, the most widely used means of public transit, for which solicitations are issued after the effective date of the rule, must be wheelchair accessible. While the rule contemplates that Transbus will ultimately become the core of the public transit bus system, it does require that new buses before Transbus be accessible. Within ten years, half the buses used in peak hour service must be wheelchair accessible, and these buses must be utilized before inaccessible buses during off-peak hours so as to maximize the number of accessible buses in service.

2. Under existing regulations all new *rapid rail* facilities must be accessible. This rule would also require that all existing rapid rail systems be made accessible to the handicapped over time, subject only to a limited waiver provision. The rule adopts a system-wide approach to rapid rail and mandates that key stations be made accessible in 30 years if station accessibility involves extraordinary costs, with less costly changes in three years. The rule establishes specific criteria for key stations but would permit a locality to make additional stations accessible. Accessible and inaccessible rail stations would have to be linked by accessible connector service. We expect that at least one-third of the key stations should be made accessible within 12 years, at which time an evaluation of the progress toward accessibility would be made. While it is impossible to calculate with certainty the precise number of stations that would meet the key station criteria for any given system, DOT estimates that as many as 60 percent of the stations in some cities would have to be made accessible, with a national average of about 40 percent.

The key stations include stations where passenger boardings exceed average station boardings by 15 percent, transfer points on a rail line or between rail lines, end stations (unless near another accessible station), stations serving major activity centers (e.g., employment centers, hospitals), stations that are special trip generators for sizeable numbers of handicapped persons, and stations that are major interchange points with other modes of transportation.

A provision of the rule permits the local transit authority, through its Metropolitan Planning Organization

(MPO), to apply for a waiver from the accessibility requirements if it has an alternative proposal which was developed through local consultation, specifically including close coordination with handicapped persons and their organizations. A public hearing is also required. If the alternative will provide service to handicapped persons that is substantially as good as or better than the service under the requirement sought to be waived, a waiver may be granted. The principal rapid rail recipient in the five major cities with older, inaccessible systems must spend, or ensure that other Urban Mass Transportation Administration (UMTA) recipients spend, at least the equivalent of five percent of its area's funds under section 5 of the Urban Mass Transportation Act on the alternative service, if that recipient is granted a waiver.

The rule generally requires that rapid rail vehicles purchased after the effective date of the regulation must be accessible. Further, on a system basis, one vehicle per train must be accessible within three years of the effective date of the rule, whether by purchase of new cars or retrofitting of older cars. However, up to five years would be allowed if extraordinary costs are involved.

3. *Commuter rail systems* must be made accessible, also subject to a limited waiver provision. On the basis of key station criteria similar to those applied to rapid rail, all key stations must be made accessible within three years, with an extension to 30 years if station accessibility involves extraordinary costs.

On a system basis, one vehicle per train must be accessible no later than three years after the effective date of the rule, whether by replacement or retrofit, but up to 10 years is allowed if extraordinary costs are involved.

New vehicles for which solicitations are issued on or after January 1, 1983, must be accessible.

4. *Light rail (trolley and streetcar) systems* must be made accessible, also subject to a limited waiver provision. Using similar key station criteria as apply to rapid rail, all key stations must be made accessible within 20 years, with less costly changes to be made in three years.

On a system basis, within three years after the effective date (up to 20 years may be allowed if extraordinary costs are involved), half the vehicles used in peak hour service must be wheelchair accessible, and these vehicles must be utilized before inaccessible vehicles during off-peak hours so as to maximize the number of accessible vehicles in

service. New vehicles for which solicitations are issued on or after January 1, 1983, must be accessible.

5. For Federally-assisted urban mass transportation systems that will not be accessible within three years after the effective date of this rule, *interim accessible transportation* must be provided, until those systems are accessible. Subject to specified spending criteria, this interim service must be available in the normal service area during normal service hours, and must be developed in cooperation with an advisory group of local representatives of handicapped persons. The service, to the extent feasible, must meet a number of criteria as to convenience and comparability to regular mainline service. The recipient must use its best efforts to coordinate special services in the locality to meet the service standards. The recipient must spend an amount equal to two percent of its UMTA section 5 funds on the provision of interim service unless the advisory group agrees with the recipient that lower expenditures will provide an adequate level of service.

6. *New airport terminals* must be accessible with respect to general passenger flow, ticketing areas, baggage check-in and retrieval, aircraft boarding and existing, telephones, vehicular loading and unloading, parking, waiting areas, and public services. Existing air carrier airport terminals must be made accessible within three years. Airports must provide assistance incident to boarding to handicapped passengers, and for air carrier airports, lifts, ramps or other suitable devices not normally used for freight must be provided to enable wheelchair users to board or exit from aircraft.

7. *New rest area facilities* along federally assisted *highways* must be made accessible. Existing rest area facilities on Interstate highways must be made accessible within three years of the effective date. Other rest areas will be made accessible when the rest area or the adjacent highway is altered or improved with the participation of Federal funds. All crosswalks constructed with Federal financial assistance must have curb cuts or ramps. With certain exceptions, new pedestrian overpasses, underpasses, and ramps constructed with Federal financial assistance can have no gradient in excess of 10 percent.

8. Every new *railroad* station constructed with Federal financial assistance must be accessible with respect to general passenger flow, ticketing areas, baggage check-in and retrieval, boarding platforms,

telephones, vehicular loading and unloading, parking, waiting areas and public services. Existing stations must be made accessible within five years for certain stations, and within 10 years for all stations. Railroad car accessibility requirements have been coordinated with the Interstate Commerce Commission (ICC), and require one car per train to be accessible within five years.

9. The rule prohibits *employment discrimination* against the handicapped in relation to programs that receive or benefit from Federal financial assistance from DOT. In addition, Federal fund recipients are required by the rule to make reasonable accommodations to known handicaps of otherwise qualified applicants for employment unless the accommodation would impose an undue hardship upon the operation of the program.

The Department of Transportation considers this rule to be a "significant" regulatory action under the Department's policies and procedures for "Improving Government Regulations," published in the Federal Register on February 26, 1979 (44 FR 11034). The rule is deemed significant because there is widespread public interest in its provisions, because the rule will affect most transportation providers and users in the country, and because the rule has a significant cost impact.

Because of its economic impact, the Department has prepared a Regulatory Analysis of this regulation. The Regulatory Analysis examines the various alternatives that the Department considered in preparing this rule, considers the cost and program implications of the alternatives, and explains the Department's reasons for making the choices resulting in the final rule. A copy of the Regulatory Analysis has been placed in the docket for this rulemaking and is available for public inspection.

#### Background

This rule is based upon the Rehabilitation Act of 1973, Pub. L. 93-112, 29 U.S.C. 790 et seq.\* Section 504 of

\*On November 6, 1978, section 504 was amended by the Rehabilitation, Comprehensive Services, and Developmental Disabilities Amendments of 1978 to add coverage of any program or activity conducted by an Executive agency or the U.S. Postal Service. Since the amendment occurred after publication of the proposed rule, the specific provisions of that proposed rule were not drafted to apply to the Department's internal programs and activities. While the final rule expresses the Department's general policy concerning those programs and activities, the rule does not strictly apply to them. The Department intends to review its programs and activities to determine what actions to take to implement the amendment to section 504.

this statute states that "no otherwise qualified handicapped individual . . . shall, solely by reason of his handicap, be excluded from the participation in, be denied the benefits of, or be subjected to discrimination under any program or activity receiving Federal financial assistance . . ." It is the primary legal basis for the efforts by the Department to ensure that handicapped persons are able to use transportation facilities and programs which receive financial assistance from the Department.

Section 504 provides little guidance concerning the means by which the Department should carry out its mandate. The section's legislative history is very sparse, and does not indicate, even in general terms, what the substance of the requirements of the affected agencies should be. Consequently, following the enactment of section 504, Executive Order 11914 was issued (41 FR 17871, April 28, 1976) to direct the Secretary of Health, Education, and Welfare (HEW) to establish standards, guidelines, and procedures for Federal agency implementation of section 504. The Order also directed other Federal agencies, including DOT, to issue rules consistent with the HEW standards and procedures. HEW issued its standards, guidelines and procedures (the HEW Guidelines) on January 13, 1978 (43 FR 2132). On June 8, 1978, DOT issued an NPRM to implement section 504 (43 FR 25018). The NPRM invited public comment and provided for a 90-day comment period, which was later extended 44 more days until October 20, 1978. In addition to this opportunity for submission of written comments, the Department, realizing the public interest and the complexity of the issues in this rulemaking, held public hearings in New York, Chicago, Denver, San Francisco/Oakland, and Washington, D.C.

About 650 persons and groups provided written comments to the docket, and 220 persons and groups made presentations at the public hearings. The commenters included representatives of groups of handicapped persons, transit operators, local and state governments, and many private individuals. The diversity and depth of these comments have emphasized the importance of this rulemaking for the future of this country's transportation systems and have been invaluable to the Department in making its decisions on the issues.

Analyzing the public response and revising the proposed regulation in light of the many comments has been a time-consuming task which has delayed the issuance of the rule. However, we are

convinced that this time has been well spent, and that the changes made to the rule as the result of the Department's analysis of the comments have significantly improved its provisions.

#### Section-by-Section Analysis

The following portion of the Supplemental Information discusses each section of the final rule. This analysis does not attempt to discuss completely each detailed provision of the regulation. Rather, the discussion pays particular attention to the differences between final rule and the NPRM and provides the Department's response to comments relevant to each section. When cost figures are used, they are expressed in 1978 dollars.

#### Subpart A—General

*Section 27.1 Purpose.* This section, about which no comments were received, is substantively unchanged from the NPRM. It simply restates the language of section 504.

*Section 27.3 Applicability.* This section, also unchanged from the NPRM, states that the rule applies to each recipient of DOT financial assistance and to programs and activities receiving assistance. The only comment on this section suggested that the reference to coverage of programs and activities was redundant. We do not believe that the reference is superfluous, and in any event no problems are created by its inclusion.

While DOT does not intend for this rule to apply retroactively, requirements which become effective on the effective date of this regulation, e.g., certain new construction or the issuance of solicitations for certain new vehicles, will be subject to this rule even if the construction or vehicles were part of a project or contract approved before the effective date of this part.

*Section 27.5 Definitions.* Several definitions were changed from the NPRM. The first change results from a provision of the Comprehensive Rehabilitation Services Amendments of 1978, which deleted from the statutory definition of a handicapped person, as it applies to employment, alcoholics or drug abusers whose use of drugs or alcohol prevents them from performing the duties of a given job or makes them a threat to property or other persons. Consequently, the definition of "qualified handicapped person" has been changed to exclude, for purposes of employment, persons subject to the 1978 amendment. This means that employers are not required to hire drug or alcohol abusers whose condition makes them unable to do the job or

makes them a threat to persons or property.

One comment pointed out that the definition of "passenger" included rail passengers but not passengers in other types of conveyances. This definition has been changed so that it includes passengers in modes other than rail.

In addition, several new terms have been added to the definitions section. In § 27.67(d) of the NPRM, the word "accessible" referred to the "ANSI standards" for purposes of the regulation. The ANSI standards which are published by ANSI, Inc., are detailed specifications for buildings and other fixed facilities designed to ensure that handicapped persons can enter and use the buildings. Because the ANSI standards do not apply to vehicles and other conveyances, a definition of "accessible" has been added to § 27.5. It provides that the term means conformity with the ANSI standards for new fixed facilities. For existing facilities, and for vehicles and other facilities to which the ANSI standards do not apply, the definition requires facilities to be able to be entered and used by handicapped persons. The ANSI standards will be a general guide to accessibility for existing facilities.

Definitions of light rail, commuter rail, and rapid rail systems have been added to the section, as have definitions of fixed route bus systems and public paratransit systems, air carrier airports, mass or public transportation, transportation improvement programs, and urbanized areas.

Because we decided (see discussion of Subpart F) to replace the designation of the Director of the Office of Environment and Safety with the general term "responsible Departmental official," the definition of "Director" has been deleted.

Numerous comments were received with respect to the definitions. One frequently made was that the definition of "handicapped person" did not spell out specifically what a "transportation handicapped person" was. Some of these comments suggested that separate definitions for "handicapped person" be developed for the transportation services and employment contexts. The Department of Transportation must generally use "handicapped person" (paragraph (1) of the definition in the rule), as that term is defined in section 504 and the HEW Guidelines. With respect to the transportation accessibility portions of the rule, the Department's interest centers on persons whose handicap results in a limited ability to use public means of transportation.

In particular, with respect to the mass transportation sections, the transportation handicapped are defined by statute. Section 12(c)(4) of the Urban Mass Transportation Act of 1964, as amended (UMT Act), defines "handicapped person" as "any individual who by reason of illness, injury, age, congenital malfunction, or other permanent or temporary incapacity or disability, including any person who is wheelchair bound or has semiambulatory capabilities, is unable without special facilities or special planning or design to utilize public transportation facilities and services effectively." UMTA's regulations contain virtually an identical definition of those who are covered (49 CFR § 609.3). The Department will construe the provisions consistently with the definition in the UMT Act to the extent feasible. However, the entire definition, which derives from the HEW Guidelines, is needed to specify the class of persons whom the rule protects from employment discrimination. Under these circumstances, a change to the definition is not necessary.

Several persons were also concerned with the inclusion of drug and alcohol abusers in this definition. Including these persons is consistent with HEW policy, and most apprehensions about their inclusion are probably addressed by the 1978 amendments discussed above. This rule does not require that alcohol and drug abusers be included among the persons eligible for elderly and handicapped half-fare programs required by DOT as a condition of receiving assistance under section 5(m) of the Urban Mass Transportation Act of 1964, as amended.

Various comments suggested that the regulation should contain additional terms, such as "violation," "comparable service," and so forth. In our view, the definitions section should be limited to basic terms and should not attempt to deal with what, in effect, are substantive questions better left to other parts of a regulation. The existing list of definitions is sufficiently comprehensive to provide the basic "building blocks" for an understanding of the substance of the regulation.

**§ 27.7 Discrimination Prohibited.** This section sets forth in general terms the requirements imposed upon recipients to avoid discrimination against handicapped persons. The Department's interpretation of § 27.7 on matters of accessibility to programs is set forth in Subparts C, D and E. It is those subpart that, in general, should be looked to for guidance on this subject. Compliance with those subparts satisfies the

requirements of § 27.7 on matters of program accessibility.

This section has been changed from the NPRM in two respects in response to comments. Minor editorial changes were made to subparagraph (b)(1)(vi).

In response to several comments, a new paragraph (c) has been added, incorporating the language of § 85.51(e) of the HEW Guidelines. This language requires recipients to take appropriate steps to ensure that communications with their employees, applicants, and beneficiaries are available to persons with impaired vision or hearing. These steps are likely to be relatively low capital expenditure items which can significantly facilitate the use of public transportation services by hearing and vision impaired persons and improve the employment situation of these persons.

It should be pointed out that the anti-discrimination provisions of this section and § 27.63 not only apply to discrimination between handicapped and non-handicapped persons, but also to discrimination between different classes of handicapped persons. For example, the regulation frequently requires accessibility for wheelchair users. When this standard is used, we intend that the vehicle or facility also be made accessible to persons whose handicap is not severe enough to require the use of a wheelchair (e.g., persons who use crutches or walkers).

One comment questioned the basic statement of § 27.7(a) that no handicapped person, "solely" by reason of handicap, shall be discriminated against under a DOT-assisted program. The commenter pointed out that the parallel provision of the HEW Guidelines does not use the word, "solely," and suggested that the word could lead to abuse. The word "solely" is taken directly from the language of section 504 and is equally appropriate here. Its purpose is to suggest generally that the primary focus of this rule is only upon one type of discrimination; its purpose is clearly not to limit the applicability of this rule to situations in which the discrimination focused upon is the only type of discrimination present.

A few commenters expressed concern that subparagraph (b)(3) was not sufficiently detailed or explicit to prevent denials of regular, mainline service to handicapped persons in situations where special service for handicapped persons also exists. In our view, the existing language is sufficient, and does not need to be expanded.

**§ 27.9 Assurances Required.** The few comments that were received on this section, and the Department's own

reconsideration of the language of the NPRM, centered on paragraphs (b) and (c), which deal with the "flow-through" of the rule's requirements to transferees of property obtained by a recipient with Federal financial assistance. Paragraph (a) has not been changed.

The purpose of paragraphs (b) and (c) is to ensure that, when a recipient sells or transfers property obtained with Federal financial assistance to another party for the same or similar purposes, the transferee will be bound by the obligations of these rules. If such provisions did not exist, it would be theoretically possible for the purpose of the regulations to be thwarted by a property transaction. The NPRM language implementing this purpose was drawn largely from the HEW implementing rules, which in turn were drawn from agency regulations implementing Title VI of the Civil Rights Act of 1964. To clarify these paragraphs, we decided to rewrite them. With one exception noted below, the rewrite is not intended to affect the substance of NPRM language.

Each of the four subparagraphs of the new paragraph (b) covers one of the types or uses of DOT financial assistance. Respectively, they are the direct transfer of real property from DOT to a recipient (e.g., the Federal Aviation Administration (FAA) gives a small rural airport it owns in Alaska to the state government), the use of Federal aid to help a recipient purchase real property (e.g., the acquisition of highway right-of-way by a state highway department), the use of Federal aid to buy personal property (e.g., the purchase of buses by a local transit authority), and use of Federal aid not involving the acquisition of property by a recipient (e.g., operating assistance to a rapid rail system). Where real property is involved, subsequent transferees of the property, as well as the recipient, are bound by the requirements of the regulations as long as the property is used for the purpose of the original Federal assistance or a similar purpose. In the case of personal property, the recipient is bound by the requirements of the regulations as long as it owns or keeps possession of the property. In addition, we have added language to the provision binding the recipient to follow these regulations as long as a transferee of personal property uses the property for a purpose directly connected with the recipient's operations. For example, if a small airport buys a snowplow with Federal aid, it continues to be bound by these regulations if it sells the snowplow to the county government and the county government, using the same

snowplow, assumes the responsibility for clearing the airport's runways of snow. Finally, assistance not used to obtain property obligates the recipient under these regulations only for so long as the assistance continues to be provided.

As one commenter noted, the NPRM did not include a provision—common to the HEW Guidelines and most Federal agency Title VI regulations—allowing the Department to reclaim the property in the event a recipient or transferee violates its obligations in cases where DOT directly conveys property to a recipient. DOT gives land away only in rare instances, to meet a particular government purpose. Therefore, we decided to delete this provision. Other means better suited to enforce the obligations of recipients and transferees, such as conciliation, administrative fund cutoffs, and other means authorized by law (e.g., court action), are, of course, still available.

**§ 27.11 Remedial Action, Voluntary Action, and Compliance Planning.** Subparagraph (c)(2)(3) has been changed to require recipients only to "begin to modify," rather than to "modify" as provided by the NPRM, policies or practices that do not meet the requirements of the rule within the first 180 days of its effective date. This change is intended to make clear that the modifications do not have to be completed within 180 days. The modifications must be completed within one year of the effective date of the rule, however, and this provision has been amended to so state. In addition, in response to a comment, subparagraph (c)(2)(iv) has been clarified by substituting the word "previous" for the word "modified." This change should remove any doubt that the paragraph calls on recipients to eliminate the effects of policies or practices that existed before modifications made to comply with these regulations. Also subparagraph (c)(3) now requires the submission of certain records to the head of the operating administrations only upon request. This change is intended to lessen the administrative requirements of the rule, by eliminating the NPRM's requirement that copies of these records be sent automatically to the Department.

This section drew relatively few comments. One commenter wanted to change the language of subparagraphs (a) (2) and (3) from the responsible Departmental official "may" to the responsible Departmental official "shall" take certain action. Believing that the responsible Departmental official should have discretion in his or

her actions under this section, we decided against this change. Other commenters wanted the regulations explicitly to require recipients to consult with handicapped persons, organizations, advisory committees, or the Architectural and Transportation Barriers Compliance Board. The section (subparagraph (c)(2)) already requires consultation with handicapped persons and organizations representing the handicapped. An additional organizational layer such as an advisory committee, while a step that some recipients may want to take, is not something the Department believes is appropriate to demand of all recipients. Finally, the Architectural and Transportation Barriers Compliance Board is a separate Federal organization with a different statutory mandate from that of the Department of Transportation. It would unnecessarily complicate the planning processes of recipients if the Board has to be routinely consulted in every case. However, the Department does intend to consult with the Board, which is an important resource in this area, in matters affecting its accessibility policies.

**§ 27.13 Designation of Responsible Employee and Adoption of Grievance Procedure.** This section is essentially unchanged from the NPRM. There were two comments of note. One asked that DOT require smaller recipients to have a grievance procedure, or at least retain the option to require such a procedure for them. The Department does not think that this step would be a good idea. Recipients with 14 or fewer employees are small enough to be able to handle most grievances informally. In keeping with the Federal policy of avoiding over-regulation, we think it appropriate to avoid imposing this kind of administrative burden on small recipients. The second comment expressed concern that this section could be interpreted to require persons to exhaust the administrative grievance procedures established by recipients before making a complaint to the Department under § 27.123. The Department encourages the settlement of local grievances by agreement of the local parties involved, and believes that recipients' grievance procedures will be a useful tool in reaching such settlements. However, persons may make written complaints to the Department under these regulations at any time.

**§ 27.15 Notice.** This section is also unchanged from the NPRM. Few commenters discussed this section. One asked for broader distribution of notices

under the section. The Department believes the NPRM requirements are sufficient. Another asked for a specific requirement of distribution to vision and hearing impaired people and others whose handicaps may interfere with communications. This concern is handled by the addition of the new § 27.7(c) to the rule, as well as by the language of section 27.15(e) itself.

**§ 27.17 Effect of State or Local Law.** This section states that the obligation to comply with this part is not obviated or affected by State or local law. It is unchanged from paragraph (a) of the NPRM. The intent of this provision is to indicate that State or local laws which limit or prohibit the eligibility of certain handicapped persons for jobs or services are not an excuse for noncompliance with this rule. Paragraph (b) of the NPRM version of this section said that the obligation to comply with the rule is not affected by the fact that employment opportunities for handicapped persons in some occupations may be relatively limited. Subpart B of the regulation adequately handles the problem of the employment of handicapped employees. Therefore, paragraph (b) appears to be unnecessary and has been deleted.

#### Subpart B—Employment Practices

Many commenters on the employment provisions of the NPRM had an initial concern about its scope, arguing that the definition of a handicapped person in § 27.5 of Subpart A, as it applied to employment, was overbroad. The list of impairments conferring protected status on individuals under the regulation should be pared down, in these commenters' view, particularly to exclude drug addicts and alcoholics from the definition. The definition of handicapped persons used in the NPRM is taken directly from the HEW guidelines (45 CFR 85.31). As noted in the discussion of § 27.5, this definition has been modified to take into account the 1978 amendments to the Rehabilitation Act of 1973, which should eliminate the concern of commenters about the employment of drug abusers or alcoholics. Drug abusers or alcoholics whose condition make them a threat to persons or property or renders them unable to perform their job are not required to be hired. Otherwise, the definition remains as stated in the NPRM.

We emphasize that the prohibition of discrimination against handicapped persons does not mean that people who cannot perform the duties of a job or whose employment is inconsistent with valid safety requirements must be



employed. The Department does want to ensure that organizations to which it provides financial assistance look only at the job-related qualifications of applicants and employees, and do not deny job opportunities to persons because of assumptions or stereotypes about their physical or mental condition or because they are unwilling to make reasonable accommodations to meet the needs of handicapped workers.

**Section 27.31 Discrimination Prohibited.** The first sentence of subparagraph (a)(1) has been changed by adding the words "for employment or an employee" after the word "applicant." This is a clarification to ensure that readers of the rule understand that present employees, as well as applicants, are covered by the prohibition of discrimination, and to distinguish these applicants from applicants for financial assistance.

A number of commenters suggested that this section include language clearly stating that recipients were not precluded from voluntarily taking "affirmative action" to overcome impediments to the employment of handicapped persons. It is not a purpose of the rule to prohibit such voluntary efforts. Therefore, subparagraph (a)(2) has been amended to state that the regulations do not prohibit the consideration of handicap as a factor in employment decisions when the purpose and effect of this consideration are to overcome or remove impediments, or the present effects of past impediments, to the employment of handicapped people.

One commenter interpreted subparagraph (a)(3) to mean that recipients' contractors (e.g., suppliers, construction contractors) were covered by the employment requirements of the regulation. The intent of this provision is simply to require that when a recipient enters into a contractual or other arrangement with organizations (e.g., labor unions or employment agencies) which directly affects the selection of employees or their working conditions, employees are still not to be subjected to discrimination. The Department does not intend through this provision to impose employment practice requirements on contractors performing work or providing supplies to recipients.

One focus of considerable commenter concern was paragraph (c), which provides that a recipient's obligation to comply with the rule with respect to employment is not affected by any inconsistent term of a collective bargaining agreement. This section is straightforward. The rule establishes certain duties (e.g., to make reasonable accommodations for handicapped

workers) which recipients must perform as conditions to receiving Federal financial assistance. Any inconsistency between this requirement and a term of a labor-management agreement does not excuse the recipient from complying with the regulations. To say otherwise would permit recipients and their unions, by collective bargaining agreement, to abridge the rights guaranteed handicapped persons by statute and regulation. While we recognize that this provision may require some adjustments to be made in some labor-management relationships, we believe that the provision is necessary to ensure that the rights of the handicapped under law and regulation are fully respected in all situations.

**§ 27.33 Reasonable Accommodation.** Many commenters representing the handicapped, and transit authorities, asked for the inclusion of more detail and examples in this section. The comments, collectively, evinced uncertainty about what the Department wanted "reasonable accommodation" to be and sought more definitive guidance. We understand these concerns. There are, however, literally multitudes of different recipients, job requirements and kinds of handicaps. Deciding what may constitute a "reasonable accommodation" in a given situation requires consideration of a great many variables involving the recipient, the job and the handicapped employee. Lists of examples of "reasonable accommodations" cannot do justice to this multiplicity of situations, and are likely to be misperceived as representing the sum total of what the regulation requires. Therefore, we decided to leave the final rule language as it was in the NPRM. After experience with the problems of specific recipients and handicapped employees, the Department or the operating administrations may be able to draft advisory guidance containing the kind of detail which the commenters believe to be desirable.

Considerable concern was expressed about subparagraph (b)(3), which provides that reasonable accommodation includes assigning to an alternative job with comparable pay an employee who becomes handicapped after being hired and is unable to perform his or her original duties. Some commenters said that for safety, personnel, or labor-management reasons, this requirement was impractical. The key point is that placement in an alternative position is required only with respect to "qualified" employees; the rule does not require alternative placement of a handicapped

person in a job the employee cannot perform capably or safely. The same point applies to the question of "comparable pay." An employee who is unqualified for a job at the same pay level as his pre-handicap job could be given a new job, for which he or she was qualified, that paid less than the old job. The rule does not require compensation of employees at a level above that which is appropriate for the work they are qualified to do and are doing. Nor does it require the creation of a position which is surplus to the personnel requirements of a recipient, although job restructuring may be a valid response to the needs of handicapped employees in appropriate cases.

Some groups representing handicapped persons, on the other hand, requested that alternative placement be in a position equal to or better than the employee's former job in terms of pay and responsibility. The Department does not think this would be a reasonable requirement.

Some commenters, principally groups representing the handicapped persons, objected to paragraph (c), which sets out factors for the Department to use in determining whether "undue hardship" prevents some kind of reasonable accommodation. These comments viewed this paragraph as a "loophole" in the regulation. The point of this paragraph, which DOT believes to be very important, is that this regulation should not ask a recipient to do what is impossible or unreasonable in a given situation. The regulations forbid discrimination against handicapped employees and require employers to "go the extra mile" of reasonable accommodation to make employment opportunities available. However, the regulation should not forbid employers from taking safety, costs, or operational needs into account in this process.

**§ 27.35 Employment criteria.** This section, which deals with employment tests and other criteria for employment, contained an editorial error which several commenters mentioned. Paragraph (b) has been corrected to read that tests when administered to an applicant for employment "or an employee" with impaired sensory, manual or speaking skills must nonetheless "accurately measure what they purport to measure," i.e., job related skills. Otherwise, this section has not been changed.

Several commenters, principally transit operators, felt that this section put them unfairly into a "guilty until proved innocent" position with respect to employment testing. The criticism is not valid. Under the section, a test or

employment criterion is not questioned so long as it does not adversely affect handicapped persons with respect to employment opportunities. If the test or criterion does have an adverse impact on handicapped persons then the employer must show that the test or criterion is job-related, i.e., actually measures or constitutes a qualification to perform the duties of the position. This process is modeled after the method by which the administrative agencies and courts determine whether an employment test or criterion which disproportionately excludes members of a minority group violates Title VII of the Civil Rights Act of 1964. In each case, the adverse impact on members of a protected group raises a rebuttable presumption of discriminatory treatment. The employer can rebut the presumption by showing that consideration of valid job-related job qualifications is responsible for the disparity in the effect of the test or criterion on the protected group and other people. Turning the presumption around—presuming that a test or criterion which has an adverse effect or excludes handicapped persons is job-related until the handicapped person or the Department shows to the contrary—would be inconsistent with this well-established and important part of equal employment opportunity law.

Two commenters raised a related issue, that of test "validation," asserting that there are no employment tests validated for use by handicapped persons. The concept of validation concerns the relationship of testing materials and job qualifications. A valid test measures an applicant's ability to perform certain duties. (See Uniform Guidelines on Employee Selection Procedures, 43 FR 38290, August 25, 1978). If a recipient's tests are valid and measure only job-related factors, and do not add measures of extraneous factors, then they are valid for blacks, whites, men, women, fully mobile people and persons confined to wheelchairs.

§ 27.37 *Preemployment Inquiries*. This section, which is fashioned after the HEW Guidelines (45 CFR 85.55), has not been changed from the NPRM. Several objections to this section were based on fears that it could impede medical examinations and inquiries that are necessary for safety and, in some cases required by other DOT regulations (e.g., 49 CFR Part 391, subpart E, relating to physical examinations for drivers employed by motor carriers). In the case of motor carrier driver positions, all applicants are required by DOT regulations to take physical examinations, and are not considered

qualified to drive unless they meet the minimum, criteria specified by Part 391. If a person is not physically qualified to drive, then a recipient's failure to hire the person does not violate this part.

To clarify this point, language was added to the last sentence of paragraph (a) specifying that preemployment medical examinations required by Federal law or regulation are permitted. Other pre-hire inquiries into an applicant's ability to perform job-related functions are also permitted. In any event, an offer of employment may be conditioned on the results of a medical examination conducted before the hired employee reports for work, so long as all similarly situated employees must take such an examination.

#### Subpart C—Program Accessibility—General

§ 27.61 *Applicability*. Language has been added to this section to specify that the provisions of Subpart C should, where possible, be interpreted to be consistent with the provisions of Subparts D and E, which concern the specific modes of transportation receiving financial assistance from the Department. In cases of apparent conflict, however, the section provides that the standards of Subpart D and E shall prevail. This section is otherwise unchanged from the NPRM.

§ 27.63 *Discrimination Prohibited*. This section has not been changed from the NPRM.

§ 27.65 *Existing Facilities*. This section requires recipient's programs and activities to be accessible, discusses methods for achieving accessibility, sets a three-year deadline for making structural changes needed to ensure accessibility (different deadlines may be provided by subparts D or E), instructs recipients to prepare "transition plans" with respect to making structural changes, and requires recipients to make provision for informing handicapped persons of the availability of accessible facilities and services.

Several changes were made to paragraph (d) of this section. Along with a copy of their transition plans, recipients must now make available to the public a list of the persons and organizations consulted as part of the required public participation process. This addition is intended to permit the public to scrutinize the effectiveness of the recipient's efforts to involve the public, and handicapped persons and their organizations in particular, in the planning process. A new subparagraph (d)(1) adds to the required contents of the transition plan a listing of each facility required to be modified under

the regulation. Facilities must be listed even if the recipient contemplates requesting from the Department a waiver of the requirement to modify them. Other parts of the subparagraph require planning for the modification of all listed facilities in the transition plan. These requirements are intended to ensure that recipients plan to modify all facilities required to be modified by the regulations. This planning requirement ceases to apply only if a waiver is granted for a given facility.

Some commenters suggested the discussion of "program accessibility" in paragraph (a) should specify that so long as mobility through use of some of the components of an area's overall transportation system is available to handicapped persons, program accessibility has been achieved. The HEW guidelines require, and DOT's policy supports, making all modes of transportation accessible for all persons, regardless of handicap. Consequently, we did not adopt their suggestion. Another comment, asking that existing facilities not be required to be made accessible, was not adopted for the same reason.

Some comments suggested that the regulation in all instances specify that facilities and programs be "usable by" as well as "accessible to" the handicapped. This change is unnecessary. The rule's definition of "accessible" refers to the ANSI standards for new facilities and requires vehicles and existing facilities to be able to be entered and used by handicapped people. The definition of "accessible" includes the concept of "usability" and the absence of the word "usable" in some places in the regulation does not mean that a facility that handicapped persons can enter but cannot use will be in compliance.

Two commenters suggested that more examples be added to the methods of achieving program accessibility in paragraph (b). We think the existing language, particularly given the proviso calling for use of "any other methods" in appropriate situations, is broad enough. Given the applicability of the ANSI standards, specific inclusion of examples of nonstructural changes in this paragraph is unnecessary.

One commenter added that, consistent with § 84.22(d) of the HEW Guidelines, the regulations should require recipients to make nonstructural changes within 60 days. The § 84.22(d) which the commenter cites is part of HEW's own rules implementing section 504 for HEW-funded programs and is not binding on DOT. Nothing in the HEW Guidelines sets a separate

deadline for nonstructural changes. In addition, as a practical matter, we do not believe that such a short deadline is advisable.

Several comments contended that paragraph (d) should require transition plans to be submitted within 6 months, as HEW requires, rather than a year. The 6-month HEW requirement mentioned is part of HEW's Part 84 implementation rules for its own program. Its Part 85 guidelines for other agencies leave the schedule for transition plans to the discretion of each agency. In our view, a year is a reasonable time to allow most DOT recipients to plan for the often difficult and costly changes that will have to be made; for some recipients an 18-month period is allowed (see § 27.103, transition plans for rapid rail systems).

**§ 27.67 New Facilities and Alterations.** This section establishes general requirements for accessibility to facilities which are constructed or altered after the regulations go into effect, and applies the ANSI standards to this construction or alteration.

The Department has changed this section from the NPRM in a number of respects. As a clarification, paragraph (a) now states that facilities must be designed, constructed and "operated" in a manner so that they are accessible. This paragraph now also specifies that the accessibility requirement applies to vehicles ordered or leased after the effective date of the regulation, unless otherwise provided in Subpart D or E.

Some clarifications in paragraph (a) suggested by commenters—for example, that all components of a transportation program, train cars as well as station platform, be made accessible—are not needed because other portions of the regulation state the requirement. Objections to the proviso in paragraph (b) that alterations of facilities should be made accessible "to the maximum extent feasible" appear to be based on the assumption that this phrase dilutes the rule's mandate for accessibility. This assumption is incorrect. DOT is committed to the goal of accessibility, but wants to make clear that it is not demanding that recipients make changes which are simply not feasible (e.g., changes for which technology is not available or changes which would cause a dangerous weakening of a structure).

Paragraph (b) requires certain buildings to conform to the requirement of physical accessibility in paragraph (d). If an alteration is made to a portion of a building the accessibility of which could be improved by the manner in which the alteration is carried out, the alteration must be made in that manner.

Thus, if a doorway is being altered, the doorway must be made wide enough to accommodate wheelchairs. On the other hand, if the alteration involves ceilings, the provisions of this section do not apply because this alteration cannot be done in a way that affects the accessibility of the building.

Paragraph (b) is based on the belief that alterations present opportunities to design and construct the altered portion or item in an accessible fashion. It should be noted that paragraph (b) applies only to the altered portion or item of a fixed facility. Thus, a stair renovation to meet the ANSI standard does not impose a requirement for elevator installation since an elevator is not within the scope of the stair alteration project. Paragraph (b) does not create the obligation to install an elevator in an existing fixed facility which has no elevator. The basic requirement in paragraph (b) is simply to take the opportunities afforded by the alteration and, to the maximum extent feasible, use the alteration to make the facility accessible. Thus, normal maintenance may take place in practically all cases without generating an accessibility requirement.

In sharp contrast to paragraph (b), the sections on specific mass transportation systems (§§ 27.85-27.93) effectively do require the installation of elevators or other level change mechanisms in fixed facilities which have no elevators. However, because of the transition plan requirement applicable to those sections, all of a system's fixed facilities (for example, all stations in a rapid rail system) are examined at once and a rational phasing can occur.

A new paragraph (c), covering renovations of existing vehicles, has been added. This paragraph was § 27.97(b) of the NPRM, and was relocated from Subpart E to this section because it applies to modes other than those covered by Subpart E.

This paragraph provides that renovating efforts which prolong equipment useful life must include retrofit accessibility efforts. This paragraph recognizes that existing buses, rail cars, and other rolling stock are likely candidates for renovation and upgrading, and that such fleet maintenance investments might preclude the timely replacement of inaccessible equipment by accessible new equipment. Retrofit accessibility is not required for routine maintenance activities or for limited modifications to vehicles that are unrelated to the transportation of passengers (e.g. replacement of roofs, addition of new wheels).

Three commenters noted that some state standards (e.g., the Massachusetts Architectural Barriers regulations) may be more stringent than the ANSI standards applied by subparagraph (c). In order to comply with the rule, recipients must ensure that their facilities meet this regulation's accessibility requirements. Nothing in this regulation, however, would relieve recipients of their obligations to comply with state or local regulations which may be more stringent than the ANSI standards.

The statement "When used in this regulation, 'accessible' refers to these standards" in paragraph (d) has been deleted. Since this sentence states a definition of a term applicable throughout the regulation, it has been replaced by a substantially identical definition of "accessible" in § 27.5 in Subpart A.

The Department believes that it is probable that when the updated and revised ANSI standards are promulgated, the Department will use them as a reference to replace the current ANSI standards in this regulation. However, the Department decided to delete the statement that the new ANSI standards will be adopted from paragraph (d), because a statement of probable future action by the Department is not appropriate in the text of a rule. Also, the statement of the address from which copies of the ANSI standards are obtainable has been deleted from this paragraph; the information may be found in a footnote to the definition of "accessible" in § 27.5.

One commenter expressed concern that the portion of paragraph (d) which permitted departures from particular requirements of the ANSI standards, when equivalent access to the facility involved is provided by alternate means, might encourage recipients arbitrarily to ignore the ANSI standards. Given the wide variety of facilities and modification problems recipients will have to deal with under this regulation, we believe that it is reasonable to permit some flexibility in the choice of means to achieve accessibility. The language of paragraph (d) permits deviation from the ANSI standards only when it is "clearly evident" that equivalent access will be provided. This strong requirement, which will be backed by the Department's enforcement process, should be a sufficient safeguard against arbitrary decisions to deviate from the ANSI standards in situations in which those standards apply.

The Architectural Barriers Act of 1968, as amended (42 U.S.C. 4151 et seq.), directs the General Services Administration (GSA) to prescribe accessibility standards for the design, construction, and alteration of "buildings," a term defined in the statute. GSA has promulgated a regulation (41 CFR Subpart 101-19.6) to carry out its responsibility under the statute. New fixed facilities (e.g. transit stations) and alterations to existing fixed facilities which are funded by a grant or a loan from this Department are generally covered by that regulation.

The Department's section 504 regulation does not supersede GSA's regulation. However, § 27.67 of the section 504 regulation expresses the basic requirement of GSA's regulation, and if a recipient complies with § 27.67, it generally will have satisfied the requirements of the GSA regulation. The Department intends to administer the two regulations as consistently as possible, for we believe that the two are basically consistent.

**Subpart D—Program Accessibility Requirements in Specific Operating Administration Programs: Airports, Railroads, and Highways**

This subpart applies section 504 to the transportation facilities and programs receiving financial assistance from the Federal Aviation Administration (FAA), Federal Railroad Administration (FRA) and Federal Highway Administration (FHWA). In the near future, the Department will issue a notice of proposed rulemaking concerning the application of section 504 to programs receiving financial assistance from the National Highway Traffic Safety Administration. Urban mass transit programs are addressed by Subpart E.

**Section 27.71 Federal Aviation Administration—Airports.** The Department has made a number of substantive and editorial changes in this section. The most significant concerns the use of the term "air carrier airports," which is defined in §27.5 to mean airports served by certificated air carriers, except those airports which are served solely by air carriers using aircraft with a passenger capacity of less than 56 persons or cargo service using solely aircraft with a payload capacity of less than 18,000 pounds. Any airport that receives Federal funds for terminal facilities is deemed to be an air carrier airport.

The portion of this section that requires boarding devices (such as lifts or ramps) that are not ordinarily used for other purposes (such as freight loading) to be reserved for the boarding

of handicapped passengers now applies only to air carrier airports. All airports receiving Federal funds must provide boarding assistance to handicapped passengers; airports that are not air carrier airports may do so with lifts, ramps and other devices that are used for other purposes, however.

These requirements replace provisions of the NPRM that limited any requirement for boarding assistance to airports enplaning more than 10,000 passengers a year. In response to comments from handicapped persons and their groups, the Department decided to require assistance incident to boarding at all airports. However, the Department also felt that at very small airports—those outside the "air carrier airport" category—it was reasonable to avoid requiring the purchase of equipment reserved for the use of handicapped persons. In the context of these very small airports, such a requirement would not be cost-effective. Therefore, subparagraphs (a)(2)(v) and (b)(2)(iv) and (v) have been amended to delete the 10,000 enplanement threshold and to insert the new requirements.

Paragraph (a) now provides that terminal facilities constructed "by or for the use of" a recipient of Federal airport aid funds must meet the enumerated accessibility standards. In the NPRM, this provision applied accessibility requirements to terminals constructed "with" Federal funds. The language of the final rule is broader. The Department believes that all terminals constructed by or for airports that receive Federal funds (e.g. for runway improvements), not only terminals actually constructed with Federal funds, should be accessible. Similar changes have also been made for other modes (e.g. intercity rail passenger service).

In paragraph (a)(2)(i), the final regulation adds the word "entrance" to ensure that handicapped persons can readily enter, as well as move around, airport terminals.

In addition to this substantive change, certain editorial changes were made throughout this section. The words "airport terminal" or "terminal" were used to replace the use of the word "station", which we felt to be confusing as applied to airports. The term "wheelchair-confined" was changed to "wheelchair users". This responded to comments that suggested that the term "wheelchair-confined" had unnecessarily negative connotations.

Three of the specific substantive requirements of the section have been changed from the NPRM. Subparagraph (a)(2)(vi), concerning the provision of teletypewriter (TTY) service, has been

rewritten. It now provides that each airport shall make available TTY service sufficient to ensure that hearing-impaired persons using TTY equipment are able to communicate readily with airline ticket agents and other personnel. The rewritten provision makes clear that it is the airport which is charged with ensuring that TTY equipment is available. If air carriers have TTY machines which are used, or shared, so as to permit TTY users to communicate readily with ticket agents and other personnel of all carriers, further action by the airport operator may be unnecessary. Where there is not now sufficient TTY capacity, the airport operator is responsible for providing this capacity, either by providing its own equipment or persuading its air carriers to do so. The FAA estimates that in order to provide the capacity required by the rule, 75 large and medium-sized airports will require an average of 4 TTYs; the 94 small airports an average of two; and the 451 smallest airports only one TTY each.

A few comments favored the provision of interpreters at airports instead of the provision of TTY equipment. The use of interpreters would not serve the principal purpose of the TTY provision, which is to provide hearing-impaired people with a substitute for the telephone in order to make reservations and ask for information. A few commenters also wanted greater detail in the provision for passenger assistance, such as requirement for special attendants to help handicapped people with baggage. In our view, the NPRM language is sufficiently explicit. Some commenters also wanted to add detail to the parking facilities provision of the section, such as a requirement of discounted fees for spaces reserved for handicapped persons. Such a requirement, in our view, is outside the scope of this rulemaking aimed at equalizing accessibility.

In response to a comment from a group representing handicapped persons, the last sentence of subparagraph (a)(2)(xi) has been rewritten to say that terminals shall have printed information in a tactile form. Airports may substitute a toll-free information telephone service for this tactile information service. Terminals must also provide information orally, in order to provide information to blind persons. Finally, the NPRM provided that guide dogs must be permitted on all certificated aircraft as well as in terminals. The requirement has been deleted with respect to aircraft for the reason that, as a requirement pertaining

to the accessibility of aircraft interiors, it was more appropriately dealt with by forthcoming rules of the Civil Aeronautics Board.

Many comments from handicapped individuals or groups representing them asked that the rule specifically require airlines to carry handicapped travelers, modify aircraft cabins for greater accessibility, and improve services to handicapped persons. The NPRM contained, and the final rule retains, requirements relating to boarding devices, ticket counters, baggage check-in and retrieval, and teletypewriters, all of which are owned and operated by the airlines at most airports. Following publication of the NPRM, representatives of the DOT, FAA, HEW, and the Civil Aeronautics Board (CAB) met to discuss the respective legal authority and responsibilities for improving the accessibility of air travel to handicapped persons. Following this meeting, the CAB determined that it had statutory authority to issue regulations governing air transportation of handicapped persons, both under section 504 of the Rehabilitation Act and under sections 404 and 411 of the Federal Aviation Act.

Recently, the CAB advised the Department that a rulemaking project was underway to implement these sections. Action by the CAB which would ensure the uniform provision of services and equipment by the airlines, needed to accomplish accessibility to air travel for handicapped persons, could obviate the need for airport operators to provide the same services directly or indirectly, through their leasing arrangements with the airlines.

Accordingly, as CAB rules become final, the Department will review the requirements presently contained, in § 27.71 to determine whether these provisions are duplicative or unnecessary, and if appropriate, will amend the rule to modify or remove such requirements.

Two commenters objected because the NPRM did not change 14 CFR 121.586 and 135.81. These regulations implement section 1111 of the Federal Aviation Act of 1958, as amended (49 U.S.C. 1511). Section 1111 provides that subject to FAA regulations, air carriers may refuse transportation to passengers when, in a carrier's opinion, transporting the passenger would or might be inimical to the safety of flight. The CFR sections cited limit the discretion of carriers under this statute and provide that special safety briefings be given to persons who require assistance in entering or leaving aircraft. Section 504 of the Rehabilitation Act does not

purport to repeal or modify section 1111, which is exclusively a safety statute.

Comments were received on a number of other specific portions of the terminal standards. Most comments on the waiting area/public space security provision supported the NPRM language, and the language has not been changed. A comment pointed out that the provision on curb cuts erroneously referred to 8.33 "degrees" rather than an incline of 8.33 "percent." The reference has been corrected. Most commenters favored the provision requiring guide dogs to be permitted to accompany their owners in terminals. One commenter thought that the provision might violate state and local health codes. Guide dogs are exempted from virtually all state and local laws or regulations banning animals from public places on health or safety grounds. This provision has not been changed.

Some commenters wanted volume controls attached to all telephones. The provision of the NPRM, which requires at least one volume controlled telephone in all public telephone centers (i.e., groups or clusters of phones) in terminals, should be sufficient to meet the needs of hearing-impaired persons. We have not adopted comments that volume controlled phones should be installed in special locations. Besides being contrary to the goal of integrated service for handicapped persons, carrying out this suggestion would cause the specially equipped phones to be available in fewer locations in the airport and therefore less convenient for hearing-impaired people. One comment suggested that the volume controlled phones be available to wheel chair users. Subparagraph (a)(2)(xii) has been amended to specify that telephones are among the public services that must be made accessible according to the ANSI standards.

The Department expects airports to ensure that these requirements for wheelchair-accessible phones and phones usable by hearing-impaired persons provide service for all handicapped people. Consequently, the wheel-chair-accessible phones should have the hearing assistance features, to serve wheelchair users who have hearing impairments.

Some comments asked whether the provisions of the rule apply to concessionaires and other tenants at airports. The requirements of the rule apply to those parts of airport facilities used by concessionaires and other tenants in the same way they apply to the parts of the airport directly under the airport operator's control. That is, terminal facilities designed or

constructed after the regulation becomes effective must be accessible, including the parts of the facility to be used by concessionaires and tenants. With respect to existing facilities, only those portions of the facilities used by tenants which are directly concerned with the provision of air transportation services (e.g. ticketing, baggage handling, or boarding areas) must be made accessible within the three-year period. However, if a terminal reconstruction results in significant renovation of space used or to be used by concessionaires (e.g. restaurants, stores), then this space must be made accessible.

§ 27.73 *Federal Railroad Administration—Railroads.* This section applies to passenger railroad service receiving Federal financial assistance through the Federal Railroad Administration (principally the National Railroad Passenger Corporation's Amtrak service). Amtrak commented extensively on the section, and other comments were received from state departments of transportation and handicapped individuals and groups representing them.

*Subparagraph (a)(1)—New fixed facilities.* Relatively few changes have been made to the language of the NPRM in this subparagraph. Most of these changes are purely editorial (e.g., the deletion of the words "referenced in § 27.67(c)" following "ANSI standards" in (a)(1)(i)). There were a few minor substantive changes as well. In (a)(1)(ii)(A), the first sentence was deleted as unnecessary. The subparagraph now begins by saying that "station design and construction" must permit the efficient movement of handicapped persons through the station. In (a)(1)(ii)(B), the word "wheelchair" has been deleted, causing the provision to state that the international accessibility symbol must be displayed at "accessible" entrances. The word "wheelchair" is not needed in this context. The last sentence of (a)(1)(ii)(E) now provides that when level-entry boarding is not provided, lifts, ramps or other suitable devices must be provided to facilitate entry into trains by wheelchair users. This clarifies the meaning of the provision. The provision regarding teletypewriter (TTY) service [(a)(1)(ii)(G)] for the hearing impaired was rewritten to be consistent with the parallel provision in the standards for new airports. It now provides that recipients shall make available a toll-free reservation and information number with TTY capabilities to permit hearing impaired persons using TTY equipment to readily obtain information or make reservations

for any services provided by a recipient. The intent of this requirement is that a person with TTY equipment anywhere in the country should be able to call a reservation number to make reservations for or get information about any service provided by a recipient. The parking spaces required of (a)(1)(ii)(I) has been corrected to refer to an 8.33 "percent" rather than "degree" grade. In the same provision, the term "wheelchair confined" has been changed to the term "wheelchair users." The provisions regarding telephones, station information, and public services have been changed in the same ways, and for the same reasons, as the parallel provisions of the airports section of the subpart. In addition, the language of (a)(1)(ii)(E) has been clarified. The provision now requires lifts, ramps, or other suitable devices "where level-entry boarding is not provided."

This subparagraph was not controversial, and the only comment suggesting change recommended that the reference to giving handicapped people "confidence and security in using the facility" [(a)(1)(ii)(J)] be deleted because it might lead to over-protectiveness of handicapped persons on the part of recipients. We think that this general requirement is not likely to produce any ill effects upon handicapped people, and have decided to retain it.

**Subparagraph (a)(2)—Existing Facilities.** This subparagraph was the most controversial part of the railroads section of the rule, and has been revised extensively in response to comments. The heart of the subparagraph, (a)(2)(ii), structural changes, has been rewritten. In the NPRM, this provision required all existing stations to be made accessible within five years of the effective date of the section. However, a recipient could request an exemption for up to ten percent of its stations which have the lowest utilization rates.

Amtrak asked for a 10-year compliance period, requested that only one station be required to conform to the regulations within any large urban area, and said that stations outside of urban areas should not have to conform if there is another station appropriately modified within 50 miles. Amtrak also questioned the utility of the provision of the NPRM permitting recipients to ask for an exemption from the accessibility requirement of up to 10 percent of its least used stations, noting that because of route restructuring proposals it is likely that stations and communities served are likely to change. Two state transportation agencies also opposed the 10 percent exemption provision, one

of which suggested that it be modified to be based on specific criteria (e.g., low utilization, high costs for modification) rather than tied to a percentage.

The final rule incorporates many of these comments. Subparagraph (a)(2)(ii) now simply states that stations shall be modified to make them accessible. A new subparagraph (a)(2)(iii) sets forth a phased timetable for achieving accessibility. This timetable establishes a system analogous to the key station concept which is used for rapid rail stations, described in Subpart E of the rule. Within five years of the effective date of the section, a recipient must make accessible at least one station in each Standard Metropolitan Statistical Area (SMSA) it serves. An SMSA is an area defined by the Bureau of Census as including a city of 50,000 or more population and its surrounding county or counties. Where there is more than one station in an SMSA, a recipient shall select the most heavily used station, in terms of passenger volume, for this first-phase modification. Within 10 years of the effective date of this section, a recipient shall make the other stations in the SMSA accessible. This provision retains the concept that all stations be made accessible. However, it permits a recipient to spread the costs of modification out over a longer period of time, while also ensuring that the most important station in an urban area will become accessible within a five-year period.

The key station concept used in the final rule also applies to rural stations. Within five years, a recipient must make accessible all stations located outside SMSAs that are not located within 50 highway miles of an accessible station. If there are two or more stations located within 50 highway miles of one another, the recipient is directed to choose the station with the highest passenger volume for the first-stage modification. Remaining stations must be modified within 10 years from the effective date of the section. Again, the intent of the rule is to spread the cost to the recipient of modifying all stations over a longer period of time, while still ensuring that key stations in rural areas are available to handicapped persons within a moderate distance.

The 10 percent exemption provision has been dropped in favor of a new waiver provision [(a)(2)(iv)]. The waiver provision permits a recipient to petition for a waiver within six years from the effective date of the section from the requirement of making any "second-stage" station (i.e. one of those stations which does not have to be modified within five years) accessible. A six-year

period is allowed because it will permit recipients and consumers at least a year after first-stage modifications have been completed to gather information and views concerning the impact of waiving the requirement of modifying second-stage stations.

In order to get a waiver for a particular station, a recipient will have to submit a written justification to the Federal Railroad Administrator. The justification must include the record of a community consultative process, including a transcript of a public hearing and consultation with handicapped persons and their organizations in the affected area. Before granting a waiver for a particular station, the Administrator and the Interstate Commerce Commission will evaluate the potential for high utilization by handicapped persons, considering, among other factors, the cost of making necessary modifications, the availability of alternative accessible service to transport handicapped persons from the affected area to accessible stations, and other factors which may be pertinent. The record of the community consultative process will also be reviewed as part of the Department decision-making process. The final decision on the petition for waiver, as provided in the NPRM, will be made jointly by representatives of FRA and the Interstate Commerce Commission. If the two agencies do not agree, the waiver request will be denied.

Amtrak also requested that it not be required to modify shops, restaurants and other facilities in stations that are not directly connected with the provision of rail transportation. The rule's provisions for railroad station concessionaires are the same as for concessionaires at airports, which do not require most concession facilities to be made accessible in existing stations. Another Amtrak proposal called for the rule to allocate costs among recipients of federal funds in proportion to the passengers each recipient serves in a jointly used facility. For example, if Amtrak, a commuter rail operation, and a rapid rail system all use the same train station, Amtrak's proposal would prorate the cost of needed modifications among the three recipients of DOT funds based on how many passengers of each entity used the station. The problem of allocating costs and allocating modification responsibilities among recipients jointly using the same facility is a difficult one. The Department of Transportation has decided to defer resolution of this problem, since it was not explicitly raised by the NPRM. We



anticipate taking action in the near future to address this problem.

**Paragraph (b)—Rail Vehicles.** Amtrak requested that this provision require program accessibility for rail vehicles (i.e. one accessible car per train) to be accomplished in five years rather than in three years, as proposed by the NPRM. It argued that given vehicle orders already made to manufacturers for inaccessible equipment, the three-year deadline would be very difficult and excessively costly to meet through acquisition of new vehicles, and would require the retrofiting of many old vehicles with lifts. We have accepted the five-year suggestion which is consistent with the rule's five-year deadline for key station accessibility. As a general matter, the Department believes it advisable to avoid the necessity for retrofitting old equipment wherever possible. Only two changes have been made in paragraph (b). A sentence in (b)(2)(iii), stating that if a recipient cannot meet the accessibility requirements of the provision it must either retrofit existing equipment or purchase new accessible equipment has been deleted because it is obvious. Subparagraph (b)(3) has been clarified to state that all new rail "passenger" vehicles purchased after the effective date of the section have to be accessible. There is no intention that the rule apply to non-passenger rail vehicles.

There were relatively few comments on this provision. Some commenters suggested that it would be advisable to require, when a train has an accessible coach and an accessible food service car, that the two accessible cars be adjacent to one another. This arrangement of cars in a train is a sensible idea, which Amtrak should implement where possible.

We also want to emphasize that in making restrooms accessible, and in providing services to handicapped persons generally, recipients should ensure that the dignity and privacy of handicapped persons are respected.

**Paragraph (c)—Rail passenger service.** There are three substantive changes in this paragraph. One concerns the notice required before "on-call" assistance will be provided to handicapped passengers. Persons requiring the service of an attendant must give 24 hours advance notice in order to receive assistance, compared to the 12 hours required by the NPRM (subparagraphs (c)(3) and (c)(8)(ii)). This change was requested by Amtrak and supported by some state transportation agencies. In our view, the longer period is more reasonable in terms of

scheduling personnel to assist handicapped persons. The necessity of notifying Amtrak an extra 12 hours in advance should not prove an unreasonable inconvenience for handicapped persons. Most people make intercity travel plans and reservations at least a day in advance in any event; requests for assistance could easily be made at the same time as reservations. For the same reasons, the advance notice for other handicapped persons requiring assistance has been lengthened from three to twelve hours ((c)(3)).

Subparagraph (c)(2), in the final sentence, provides that persons who need to travel with an attendant include those who cannot take care of "any one" of their fundamental personal needs (e.g. eating, elimination), rather than those who cannot take care of "most" of these needs, as the NPRM provided. The NPRM language might have led to uncertainty as to how many fundamental needs a person could not take care of before an attendant was required. While we agree with a commenter who pointed out that a person who needs an attendant is unlikely to travel without one, we believe this provision should be retained to clarify the obligations of recipients. Though another commenter asserted that the term "fundamental personal needs" is too ambiguous to remain in the regulation, we believe that the intent and meaning of this provision are clear enough to inform both recipients and potential passengers of their responsibilities.

The third change to this paragraph is in (c)(9), where the waiver of recipients' obligation to carry handicapped passengers has been limited to passengers using life support equipment that would depend upon the vehicle's power system. This change recognizes that failure of a vehicle power system, and the consequent failure of the life support system, could pose high risks of liability for the recipient. However, recipients should carry passengers with other kinds of life support equipment that can reasonably be carried onto and suitably placed within a passenger car.

In order to clarify the relationship between subparagraphs (c)(3) and (c)(8)(ii), the requirement of (c)(3) that recipients assist persons confined to bed or a stretcher has been deleted. Subparagraph (c)(8)(ii) is now the only provision governing the carriage of stretcher-bound or bedridden passengers.

Subparagraph (c)(13) of the NPRM, which concerned the effective date of the regulations, has been deleted. The

effective date of the intercity rail portion of the rule is now the same as for the rest of the regulation. A new (c)(13) has been added which requires recipients to provide information and training to their employees concerning the proper implementation of the regulation. This provision is designed to ensure that employees of recipients understand their obligations to handicapped passengers and meet these obligations in a well-informed and sensitive manner.

A number of other comments pertained to passenger service. Amtrak requested further elaboration of the "qualifications" of handicapped persons who could not be denied service, suggesting the addition of a criterion such as "able to travel without endangering their own and others' safety." We do not believe that such a criterion is desirable, because it would be difficult to enforce fairly and consistently. Amtrak also suggested that recipients identify in timetables where assistance is not available (e.g. flag stops, closed stations). We think this is a good idea, which Amtrak can implement without a regulatory requirement.

A state transportation agency suggested that the rule address such issues as potential liability to handicapped persons, job descriptions for persons who assist handicapped passengers, and union regulations that may affect assistance to the handicapped. We believe these issues are outside the scope of this rulemaking, and, properly speaking, are not regulatory issues at all. In addition, all these factors are likely to vary considerably among states and localities, and so are not easily susceptible to nationwide rule.

**§ 27.75 Federal Highway Administration—Highways.** The language of this section has been changed from that of the NPRM in three respects. The reference to § 27.67 in subparagraph (a)(1) and the final sentence of that subparagraph have been deleted, because the term "accessible" is now defined in § 27.5 for new facilities by reference to the ANSI standards. In subparagraph (a)(3)(ii), a minor substantive change has been made. The NPRM permitted exceptions to the requirement of making pedestrian overpasses, underpasses and ramps accessible where it is infeasible for mobility-limited persons to reach the facility because of "terrain" obstacles unrelated to the Federally assisted facility. To be consistent with the language of a January 23, 1979, agreement between the Federal Highway Administration (FHWA) and

the Architectural and Transportation Barriers Compliance Board (A&TBCB) on the subject of pedestrian overpasses, underpasses and ramps, we have substituted for the "terrain obstacles" the words "unusual topographical or architectural obstacles". This language points out that man-made as well as natural obstacles can preclude access to a facility and also emphasizes that, in order to except a facility from the accessibility requirement, the obstacle in question must be beyond the ordinary scope of highway engineering problems. Obstacles able to be overcome with ordinary engineering and construction effort by a state highway department should not form the basis for an exception.

Several state transportation agencies asked for clarification on whether all existing rest area facilities on Federal-aid highways, regardless of the involvement of Federal funds, are required by subparagraph (b)(1) to be made accessible. All existing rest areas on Interstate highways, where the vast majority of rest areas already are accessible, must be made accessible to the handicapped. On other roads, where the patterns of rest area placement and funding are more irregular than on the Interstates, existing rest areas will be made accessible when they are improved using Federal funds, or when the road on which the rest area is located is improved with Federal funds in the area directly in front of the rest area or in the near vicinity (roughly within a mile) of it.

The question of overpasses, underpasses, and ramps for pedestrians was the subject of more comments than any other part of this section. Comments were fairly evenly divided among those who felt that the 10 percent maximum gradient proposed by the NPRM was too steep (principally handicapped persons and groups representing them) and those who felt that a higher gradient was more reasonable (principally transportation agencies). Both concerns are valid. For wheelchair users, particularly those whose arms and upper body are not strong, wheeling a chair up a 10 percent grade, while possible, may be a laborious task. On the other hand, the length of the ramp necessary for maintaining the 8.33 percent gradient set forth in the ANSI standards means that more land may have to be acquired for the facility and that persons other than wheelchair users, unwilling to take the time to use the extended ramps, may simply cross the highway at grade, diminishing the safety advantage for which the pedestrian facility was built. The length of the ramp, in itself, may

also constitute a barrier to wheelchair users. Faced with these conflicting interests, we decided to keep the 10 percent gradient proposed by the NPRM. We believe that this is a reasonable compromise which achieves some, though not all, of the legitimate goals expressed by both groups of commenters.

DOT and FHWA will encourage state highway departments to construct pedestrian facilities with an 8.33 percent gradient whenever it is feasible. For example, where there is sufficient space, barriers (e.g., fences around Interstate highway rights-of-way) to prevent pedestrians from crossing at grade, or where there are heavy concentrations of elderly people in an area, we believe that the 8.33 percent gradient is a good idea. This policy is one which we believe it best to implement through the normal highway project planning process, however, rather than through a mandatory, across-the-board regulation.

The regulation does not require existing pedestrian facilities to be made accessible. However, the FHWA-A&TBCB agreement referred to above provides that FHWA will establish a program urging the states to create an inventory of overpasses and underpasses constructed or altered with Federal-aid funds after September 2, 1969. The states will also be urged to pinpoint overpasses and underpasses in need of modification, under criteria to be developed by FHWA and the A&TBCB. FHWA will urge each state to establish a timetable for making needed modifications.

Several commenters raised the question of the meaning of the word "constructed", in subparagraph (a)(2), which requires that all pedestrian crosswalks "constructed" with Federal financial assistance to have curb cuts. This provision expressly relies on 23 U.S.C. 402(b)(1)(F), which requires curbs "constructed or replaced" on or after July 1, 1976 to be accessible to wheelchair users and other physically handicapped persons. In other words, if there is a physical alteration or repair to an existing curb, or a new curb is put in place as a result, for example, of a project to widen a street or remodel an intersection, curb cuts are a required part of the project at crosswalks. Projects not physically affecting the curb itself—such as painting crosswalk lines over the curb—may be carried out without adding curb cuts.

Several groups representing handicapped persons and various individual commenters asked that curb cuts be required in all existing curbs on Federal-aid highways, or at least in

proximity to bus or rapid rail stops. As stated above, a specific statutory provision addresses the question of curb cuts. We believe that this provision is sufficient.

One commenter feared that the incorporation of the ANSI standards into this section might require highway departments to follow some highly unconventional engineering practices, such as having a sidewalk gradient of five percent adjoining a street with a gradient of 10 percent. We do not intend to require that sidewalk gradients differ from the gradients of the adjacent roadways.

Organizations representing the blind expressed concern over the impact upon blind people of "right turn on red" programs and what they perceive as the phasing out of audible traffic signals. These concerns were not addressed by the NPRM and are outside the scope of this rulemaking.

#### **Subpart E—Program Accessibility Requirements in Specific Operating Administration Programs: Mass Transportation**

**§ 27.81 Purpose.** The substance of this section is unchanged from the NPRM, and simply states that the subpart implements section 504 and other statutes applicable to this section. The substance of the NPRM's § 27.83, "Objective," has been merged into this Section. Section 27.85 of the NPRM, "Scope," has been deleted as unnecessary. Section 27.87 of the NPRM, "Definitions," has also been deleted. The definitions it stated have been shifted to § 27.5 in order to consolidate all definitions in one section.

There were very few comments about these introductory sections. Two comments asked for specific mention that the purpose of the regulation included consideration of the needs of the mentally ill. Mentally ill persons are covered by the general definition of handicapped, and further mention appears superfluous. Another commenter asked that the "objectives" section indicate clearly whether existing Urban Mass Transportation Administration (UMTA) regulations on the transportation of elderly and handicapped persons will be withdrawn. This rule supersedes the existing UMTA regulations (49 CFR Part 609, 49 CFR 613.204, and the appendix to 49 CFR Part 613, Subpart B, on 49 CFR 613.204), except that the requirements for Transbus remain separate from this rule (49 CFR 609, 15(a)). The appendix to 23 CFR Part 450, Subpart A, on planning for elderly and handicapped persons under the joint UMTA-Federal Highway



Administration planning regulations will be revised to reflect the requirements of this regulation. Although most of the advisory information in that appendix remains applicable, it will be revised to discuss the new section 504 regulation and the fact that some matters, such as wheelchair accessibility to fixed route bus systems, are no longer matters of local option.

§ 27.83 *Fixed Facilities for the Public* (Section 27.95 in the NPRM). The changes to this section, while considerable, are editorial in nature. Paragraphs (a), (c), (d), (e) and (f) have been deleted as repetitive of material contained in subparts A and C of the rule. The remaining provisions have been renumbered accordingly. The titles of the final rule's paragraphs (a) and (b) have been changed to reflect more accurately the contents of the paragraphs. The contents have not been changed from the NPRM, except that a reference to the ANSI standards in paragraph (b) has been changed to refer to § 27.67 rather than to the deleted paragraph (f) of the NPRM version of § 27.95.

Most comments on this portion of the NPRM concerned paragraph (a) of the NPRM, which has been deleted. The comments wanted more specificity in the statements of this paragraph's requirements in some cases, and other comments objected to the paragraph's provision for exceptions to accessibility requirements. The general material in this paragraph is clearly explained elsewhere in general sections of the rule; provisions as to exemptions are found in the program-specific portions of subpart E.

Comments on paragraphs (b) and (c) of the NPRM (paragraph (a) of the final rule) asked for greater specificity, particularly as to schedules for modification of facilities. Some commenters thought DOT should require a particular percentage of modification to be completed each year, for example. We believe that the sections are sufficiently specific as they stand. Given the diversity of modification tasks nationwide, greater specificity in this section of general application on scheduling modifications is not desirable. More specificity is provided in the sections on specific transportation modes.

There were few other comments. One commenter asked for specific mention of curb cuts. We believe those provisions requiring attention to the needs of handicapped persons in loading, unloading, and parking areas are sufficient to cover this concern.

The NPRM's § 27.97, which generally set forth the rule's requirements for vehicles, is applicable generally, not just in subpart E. Therefore, it has been deleted from its place in the NPRM and moved to subpart C.

§ 27.85 *Fixed Route Bus Systems* (Section 27.101 in the NPRM). In most communities, bus systems provide the only fixed route means of public transportation. The accessibility of bus systems to the handicapped is crucial if handicapped people in these communities are not to be denied the benefits of Federal aid to urban mass transportation. Even in cities with other modes of mass transit, the bus system—which normally has a much more comprehensive route structure than rail and other means of transportation—is a key to ensuring that handicapped people have an equitable opportunity to use transportation services.

The Department has changed this section from the NPRM in a number of ways. The first of these changes is in subparagraph (a)(1)(ii), where the definition of the accessibility of bus systems has been rewritten. The language of the NPRM—"off-peak frequency service or half of the peak service, whichever is greater, during off-peak hours as well as peak hours"—was confusing. For example, it could be interpreted to require bus systems to increase the frequency of its off-peak runs, something that the Department never meant to require. Therefore, the paragraph now provides that at least one-half of buses in peak hour service must be accessible in order to achieve program accessibility. During off-peak hours, a recipient must deploy all of its available accessible buses before it may place inaccessible buses in service.

In order to limit the need to retrofit existing buses and to permit bus systems, particularly those with newer fleets, to spread the cost of acquiring accessible buses over a longer period of time, thereby easing the short-term expenditures these systems must make, subparagraph (a)(2) has been changed to extend the outer time limit for program accessibility from 6 to 10 years. In addition, a new subparagraph (a)(3) has been added to the section, providing that nothing in the section shall require any recipient to install a lift on any bus for which a solicitation was issued after that date. Together with the 10-year period during which new accessible

buses can be purchased to make a fleet accessible by accretion, this provision will also help to limit the need to retrofit existing buses and to keep recipients' costs within reasonable bounds.

Those systems with older fleets will presumably be able to meet this standard in less than 10 years through normal bus replacement. All cities are likely to try to achieve program accessibility as quickly as possible, since § 27.97 requires the provision of interim accessible transportation during the period before program accessibility is reached. However, some systems with relatively new fleets may need the full 10 years in order to avoid large scale retrofitting of existing buses. The vast majority of commenters opposed retrofitting, raising significant questions about its cost—effectiveness and possible effects on the structural integrity of existing buses.

Given the extension to 10 years and the revised version of the program accessibility standard, the Department feels that the former provision about extending the six-year deadline "by one year for each 10 percent above the 50 percent of the buses that would have to be accessible" is unnecessary. Therefore, that provision has been deleted.

The final rule requires that all new buses for which solicitations are issued after the effective date of the part be accessible. In addition, to avoid the risk that a large number of procurement solicitations for inaccessible buses could be issued before the effective date of this regulation, UMTA intends to limit its consideration of bus grants to those that provide for accessible buses. This paragraph's requirement as they pertain to new, standard, full-size urban transit buses, will remain in effect until solicitations for those buses must use UMTA's "Transbus Procurement Requirements."

The requirement that all new buses be accessible will mean that eventually all buses will be accessible. The requirement in paragraph (a) of this section (program accessibility) that half of the peak hour bus service be accessible is a minimum level of accessibility that must be achieved within 10 years.

The bus system accessibility section of the NPRM received numerous comments. We have carefully considered these comments in writing the final rule. The comments, and our thinking in response to them, can be discussed most conveniently in terms of the following categories:

1. *Accessibility in General.* About 180 comments addressed the issue of

whether mainline bus service should be made accessible. About half these comments favored the concept of requiring accessibility. Handicapped individuals and their groups were strongly represented among the comments advocating the requirement; transit operators and state transportation agencies were heavily represented among the comments expressing the opposing view.

The comments favoring the requirement of accessibility cited the goal of incorporating handicapped people into the mainstream of society, providing independent mobility for them, permitting them to use the fruits of their tax dollars, and avoiding what they regarded as the pitfalls of "special service" paratransit (e.g. long lead times for reservations, waiting time, limitations on type and length of trips, unreliability). Opponents of the requirement asserted that the costs of accessibility are not justified by what they viewed as the small population that would probably take advantage of the services. Separate special service would do a better job for handicapped people at a lower cost, in their view, and they point to the difficulty which handicapped persons may have in getting to and from bus stops, particularly in bad weather.

The Department believes that major modes of public transportation should be made accessible. In addition, bus accessibility is a well-settled DOT policy, as evidenced by the Transbus mandate. In connection with his Transbus decision issued on May 19, 1977, Secretary of Transportation Brock Adams considered in depth the arguments for and against requiring buses to be accessible. The Secretary decided then, and in this rulemaking reaffirms, that accessibility of buses is an important part of the Department's urban mass transportation policy.

**2. Costs.** The costs of making bus systems accessible occasioned a great deal of comment. Many transit operators estimated that mainline accessibility would markedly increase their annual operating costs and cause them to incur heavy capital costs. For example, eight California transit systems said their annual operating costs would increase from one to 15 percent, while they would incur additional capital costs from around \$500,000 to \$16 million. Most figures that were provided simply added the costs of accessible mainline service to present costs. However, a number of comments compared the prospective costs of mainline accessible service to the prospective costs of special paratransit service. Some of these

commenters thought the costs of the two systems would be about the same, or that mainline service would cost less. The majority, however, felt that mainline service would be costlier. Summing up the views of these commenters, the American Public Transit Association (APTA) estimated that nationally, annual operating costs for mainline accessible systems would be \$300 million, versus \$159 million for "dial-a-ride" paratransit service. Some smaller transit authorities asserted that the costs inherent in the requirements of this regulation would cause them to curtail seriously or cease operations.

The Department of Transportation has looked carefully at the costs and has concluded that the costs of bus accessibility are likely to be lower than commenters suggested. Some of the difference may be explained by cost assumptions made by the commenters, who included significant sums for such matters as presumed slowing of service, increased cost for garages (based on presumed need for housing greater numbers of vehicles), increased insurance costs, need for additional personnel, additional training costs, bus stops and shelter modifications, and so forth. In the Department's view, some of these assumptions may not be well founded. The costs assigned to the items may be overstated, and it is likely that many of the costs would be incurred under alternatives other than program accessibility. With respect to cost comparisons between mainline and special services, valid comparisons are possible only if the special services involved are truly comparable (in terms of factors such as trip time, waiting time, trip purpose restrictions, hours of service, etc.) to mainline accessible service. From the comments, it was difficult to determine whether the services proposed as alternatives to mainline accessibility were truly comparable. Comments from handicapped persons about existing special services suggested that existing special services are not truly comparable.

While not denying the reality of increased costs for operators, the Department is not persuaded that the financial impact, in absolute or relative terms, is as high as some commenters assert. Nevertheless, the Department took important steps to mitigate the cost impact of the rule. The stretching out of the compliance period from six to 10 years is one example of a change that should help to mitigate costs. In addition, the provision that a bus for which a solicitation was issued on or before February 15, 1977, need not be

retrofitted with lifts will result in some capital savings for recipients. This provision, in conjunction with the longer compliance period, will probably result in very few buses having to be retrofitted with lifts in order to reach program accessibility.

The capital cost impact of this portion of the regulation will therefore consist principally of incremental costs of lift-equipped buses over the costs of inaccessible new buses. This cost appears to be within reasonable bounds. The marginal increase in operating costs is estimated to average about 1.3 percent.

**3. Benefits.** The principal benefit that this portion of the regulation attempts to confer is making it possible for wheelchair users to use mainline buses. A large majority of the comments relevant to this issue suggested that the provision of this benefit may not be meaningful, predicting little or no increase in the use of mainline buses by handicapped persons as the result of the rule. These commenters cited the difficulty of getting from home to the bus, given the presence of other barriers in the community, as the biggest reason for this predicted lack of ridership. Other problems mentioned were the problem of transferring to other routes when not all of the buses during peak hours were accessible, and concern by the handicapped about the safety of accessible equipment. The minority of commenters who believed that accessibility of mainline service would increase ridership alluded to such factors as likelihood of building up a handicapped ridership base when accessible service was actually provided, the probable diversion of handicapped from taxis to less expensive bus service when accessible service became available, and the assistance to bus ridership that could be provided by demand-responsive supplemental service.

Our starting point for estimating the probable benefits to be gained from accessible mainline service is the potential market to be served. The "National Survey of Transportation Handicapped Persons" (1978) performed for the Department indicated that there were about 1.5 million people who live within a half-mile of a bus stop and for whom bus steps are a barrier which would prevent them from using buses. Given the increase in the average age of the population, it is likely that the number and proportion of mobility-handicapped people will increase, because as people age, the likelihood that they may become mobility-handicapped increases. Not all these

people could get to a bus stop, given the existence of other barriers. The Department supports the removal generally of barriers to the mobility of handicapped people, but is only in a position to mandate the removal of barriers in those programs to which it provides financial assistance. However, actions are now being taken to eliminate these barriers, and these measures will enable more handicapped persons to use an accessible system.

We believe that the use of accessible bus service by handicapped people will increase over time. Given the history of almost total inaccessibility, most handicapped people probably do not think first of the city bus when they make transportation plans. It is necessary to create accessible service and educate the public about it before the significant potential market of handicapped users is likely to ride the buses in large numbers. The Department is persuaded that, under this rule, and with the cooperation of transit operators, mainline bus service can be safe, convenient, and attractive for handicapped persons.

4. *The Use of Lifts.* Pending the introduction of Transbus, the only technology for making buses accessible to handicapped people is the lift. After the effective date of the rule, recipients may issue solicitations only for accessible buses. This requirement will not be a major policy change for a number of the nation's largest bus systems, including those serving Los Angeles, Detroit, Washington, Seattle, Houston, and St. Louis, which have already decided to purchase at least some accessible new buses. Given the provisions of the final rule, it should be unnecessary in almost all cases to retrofit previously purchased buses with lifts, an expensive and technically difficult process opposed by the vast majority of commenters who discussed retrofit.

Commenters who opposed the requirement to purchase only accessible new buses focused on three main issues. They stated that the use of lifts would greatly slow bus service; that lifts are unsafe, and the presence of some handicapped persons aboard buses as the result of the use of lifts could pose a hazard in an emergency evacuation situation; and that lift technology is unreliable and lifts do not work properly. The case in point cited by exponents of this final point is the St. Louis bus system, which reports much trouble with its lift-equipped buses.

With respect to the argument that the use of lifts would greatly slow bus service, the Department is somewhat

skeptical. While there may be some slowing of service in some circumstances, this problem is not likely to be of the scope or magnitude suggested. Transit systems should, after a time, gain experience concerning the points on their routes where it is most likely that lifts will be used on a regular basis. Any regular delays of this kind can and should be worked into schedules in such a way that service disruptions or undue slowdowns of service will be minimal.

The concerns expressed about safety went first to the fit between the lift and wheelchairs—lifts might not be able to receive and “lock onto” all sizes of chairs, for example—and second to the evacuation of wheelchairs from the bus in an emergency. To the extent that the first problem exists, it can be remedied by the improvements to the design and construction of new lifts and remedial safety devices or warnings on existing lifts. With respect to emergency evacuation, recipients should develop, and train bus operators in, means of expeditiously evacuating wheelchair occupants from buses in emergencies as part of their accessibility programs and policies. We feel that seating in buses can be designed to minimize any obstruction by a wheelchair to the evacuation of other passengers. Obviously, it is desirable in any emergency evacuation situation that the evacuees be as mobile as possible, but this general statement is not a sufficient reason for keeping mobility-limited people off public conveyances.

We are aware that lifts in present use have experienced technical problems. Manufacturers of lifts commented that they were presently working to make needed improvements in lifts. In addition, we believe that a requirement for lifts will create a much stronger demand for lift equipment, which in turn will encourage companies with high engineering skills and production capacity to enter the market. The result should be the availability of good equipment at competitive prices. Moreover, the time lag before lift-equipped buses begin to arrive on the streets in response to the rule's deadline for orders means that it will be about 18 months from the effective date of this rule before the buses are delivered. This allows some additional time for the production of improved lifts. It is the Department's conclusion that lifts are a feasible solution to the problem of making buses accessible.

5. *Comments Regarding the Transbus.* Many commenters saw the docket on the NPRM as a forum to re-open the Secretary of Transportation's May 1977

decision to mandate Transbus. Comments both in favor of the Transbus mandate and against it (or asking for delay in its implementation) were received. The Transbus decision was made well before the section 504 NPRM was published, and stands independently of any of the decisions made as part of the present rulemaking. The Transbus decision is referenced in the general requirement of accessibility made by this rule, and is not subject to modification as part of this rulemaking. Regardless of the timing of the availability of Transbuses, recipients are bound by this final rule to issue solicitations only for accessible buses after the effective date of this rule.

§ 27.87 *Rapid and Commuter Rail Systems.* The NPRM's section 27.103, entitled “Fixed guideway systems accessibility,” dealt with light rail systems as well as with rapid and commuter rail systems. In the final rule, light rail systems are discussed in a separate section, § 27.89. The provisions of the rapid and commuter rail portion of the rule have been extensively revised.

The new paragraph (a) provides that program accessibility in rapid and commuter rail systems is achieved when a system, when viewed in its entirety, is accessible to handicapped persons, including wheelchair users. All stations must be accessible to handicapped persons who can use steps (e.g., fully mobile blind or hearing-impaired persons); key stations must also be accessible to wheelchair users.

The rule provides that recipients must treat as key stations those stations which meet any one of several criteria. A station must be made accessible if it is (1) a transfer point on a rail line or between rail lines (e.g., where two subway lines cross), (2) a major interchange point with other modes (e.g., a rapid rail station serving an airport; a subway station adjacent to a stop serving three bus lines; this criterion does not make every rail station adjacent to a bus stop a key station, however), (3) a station at the end of a line (unless the station is close to another accessible station), (4) a station serving major activity centers (employment or government centers, institutions of higher learning, or hospitals or health care facilities), (5) a station that is a special trip generator for sizable numbers of handicapped persons (e.g., a station serving a cluster of high-rise, high-density apartment buildings with a large handicapped population), or (6) in the case of rapid rail, a station where passenger

boardings exceed average station boardings by 15 percent.

The key station concept was suggested during the comment period as an alternative to 100 percent station accessibility. Representatives of the city of New York proposed that 10 percent of the New York City rapid rail stations would be an appropriate level of key stations. These discussions focused the Department's attention on the idea of a key station approach, but further reflection and analysis showed that the service quality from a very low level of key station accessibility as proposed by New York was not adequate. For this reason, the Department has adopted criteria for determining what are key stations to ensure that heavily used stations and those that are trip generators for the handicapped will become accessible. Using these criteria, effective rail transportation service can be provided at a significantly lower cost than would be the case if all stations were required to be accessible.

For commuter rail systems, which serve less densely populated areas and which have stations spread over a wider geographic area than rapid rail systems, application of these criteria alone might well result in the exemption of so many stations that the system, viewed in its entirety, would not be accessible. Therefore, an additional criterion based on distance from other accessible stations has been imposed for commuter rail systems. This criterion would identify any station which is distant from any other accessible station as a key station. "Distant" is not defined, but our intent is that making every third station accessible would generally satisfy this criterion.

The regulation does not specify a percentage of stations that must satisfy these criteria. However, a reasonable estimate is that application of these criteria will result in a nationwide average of about 40 percent of rapid rail stations being made accessible, although this figure may be as much as 60 percent in some cities.

With respect to rail vehicles, the regulation requires all vehicles to be accessible to handicapped persons who can use steps and one vehicle per train to be accessible to wheelchair users. Paragraph (b) generally requires new rapid rail vehicles for which solicitations are issued after the effective date of the regulation to be accessible.

While 49 CFR Part 609, UMTA's regulation governing accessibility of handicapped persons to transportation, is superseded by this 504 regulation, the former §§ 609.15-609.19 should continue

to be used by recipients as guidance for determining accessibility features to be incorporated in new equipment until new guidance on what specific accessibility features are required, probably in the form of an UMTA circular, is issued. One accessibility feature in rapid rail systems—a device to close the gap between vehicle exits and station platforms in order to make entering and leaving the vehicles safe and convenient for handicapped people—is not required to be provided, if needed, until January 1, 1983. This delay is intended to permit a reasonable time for further development and testing of gap-closing devices. New commuter rail vehicles for which solicitations are issued on or after January 1, 1983, must be accessible to wheelchair users. This date was selected in order to permit a reasonable time for the development and testing of car-borne lifts which may be necessary to make cars accessible in some systems.

The regulation also requires connector service between accessible and inaccessible rapid rail stations. This service is intended to provide at least a partial substitute for the rapid rail service between stations that is unavailable because some stations are inaccessible. The connector service may be provided by regular bus routes, special bus routes, special service paratransit, or any other accessible means of transportation provided by a recipient that will transport a handicapped person from an inaccessible rapid rail station to the nearest accessible station in the person's direction of travel, or vice-versa. The connector service, together with accessible rail stations, must provide to handicapped persons a level of service reasonably comparable to that provided by the rapid rail system for a non-handicapped person.

As an indication of this comparability, the service generally should avoid requiring a handicapped person to transfer more than one time more than a non-handicapped person would to get to their destination. This is not a firm, invariable requirement, however. If service of approximately equivalent speed can be provided, variation in the number of transfers permitted may be possible.

It should be pointed out that one way to provide adequate connector service with accessible mainline buses might be route restructuring, rather than the addition of new service.

The timing of the connector service requirement parallels that of the rapid rail system program accessibility requirement. Complete connector

service must be in place within 30 years from the effective date of the regulation. Within this time period, there must be a steady build-up of connector service that is coordinated with the completion of key stations. No later than 12 years from the rule's effective date, connector service must provide effective and efficient use of key stations that have been made accessible at that time.

Subparagraph (a)(4) sets the time schedule for accomplishing program accessibility in rapid and commuter rail systems. Accessibility must be achieved as soon as practicable, but not later than 3 years after the effective date of the regulation, except that this time limit is extended to 30 years for extraordinarily expensive structural changes to, or replacement of, existing fixed facilities needed to achieve program accessibility. Changes to accommodate the needs of handicapped persons who can use steps—such as blind or hearing-impaired persons—are expected to be accomplished within three years, since these changes generally involve low-capital expenditure projects and are not "extraordinarily expensive." The Department generally considers elevators and vehicle lifts to be "extraordinarily expensive" and has selected the extended deadlines to permit adequate time for such improvements to be made.

It is the policy of the Department that the most essential key stations (about one-third of all key stations) be made accessible within the first 12 years of the program. However, the Department has decided that a 30-year period for obtaining full program accessibility is justified. This decision was made principally on the basis of the difficulty and high cost of making needed structural changes (e.g., retrofitting existing subway stations in New York City or Philadelphia with elevators).

The Department believes that it is reasonable to spread out the work and cost of these changes over a relatively extended period. However, the Department intends to ensure, through its planning and grant process, that recipients proceed with needed modifications at a reasonable rate. The regulation requires that each recipient make steady progress over the entire 30-year period, in compliance with a required transition plan. After 12 years, the Department intends to require an assessment at the national and local levels of the progress of accessibility work and its impact on ridership.

The time limit for vehicle accessibility is five years from the effective date of the regulation in rapid rail systems and 10 years for commuter rail systems for

extraordinarily expensive changes to, or replacement of, existing vehicles. Less expensive changes in rolling stock, to make the vehicles accessible to and usable by handicapped persons who can use steps, must still be made within three years.

The Department is aware, as many commenters have pointed out, that carrying out this section will be costly. The Department estimates that over the 30-year compliance period, achieving program accessibility in rapid rail systems will cost about \$1 billion. This estimate covers capital costs for fixed facilities and vehicles, incremental operating costs, and connector service which does not make any use of mainline accessible bus routes, and assumes that a national average of 40 percent of stations will be made accessible. The actual cost will be lower to the extent that cities are able to use mainline accessible bus lines for connector service, thereby saving some of the cost of a complete, separate connector service system. The 30-year compliance cost for commuter rail systems, also assuming that about 40 percent of stations are made accessible, will be about \$290 million. The 30-year compliance period will enable recipients to spread these costs over a long period, so as to make them easier to bear.

Many commenters who discussed accessibility for rapid rail systems favored accessibility. The majority of the comments from handicapped persons and their groups favored a shorter deadline for program accessibility—12 or 20 years—than the 30 year deadline chosen by the Department. The Department understands this view; handicapped people have already waited a long time for the removal of transportation barriers. The Department believes, however, that it must take care to mandate only what can be accomplished practically by recipients and by the Department. The key station concept received support in the comments both from transit operators and groups representing the handicapped.

With respect to rapid rail vehicles, two rapid rail system operators expressed concern about the vehicle/platform gap problem. This problem is addressed by the rule's provision for gap-closing devices in cars for which solicitations are issued on or after January 1, 1983. Other comments mentioned the need for some interior refitting of vehicles; the timing of this refitting will depend on its extensiveness and cost. As the rule provides, accessibility (including

interior refitting) that is not extraordinarily expensive must be accomplished within three years.

Most operators commenting on the NPRM supported a "local option" concept, in which each operator or local government would select the mix of transit services best suited to provide mobility for handicapped persons.

There is room for considerable local planning in carrying out this regulation, with respect to planning, connector service, and determination of some key stations. However, the concept of local option as expressed by many commenters is inconsistent with the assurance of providing program accessibility which section 504 and the HEW guidelines require.

As with bus systems, comments questioned the likelihood of significant use of accessible rail systems by handicapped riders. Present experience is scanty. Systems which are partly or wholly accessible, such as San Francisco's BART and Washington, D.C.'s Metro, report relatively small but growing numbers of handicapped users of their station elevators. It is reasonable to believe that these numbers will increase as more accessible buses begin to feed into the rail systems and as other barriers to the movement of handicapped people are eliminated. While it is clear that awareness of the existence of accessible transit must increase and other barriers must decrease before the full potential for handicapped ridership could be realized, it is also clear that there is a currently untapped market for transit service which accessible systems are capable of serving. It should also be pointed out that accessible systems may make the use of public transit more convenient, and consequently more attractive, for many people who are not handicapped.

The range of comments concerning commuter rail was quite similar to that concerning rapid rail. One difference concerned what most transit operators commenting regard as the unique nature of commuter rail, which runs on track also used by other rail traffic. This, the operators said, poses problems for them. Increasing the time a commuter train needs to stay at a station in order to pick up handicapped passengers may disrupt schedules for other trains. Moreover, in high-platform stations, there may be a considerably larger car/platform gap than in rapid rail stations. Also, the fact that commuter rail systems operate in areas of lower population density means that relatively few handicapped riders are likely to use accessible service.

It is probable that the number of handicapped passengers, like the number of passengers in general, is likely to be lower for commuter rail than for rapid rail. However, there are fewer public transportation options for people living in areas served by commuter rail than for people in more densely populated areas. This makes making the accessibility of commuter rail even more important for those people.

The key station provisions of the rule should improve the ratio of costs to benefits for commuter rail operations. As with other modes of transportation, however, the Department's decisions in the commuter rail area cannot be exclusively tied to cost-benefit analysis. The human value of providing accessible transit services to all persons must weigh heavily in the decision. Sophisticated traffic management techniques should permit schedules of commuter trains and freight trains which share relatively few lines to be arranged so that the commuter trains can safely pick up handicapped passengers without unduly delaying other traffic.

Commuter rail systems differ. Some have high platform stations flush with car entry level. Others have entry from ground level. Others have combinations of both. What the rule requires is accessibility, not any particular technique for achieving accessibility. If a system has mostly high platform stations flush with car entry level, it might modify its other stations along the same lines, thus obviating any need to equip its rolling stock or stations with lifts. On the other hand, so long as train entry areas are accessible to handicapped persons, a system may provide access to its vehicles with lifts and avoid modifying most platforms. Platform/train gaps could be closed by automatic equipment extending from cars or by "gangplank" devices either carried on the train or stored in the station and operated by train or station personnel. Where it is most appropriate for commuter rail vehicles to become accessible through the use of lifts, the January 1, 1983, solicitation date plus the approximately two-year period between order and delivery gives recipients and manufacturers sufficient time to develop and deploy new technology.

Other comments on the commuter rail section of the rule paralleled the rapid rail comments concerning the key station concept, the merits of accessibility as a goal, and "local option." The Department's thinking on these issues is the same as in the rapid rail area, with the exception that one of the criteria used for determining which stations are key stations in rapid rail

systems—stations boarding 15 percent more passengers than the system average—is not applicable to commuter rail systems.

**§ 27.69 Light Rail Systems.** This section, which treats rail (trolley) systems separately from commuter rail and rapid rail systems, is new. The general accessibility requirement for light rail systems, like that for other modes, is that a system, when viewed in its entirety, must be accessible to handicapped persons, including wheelchair users.

The requirement for station accessibility is similar to that for rapid rail. All stations must be accessible to handicapped persons who can use steps, and key stations must be accessible to wheelchair users. Key stations are generally defined by many of the same criteria used for rapid and commuter rail key stations, and the rationale for the key station concept discussed in connection with rapid and commuter rail systems applies to light rail stations as well. Relatively low-capital changes to be made to stations or vehicles are expected to be made within three years. The three-year general time limit is extended to 20 years for extraordinarily expensive structural changes to, or replacement of, existing fixed facilities and vehicles necessary to achieve program accessibility.

It is important to note that light rail vehicles stop not only at fixed-facility station, but also at street stops. We intend the key station criteria to apply only to fixed-facility stations. Street stops need not be considered as key stations, because these stops will be accessible in many cases, when lift-equipped vehicles are deployed. Street stops do not need to be changed structurally under this section. However, once light rail vehicles are equipped with lifts, it is likely that wheelchair users will be able to enter and leave the vehicles at many street stops.

The vehicle accessibility requirement for light rail is similar to that for buses. All vehicles must be accessible to handicapped persons who can use steps. At least half of the vehicles in peak-hour service must be accessible to wheelchair users.

During off-peak hours, the accessible vehicles must be used before inaccessible vehicles can be used. The discussion of the rationale for the bus accessibility requirement applies to the light rail vehicle accessibility requirement of this section. New light rail vehicles for which solicitations are issued on or after January 1, 1983, must be accessible to handicapped persons, including wheelchair users.

The final requirement of the section is that after 12 years, light rail operators must submit to the Department a report on the progress, cost and benefits of the accessibility program. As with rapid and commuter rail systems, operators are expected to make steady and reasonable progress throughout the 20-year program period toward the goal of program accessibility, with the most essential work being done first. However, until the Department's study of light and commuter rail accessibility, as mandated by section 321(b) of the Surface Transportation Assistance Act of 1978, is completed, we foresee no need for movement beyond the planning phase. Section 321(b) directs the Secretary to make an evaluation of the light and commuter rail modes to determine ways of making and the desirability of making such modes accessible to handicapped persons. The Secretary is directed to report to Congress the results of this evaluation by January 30, 1980, together with his recommendations for legislation necessary to clarify or change Federal laws or provisions pertaining to light and commuter rail accessibility.

The Department estimates that the capital cost of making light rail systems accessible would be about \$47.7 million if all stations were made accessible. If the key station criteria result instead in forty percent of stations being made accessible, the capital cost would be reduced to about \$25 million.

As a number of commenters pointed out, the biggest problem in making light rail systems accessible is the present unavailability of lifts for light rail vehicles. UMTA has initiated research to assist in developing a lift for light rail vehicles. Based on present development schedules, the Department expects a prototype lift for light rail vehicles to be developed by the end of 1980. It is probable that another year will be required before a safe and reliable lift can be marketed. It is with this development timetable in mind that the Department does not require recipients to order only new vehicles that are accessible until January 1, 1983. This schedule gives reasonable leeway for development and testing before transit systems must order trolleys with lifts or other accessibility features.

Comment from groups representing handicapped persons favored the accessibility mandate for light rail systems; transit operators, while pointing out problems associated with lift costs, in several cases did not appear to oppose accessibility. Only one comment, which favored the idea, dealt with the key station concept. Some

transportation agencies requested that accessibility be a matter of complete local option but, for the same reasons discussed in connection with buses and rapid and commuter rail systems, the Department did not adopt this suggestion.

It should be pointed out that in light rail cities which also have bus systems, it is likely that the bus systems, once they are accessible and given proper routing, should in most cases be able to meet interim accessible transportation requirements until the light rail system becomes accessible.

**§ 27.91 Paratransit Systems.** (Section 27.105 in the NPRM). This section requires that where paratransit systems exist, they shall be operated so as to be accessible, when viewed in their entirety. Where new vehicles must be purchased or structural changes made to attain program accessibility, the purchases or changes must be made within three years from the effective date of the regulation. Automobiles may be used by transit operators or other service providers as one form of paratransit vehicle. They are accessible to many handicapped persons, including many wheelchair users. However, automobiles are not accessible to some handicapped persons (for example, persons who use battery-powered wheelchairs that cannot be folded and carried in an automobile trunk or backseat). Thus, the section requires that each paratransit system operate enough accessible paratransit vehicles to provide approximately the same measure of service to handicapped persons who need such vehicles as is provided to other persons. A higher fare may not be charged just because the handicapped person needs a vehicle with a level-change mechanism.

In paragraph (b), the requirement concerning the purchase of new vehicles has been altered somewhat from the NPRM. New vehicles purchased after the effective date of the regulation must be accessible, unless the system will continue to meet the section's general program accessibility standard even though the new vehicle or vehicles purchased are not accessible. For example, if a paratransit system has enough accessible vehicles to meet all demands for service by handicapped persons, and the requirement of generally equal service to handicapped riders is met, all new vehicles purchased for the system need not be accessible.

No part of these regulations is intended to discourage door-to-door paratransit services or programs that help handicapped travelers directly through user subsidies or other methods.



Our intent is to increase overall travel opportunities of handicapped persons by fostering program accessibility in addition to any current or planned specialized services available from a variety of sources. Recipients are encouraged but not required to provide supplemental service to handicapped persons who cannot reach transit facilities, use accessible vehicles, or travel from transit stops to their destinations.

The Department received a great many comments dealing with paratransit as a supplement or alternative to mainline accessibility for handicapped persons. The NPRM, however, did not propose anything with respect to paratransit except that paratransit systems, where they exist, must be accessible. This provision of the NPRM has been retained. Under this section of the final rule, no one is required to provide paratransit service. The cost of making the paratransit service that is provided fully accessible should not be overwhelming, given that much paratransit service is already aimed at serving handicapped persons.

Some commenters suggested the inclusion of specific varieties of paratransit service (e.g., taxis) in the definition of paratransit (which has been moved to the general definitions section, § 27.5). If, through arrangements with taxi operators, recipients are providing paratransit services by taxi, then taxis are included under this section, and the system must achieve program accessibility. Specific schemes for providing paratransit, such as transit agency subsidies of taxi fares, are not mandated by this regulation.

§ 27.93 *Systems Not Covered by §§ 27.85-27.91* (Section 27.107 of the NPRM). The substance of this provision has been changed slightly from the NPRM. The Administrator's authority has been clarified to indicate that it relates to the program accessibility requirements of this section. In addition, some service quality criteria for alternative service under subparagraph (b) have been added to ensure that it will be useful to handicapped persons.

There were a variety of comments on this section. One commenter suggested that "trackless trolleys" (e.g., electric buses using overhead wire power sources) be considered as buses rather than dealt with under this section. It is unnecessary to include trackless trolleys explicitly under the bus section. Accessibility requirements for these vehicles, which share many of the characteristics of buses and some of the characteristics of light rail vehicles, are best able to be handled under this

section, which gives the UMTA Administrator the flexibility to tailor the timing of program accessibility to the requirements of the vehicles. Trackless trolleys are a relatively rare kind of vehicle in this country; it is better to deal with them through the Administrator's discretion under this section than to attempt to fit them into a section covering another kind of vehicle.

Some commenters asked for more specific treatment of the requirements for ferry boat accessibility. Like trackless trolleys, ferries make up a rather small portion of recipients' transit programs. Under these circumstances, it was not thought advisable to prescribe specific requirements for ferries in this regulation. The general requirement of accessibility and the UMTA Administrator's discretion in applying timing requirement are suitable to the task.

§ 27.95 *Program Policies and Practices*. (Section 27.99 in the NPRM). The purpose of this section is to identify, for the use of recipients and other organizations involved in transportation planning, key areas of concern affecting the provision of services to handicapped persons. This section reflects the concept that public transportation services require more than facility and vehicle accessibility if they are to be predictably, conveniently, and safely used by handicapped travelers. This section is not intended to prescribe detailed requirements for the results of the planning process. It would be inadvisable for DOT to attempt to formulate uniform, national requirements in each of these program areas. The local planning process should have the flexibility to work out solutions that are consistent with local problems and conditions. At the same time, the identified program areas are important enough everywhere that the Department wants all recipients to deal with them in the planning process.

The activities required by this section are the responsibility of each recipient providing transportation service. Many related activities should be coordinated and conducted jointly by several recipients, MPO's, State, or other institutions. Recipients which have not already done so must start to modify their barrier-related policies and practices on the effective date of this rule. Most changes are expected to be completed while the transition plan is being prepared, as provided in § 27.11 of this part, but three years are provided because of the extent of the possible changes that recipients may identify.

Paragraph (a) has been rewritten to say that program policies and practices

that prevent systems from achieving program accessibility must be modified as soon as possible but no later than three years after the effective date of this part. This three-year period prevails over the one-year period of § 27.11(c)(2) with respect to mass transit systems.

Several policy and practice reforms merit illustration to make the meaning clear. Supplemental guidance will be issued later by UMTA, as needed.

*Item 1.* Safety and emergency policies and procedures should cover the routine transporting of persons with differing disabilities, so that the passengers' safety will be assured.

*Item 4.* Intermodal coordination should be effectively established among multiple services offered by a single recipient, between each recipient and other transit and paratransit providers, and between recipients and other transportation institutions and modes (e.g., Amtrak, highway departments).

*Item 5.* Coordination with agencies and institutions that provide or support transportation services on behalf of the disabled should assure effective integration of their facility locations, operations, and transportation services.

*Item 6.* Comprehensive marketing should be integrated with the required preparation and implementation of the transition plan. Marketing should at least provide public information about accessible transportation services.

Several specific marketing activities should be conducted and described in the transition plan, such as:

(a) An assessment of each operating recipient's management organization and resources to assure effective marketing;

(b) Examinations of the feasibility of concepts such as a local transit broker, or subsidies to users;

(c) Periodic publication of reports (at the regional or State level) describing accessible facilities and services (e.g., housing, education, commerce) and existing and planned accessible transportation services; and

(d) Establishment of mail or telephone systems that provide disabled persons with effectively the same or better information service, ticket purchase service, or other services available to the general public (e.g., TTY for hearing-impaired persons).

*Item 7.* New or renewed leases and rental agreements for facilities or vehicles should be restricted to vehicles and facilities the use of which is consistent with program accessibility.

*Item 8.* Recipients should provide for participation of existing private and public operators and public paratransit service providers to assure maximum

feasible opportunities to provide the desired services. Recipients, MPO's, and/or State or regional agencies should seek assistance in their planning from existing public and private operators. Recipients, MPO's, States, or regional agencies should maintain current inventories of existing transit or paratransit providers to assist them in their planning and to be considered in providing the services. The plan for implementing these objectives should be included in the transition plan.

*Item 2.* Reforms to permit and encourage accessible services should include, but not be limited to, actions which remove or modify unnecessary or inappropriate restrictions on types of taxicab service, insurance coverage, or entry-exit requirements on the providers of accessible transportation services.

The approximately 100 comments discussing this section generally favored its provisions. The bulk of these comments spoke to the 13 specific provisions of paragraph (b), suggesting that DOT mandate various specific requirements under the items. For example, some commenters asked DOT, under subparagraph (b)(2), to establish minimum standards for training of recipient personnel. DOT believes that these 13 areas are subjects of concern for the local planning process concerning which the Department's commitment to encouraging flexibility in local planning is best served by avoiding uniform nationwide standards.

Some commenters said that the section should specifically assign certain of the planning tasks to recipients, MPO's, and States, respectively, since many of the tasks seemed to fall into program areas traditionally handled by each of these entities. The Department, however, prefers to encourage flexibility in the planning process. We believe that, in each area, the various parties themselves should divide the labor as best they see fit. This approach is more satisfactory, in our view, than a uniform, national delegation of functions by DOT to different planning bodies.

Other commenters criticized the section for raising problems without suggesting how to solve them. As mentioned above, DOT believes that in order to deal with planning concerns in the context of the many and varied local conditions affecting the provision of services required by this rule, local and regional planning agencies are best served by having more discretion in the planning process.

**§ 27.97. Interim Accessible Transportation** (Section 27.109 in the NPRM). This section has been changed

and expanded significantly from the NPRM. The key requirement of the section is that no later than three years after the effective date of the rule, each recipient whose system has not achieved program accessibility shall provide or ensure the provision of interim accessible transportation for handicapped persons who could otherwise use the system if it were accessible. This interim transportation must continue to be provided until program accessibility is achieved.

The standards for interim accessible transportation are to be developed by the recipient in cooperation with the advisory group of representatives of handicapped persons and must be set forth in the recipient's transition plan. The advisory group should be carefully selected to be representative of the local community of handicapped persons. Subject to the funding level available under this section, which was set up to enhance the funds available for permanent accessibility, the interim accessible transportation service must be available within the recipient's normal service area and during normal service hours. To the extent feasible, the service should also be unrestricted as to trip purpose and be comparable to the recipient's mainline service with respect to combined wait and travel time, transfer frequency, and fares. The service must, to the extent feasible, be available to all handicapped persons, including those who cannot transfer from a wheelchair and those who use powered wheelchairs; waiting lists that would consistently exclude handicapped persons who have qualified or registered for the service should not exist.

The standards for interim service derive generally from illustrations of interim accessible transportation contained in Appendix A of the NPRM. Within these general standards, the precise standards for service are required to be developed by the recipient in cooperation with the local advisory group composed of representatives of local handicapped persons and their groups.

In order to ensure an adequate level of financial support for this service, a recipient must spend each year an amount equal to two percent of the financial assistance it receives under section 5 of the Urban Mass Transportation Act of 1964, as amended. If the recipient does not receive section 5 funds, then it must spend two percent of the mass transportation assistance it does receive from the Department. The Department will periodically assess the two percent requirement in light of

experience to see if it is adequate to meet the criteria for interim service. Additionally, a recipient may spend a lower amount during any year when UMTA finds that the local advisory committee of representatives of the handicapped established to work with the recipient on interim accessible transportation matters has agreed that the service provided at the lower expenditure is adequate. Expenditures to meet the two percent requirement are in addition to expenditures to make the recipient's fixed route bus system or rail system accessible.

Until these requirements are met, the annual element of the urbanized area's transportation improvement plan (TIP) must exhibit a reasonable level of effort in programming projects or project elements to benefit handicapped persons who cannot otherwise use the recipient's transportation system. Programming projects and project elements involving an expenditure equal to two percent of the urbanized area's section 5 funds (from either UMTA or other sources) will be considered a reasonable level of effort. Where it can be shown that other approaches are equally or more likely to lead to program accessibility and, where needed, to interim accessible transportation, these other approaches may also be acceptable.

In areas served by rail systems, the requirements of this section will be met if the bus system has achieved program accessibility and the bus system serves the inaccessible portions of the rail system.

The recipient, working with the MPO, is responsible for attempting to coordinate all available special services and programs in order to ensure the provision of service meeting the standards of this section. The regulation does not require the recipient to provide the required level of special services entirely on its own; the services it provides, together with the services provided by other organizations and coordinated by the recipient and the MPO, should be used in reaching the standards of this section.

In deciding what types of resources should be devoted to interim service, recipients may want to consider whether the most cost-effective approach may be to achieve program accessibility in their fixed route bus system as soon as possible.

The comments from handicapped persons, their groups, and some transit industry commenters were generally favorable with respect to the standards for interim service proposed in the Appendix to the NPRM. Consequently,



these standards were incorporated into the regulation itself, though without the stipulation, opposed by most handicapped people who commented, that recipients could make "tradeoffs" among them. The concerns of transit operators, who generally favored the "tradeoff" idea, should be lessened by the provision of the final rule that many of the standards must be met "to the extent feasible."

Some commenters favored adding additional criteria, such as equivalent comfort and amenity, but the Department felt that its set of criteria, together with the local standard setting process, would ensure that all local priorities for service were fully considered.

Transit agencies generally favored a requirement that a certain percentage of UMTA funds be spent for interim service, often as a substitute for specific service standards. Groups representing the handicapped generally opposed this idea, at least as a substitute for service standards. The regulation takes a middle ground position, establishing general standards for interim service but providing that the recipient must spend the equivalent of two percent of its section 5 funds for interim services, unless service meeting the locally set standards is provided through coordination from other sources and the local advisory group agrees that such expenditure is unnecessary. In the case of a major rapid rail system recipient which obtains a waiver of its accessibility requirements for wheelchair users, this two percent requirement is in addition to the five percent of section 5 funds it must agree to spend on alternative accessible transportation in order to obtain the waiver. In such cases, this interim service should be coordinated with the service contemplated under the waiver; a major rapid rail recipient providing an alternative system under the waiver provision where that also meets the standards set for interim service would presumably not need to spend an additional two percent of its section 5 funds on such service. The two percent requirement continues in effect until the recipient's "substantially as good as or better than" alternative service is in place.

One of the most complex issues concerning interim accessible transportation is the problem of phasing out the interim service once program accessibility is achieved. Generally speaking, transit operators feared that because of Departmental action, investment in equipment, labor-management contracts, and local

political pressures (including pressure from groups representing the handicapped), interim services, once begun, could not be easily terminated, resulting in a continuing costly and duplicative transportation system. Handicapped individuals and their groups, on the other hand, tended to fear that the provision of interim service would tend to slow down the provision of accessible mainline service and that the provision of accessible mainline service would mean the end of necessary special services, particularly for persons who would have difficulty getting to accessible mainline buses or rail vehicles.

The regulations do not require that special services initiated in or continued through the interim period be maintained after program accessibility is achieved, although the Department requires recipients to continue their coordination efforts and encourages recipients to continue to commit funds toward this service. Nor do the regulations permit recipients to delay the achievement of program accessibility because interim service is provided. Consequently, the Department does not think it necessary to impose, as some commenters requested, a special deadline for the termination of interim services. The Department recognizes that there are likely to be problems for both transit providers and consumers at the time when program accessibility is achieved. Foresight, good planning, and cooperation between transit operators and handicapped persons will be necessary to ensure that the transition from interim to accessible mainline services is smooth.

These problems are likely to emerge some years in the future, and their solutions are likely to vary greatly from area to area. Consequently, the Department believes that this rule should not attempt to propose specific solutions. For the same reason, the Department has not attempted to set forth detailed examples of "acceptable" approaches to interim accessible transportation, believing that it would be a mistake to attempt to prescribe finely-tuned solutions to the wide variety of local problems and conditions.

The costs of interim service received several comments. Because of the wide variety of possible kinds of interim service, the Department has not been able to come up with any overall estimates of interim service costs. In order to construct cost estimates, a number of assumptions about the kind and duration of service provided—assumptions that almost certainly would

not hold true on a nationwide basis—would have to be built into the estimate. However, two percent of UMTA's available section 5 funds for the current fiscal year is about \$28 million. This figure provides at least a rough idea of the annual level of expenditure that might be required.

*§ 27.99 Waiver for Existing Rapid, Light, and Commuter Rail Systems.* In order to establish regulations which are reasonable, flexible and responsive to local conditions, the Department has created an alternative to the accessibility requirements of §§ 27.87 and 27.89 for wheelchair users. A recipient that, on the effective date of this regulation, operates an existing inaccessible light rail, rapid rail, or commuter rail system may petition the Secretary for a waiver of its obligations under § 27.87 or § 27.89 with respect to making the existing system accessible to wheelchair users. A waiver provision contained in the NPRM (§ 27.111) has been deleted, and this waiver provision applicable to rapid, commuter and light rail has been added.

The conditions for granting a waiver request are stringent. A request may be submitted only after the MPO and handicapped persons and organizations representing handicapped persons in the community, through a consultative process, have developed arrangements for alternative service substantially as good as or better than that which would have been provided in the absence of a waiver. A public hearing at the local level is required. The recipient must submit a record of the consultative process, including the hearing transcript, to the Secretary. The recipient must also submit a completed transition plan for an accessible system. Only if there is an acceptable transition plan for an accessible system, of course, can the Secretary determine whether or not the proposed alternative service would be substantially as good as or better than accessible service. The Secretary must make this determination in order for a waiver to be granted.

The Department will review the consultative process used by the MPO for a waiver to determine whether there has been adequate participation by handicapped persons and organizations representing handicapped persons in the community. In this regard, the recipient should consider methods of fostering a more open, balanced consultative process at which a variety of viewpoints that might otherwise be unrepresented are presented. Among the methods used by the MPO might be the preparation or financing of technical analyses suggested by handicapped persons, or

making available funds to reimburse costs for handicapped persons or their representatives to participate effectively in the consultative process.

Certain recipients with existing inaccessible rapid rail systems—New York City Transit Authority, Chicago Transit Authority, Massachusetts Bay Transportation Authority, Greater Cleveland Regional Transit Authority, and Southeastern Pennsylvania Transportation Authority—are subject to an additional requirement if they are granted a waiver. They must agree to spend each year (or ensure that other UMTA recipients in the urbanized area spend) an amount equal to at least five percent of the urbanized area's capital and operating funds under section 5 of the Urban Mass Transportation Act of 1964, as amended, on the alternative service.

This five percent requirement is designed to guarantee an adequate minimum level of funding for alternative service in those cities with the largest inaccessible existing rapid rail systems. The cost of making these five systems accessible would be higher than in other systems and the cost of providing an alternative service substantially as good as or better than that which would have been provided in the absence of a waiver will probably be higher as well. It should be pointed out that the five percent figure is a floor, not a ceiling. It may be necessary for a recipient to spend more than the equivalent of five percent of its area's section 5 funds to meet the "substantially as good as or better than" standard for alternative service.

On the other hand, this requirement need not apply to relatively small rapid rail systems. It would be impractical to ask a smaller system to spend or ensure the expenditure of five percent of a large urbanized area's section 5 funds because a waiver has been granted. If a smaller system obtains a waiver, it still must make arrangements for alternative service substantially as good as or better than that which would have been provided had the system been made accessible.

The stringent requirements of this section ensure that only meritorious requests for waiver will be granted. It should be noted that the section requires that alternative services "will be" as good as or better than those which would have been provided by the waiver requirement. Recipients do not have to show that the alternative services, at the time the petition is submitted, are equivalent to the services that would have been provided when program accessibility for the rail system

in question had been achieved. Rather, the recipient must demonstrate to the Secretary's satisfaction that within the period established for program accessibility, or a shorter time established by the Secretary in his or her reasonable discretion, the appropriate level of service will be established. The required alternative service may be provided by any mode or combination of modes, including accessible mainline buses and special service paratransit.

The Department will judge whether the alternative service is adequate by looking at how the service responds to certain criteria. With respect to the service area, the system must serve at least all stations of the rail system, and it must also be available during the same hours as the accessible system would be available. There must be no restrictions on trip purposes, and fares for the same station-to-station trip must be equivalent to those that would apply if the rail system waiver were not granted. Travel aids and companions of handicapped travelers must be accommodated. Combined wait and travel time, transfer frequency and availability of the service to all handicapped persons who would be served by an accessible system must be made equivalent to the maximum feasible extent, and any differences must be explained in writing in the transition plan. Recipients are strongly encouraged to provide service in a way that allows handicapped and non-handicapped passengers to ride together.

Concerning who must be served by the alternative service, our intention is that the service be available to at least those handicapped persons who would have used the rail system if it had been made accessible but who now will not be able to use that system because of the waiver. Recipients must adopt reasonable and carefully considered methods of estimating the demand for alternative service.

Recipients should begin to provide this alternative service at the earliest possible date, but in any event no later than the date on which accessible service could reasonably have been provided at any two key stations that presented no technological or other significant barriers to completion. The alternative service should show steady improvement in quality over time to reflect the increasingly improved service that would have been offered by an accessible system.

In requesting a waiver, recipients must identify and provide satisfactory evidence from operators and from local

sources of funding that will ensure that the alternative service will in fact be available.

#### **§ 27.101 Period After Program Accessibility.**

This new section treats the question of recipients' obligations after they have achieved program accessibility in their systems. In addition to complying with other sections of this regulation, mass transit recipients must continue to use their best efforts to coordinate special services.

§ 27.103 Transition Plan. (Section 27.89 in the NPRM). The mass transportation portion of this regulation requires the various modes of urban mass transit to be made accessible to handicapped persons over periods ranging from three to 30 years. In most respects, many systems are not now accessible. Careful planning will be required in order to "get from here to there" in an expeditious and orderly way. The purpose of this section is to provide a tool—the transition plan—which will be useful to recipients, planning agencies, and the public as they decide how to achieve program accessibility.

Several important features of this section should be noted. Only one transition plan in each urbanized or nonurbanized area receiving financial assistance for mass transit must be submitted. This plan will cover all modes in areas having more than one kind of mass transit service. The plan is developed once, and covers the entire period of time leading to program accessibility. However, the plan must be refined and reappraised periodically to ensure that it continues to provide adequately for transportation facilities and services that can be used effectively by handicapped persons. In urbanized areas, the Metropolitan Planning Organization (MPO) is principally responsible for preparing the transition plan, in cooperation with State and local officials and operators of publicly owned mass transportation services. In other areas, local elected officials, in cooperation with transit operators and the State, have this responsibility.

The transition plan for areas which have existing, inaccessible rapid rail systems are due to be submitted to the Urban Mass Transportation Administration (UMTA) 18 months after the effective date of this regulation. All other transition plans are due one year from the effective date of the regulation. However, urbanized areas with inaccessible rail systems other than rapid rail may extend the one-year period to 18 months, upon an adequate

showing of need. Transition plans will be reviewed expeditiously by UMTA and approved or disapproved. The longer period allowed for the submission of transition plans in areas with existing, inaccessible rapid rail systems reflects the greater complexity of the planning process concerning such systems.

The detailed contents of the transition plan are spelled out in paragraph (c) of this section. Generally speaking, the plan must relate which facilities and equipment have to be modified to achieve program accessibility in each transportation mode, what these modifications will be in each case, what schedule will be followed to make the changes, who will be responsible for carrying out the changes, how existing services will be coordinated to improve service to handicapped persons, how much the changes will cost and where the money will come from, how the planners have involved the community in developing the planned changes, and what the planners have to say in response to substantive concerns which arose in public hearings on the plan.

Some commenters said that the content requirements and apparent purposes of the transition plan and the annual status report overlapped. The final rule distinguishes between the purpose of the transition plan as a program for achieving accessibility and the status report as principally a progress report on compliance with the schedule defined in the transition plan.

Commenters, particularly from small cities, indicated that the level of detail in the transition plan should be flexible to account for substantial variations in the magnitude and complexity of local accessibility issues. This comment is acknowledged and resolved with the addition of the concept of "appropriate level of detail" in § 27.103(b)(3). The Department clearly recognizes that the transition plan in a bus-only city of 75,000 will be much less complicated than the plan in a major metropolitan area with several modes of public transportation and numerous and complex route structures.

A number of commenters, particularly from MPOs and transit operators, questioned the respective roles of the MPO and transit operator in developing the transition plan. The respective roles of the MPO and transit operator should be determined locally through the cooperative process (though the MPO has overall "direction" of the planning effort). There is one important difference between the normal planning process and the requirements of this regulation. Section 27.103(b)(5) mandates greater

involvement of the recipients in the planning process than 23 CFR Part 450, UMTA's planning regulation.

In order to clarify the requirements of the transition plan, language had been added to § 27.103(c)(3) stating that the plan should document phasing criteria, indicate which projects or improvements are needed to meet the three-year requirements, and set appropriate benchmarks for longer-term efforts.

The largest number of commenters on the transition plan section of the NPRM addressed the deadline for submission of the plan (July 1, 1980, in the NPRM). Some commenters asked for shorter deadlines while others asked for more time. We believe that the one year or 18 month deadlines provide reasonable periods within which the local planning, decisionmaking and programming can be accomplished to produce an effective transition plan. We have also added the concept of periodic plan refinement (which is similar to that for the overall transportation planning process in 23 CFR Part 450) to allow for appropriate details to be added to the transition plan after the initial deadline (see § 27.103(d)(3)).

§ 27.105 *Annual Status Report* (Section 27.91 in the NPRM). This section requires the submission of information which will provide a basis for compliance determinations. Very few comments were received regarding this section. Most were supportive of the proposed section. Some, however, were concerned about the manner in which the status report would relate to the transition planning requirement of § 27.103, the compliance planning requirement of § 27.11(c)(2) and (3), and the annual element of the Transportation Improvement Program (TIP). The section has been revised to simplify and clarify the requirement for an annual status report. The principal requirement is to provide a summary of the recipient's accomplishments and activities for meeting the schedule of improvements in the area's approved transition plan.

The section also provides that the first annual transition plan shall include copies of the three compliance planning items listed in § 27.11(c)(3). Subsequent annual status reports must reflect any changes made as a result of the requirement of § 27.11(c)(2)(v) for reviewing and updating compliance planning periodically.

The compliance procedures described in Subpart F of this part provide the basic mechanism for ensuring compliance with the requirements of this part. Those procedures include on-site compliance reviews where appropriate.

UMTA will also review compliance with this part as a basis for performing planning certifications (described in 23 CFR 450.122) and program approvals (described in 23 CFR 450.320). Failure to prepare and implement transition plans and to meet accessibility requirements of this part may result in program disapproval or disapproval of applications for UMTA capital or operating assistance.

UMTA will make an annual determination of compliance with this part either in conjunction with the certification and program reviews or as status reports are transmitted to UMTA. For nonurbanized areas, a similar determination will be made as part of the application review process. A determination of compliance will be based upon a determination of satisfactory progress toward implementing the requirements of this part, including the schedules and benchmarks specified in the transition plan. This determination will provide a basis for UMTA to certify the planning process and approve projects contained in the annual element of the transportation improvement program.

§ 27.107 *Community Participation*. (Section 27.93 in the NPRM). This section of the NPRM has been changed in a few minor respects. Its effective implementation will depend upon the good faith actions of the parties concerned and the Department's monitoring activities. The section has been revised to include subheadings, to emphasize that the participation mechanisms shall ensure a continuing consultation process (as is emphasized in other sections of this part, e.g., compliance planning, § 27.11(c)), to indicate the need for adequate notice before a required hearing, and to emphasize that it specifically applies only to recipients whose systems are covered by Subpart E.

The intent of § 27.107 is to ensure significant involvement of those most concerned and knowledgeable about accessible transportation in the planning and implementation of such transportation. Efforts should include as many diverse interests as possible in order to assure obtaining all the information necessary to develop a viable, accessible system. The regulation lists the interests whose participation must be sought.

While as much use as possible should be made of the area's already established community participation procedures, the special nature of the accessibility programs requires a special, identifiable effort in community participation. Due to the mobility

problems of the transportation handicapped, special mechanisms may have to be developed to ensure the involvement of future consumers of the accessible services. Such mechanisms could include conference call meetings, providing special transportation to meetings, developing materials to be understood by the blind or the hard of hearing, or meetings and discussions via television with telephone responses. The section requires recipients to ensure participation by handicapped persons; this requirement, of course, can be met only when the recipient's public meetings, conferences and workshops are held in accessible buildings.

The U.S. Department of Transportation publication "Effective Citizen Participation in Transportation Planning" (1976) (DOT-FH-11-8514) and the booklet "Barrier Free Meetings: A Guide for Professional Associations" (American Association for the Advancement of Science, 1515 Massachusetts Avenue, N.W., Washington, D.C. 20005) are useful resources which agencies responsible for planning and implementation activities may wish to consult.

Many comments were received concerning this section. They were generally supportive of the section. The majority, however, suggested language to be added to assure effective participation of and consultation with handicapped persons and groups. Many commenters raised a concern regarding the term "adequate" in connection with citizen participation procedures, which was perceived as being vague and indefinite. In the context of the explanations to planners provided by this preamble, we believe this general term is sufficient and that it will not lead to abuse.

#### *Subpart F—Enforcement*

This subpart sets forth the procedures by which the Department of Transportation will enforce the requirements of the other subparts of the regulation. The enforcement procedures are closely modeled on the Department's enforcement procedures for Title VI of the Civil Rights Act of 1964, as § 85.5 of the HEW guidelines requires. While some details of the enforcement procedures of the final rule differ from those of 49 CFR Part 21, the Department's Title VI regulation, the substance of the section 504 enforcement procedures is essentially the same as that of the Title VI rule.

One change has been made throughout the regulation. The NPRM vested compliance functions in the Director of the Office of Environment

and Safety. After further study, the Department has concluded that some of these functions, particularly concerning the handling of complaints, should be vested in the Director of the Office of Civil Rights. The Office of Civil Rights handles complaints under Title VI of the Civil Rights Act of 1964 and has considerable experience in investigating and responding to complaints. Delegation of the complaint function and other enforcement functions will be made by the Secretary in an internal directive. Reflecting this future change in the Department's assignment of enforcement functions, the rule now refers to "the responsible Departmental official" rather than to any specific official.

§ 27.121 *Compliance Information.* This section requires recipients to cooperate with and assist the responsible Departmental official in compliance matters, to keep records and submit compliance reports to the official, to permit the official access to information relevant to compliance, and make information about the Department's section 504 program available to the public. It is unchanged from the NPRM. Several commenters suggested that the recordkeeping and paperwork burdens of this section were excessive. Other commenters felt that not only information about the Department's section 504 program, but also the recipients' records, should be required to be made available to the public.

The recordkeeping and reporting requirements of this section are virtually identical to those imposed on recipients by Part 21. The experience of the Department and recipients under Title VI suggests that requirements of this nature are reasonable. With respect to the public availability of information, we do not believe it is necessary to require public access to recipients' records. The performance of recipients in carrying out the most important requirements of the rule—providing accessible buses or elevators in rail stations, for example—is fully open to view. Other provisions of the rule, such as those concerning transition plans and requests for waiver, include public hearing and consultation requirements. Potential complainants are not likely to need extensive additional documentary information before filing a complaint. All relevant documentary information will become part of the record in any complaint proceeding, ensuring that it will be properly considered.

§ 27.123 *Conduct of Investigations.* With one exception, this section is unchanged from the NPRM. The change is the addition of language providing

that the responsible Departmental official will begin the enforcement process if he or she finds "reasonable cause to believe" that there is a failure to comply. This language was added to remove the possibility of confusion over the nature of the official's finding at this stage of the procedures. Experience in the Title VI program has shown that recipients frequently misunderstand letters stating that the Departmental Office of Civil Rights has determined that they are in noncompliance, incorrectly believing that a final determination has been made. This stage of the procedure is akin to a "probable cause" finding, and the additional language is intended to clarify this fact.

The statement in paragraph (d) that "the matter is resolved by informal means whenever possible" is particularly important. This regulation is compliance-oriented. When there is a failure to comply, the Department plans to work with the recipient to bring it into compliance. The conciliation process is the focus of this compliance effort. The Department fully supports the concept, expressed elsewhere in this subpart, that resort to administrative or other sanctions is warranted only when compliance cannot be secured by voluntary means.

Several commenters suggested that persons or groups outside the Department, such as local groups of handicapped persons, local governments, or the Architectural and Transportation Barriers Compliance Board, should have partial or total responsibility for conducting compliance reviews and complaint investigations. The Department believes that while all of these and other groups can play an important, informal role to ensure that recipients comply and to bring to the Department's attention any failures to comply, it is preferable to leave the official compliance review and complaint investigation functions in the Department.

One commenter asked for specific provision for pre-award reviews. The section 504 compliance status will be taken into consideration by operating elements of the Department when recipients apply for grants. In many of the Department's grant programs, recipients must satisfy the Department that they are in compliance before grants (e.g. UMTA grants for capital or operating expenses) are awarded. Under these circumstances, mandatory pre-award reviews are unnecessary. Nothing in the regulation prohibits pre-award reviews, however, and they may

be scheduled when the Department believes them to be useful.

One commenter suggested broadening this section's prohibition on retaliation and intimidation to cover retaliation for complaints filed under other laws concerning discrimination because of handicap. We believe that it is unwise to attempt to extend the jurisdiction of the Department's section 504 rules to cover violations of other authorities.

**§ 27.125 Compliance Procedure.** This section's administrative sanction procedure, as set forth in the NPRM, is changed in three ways. Subparagraph (b)(1)(ii) has been changed to specify that the express finding on the record of noncompliance is to be made by the Secretary. Subparagraph (b)(1)(iii), which required the Secretary to approve of fund cutoff actions, has been eliminated in view of the change to subparagraph (b)(1)(ii), which assigns to the Secretary the responsibility of taking these actions in the first place. The procedure is otherwise the same as in the NPRM.

Two commenters expressed the concern that a mechanism for ensuring speedy treatment of complaints, such as a deadline for resolving complaints or a provision for a private right of court action after a certain amount of time has passed, should be included in this section. Given the emphasis which the regulation and Department of Transportation policy places on resolving noncompliance informally, measures which have the effect of forcing the Department and recipients into a confrontation over the imposition of sanctions before the possibilities of a negotiated agreement have been exhausted appear inappropriate. For this reason, we did not adopt these comments.

Another commenter asked that this section be brought closer to Title VI procedures by involving the Secretary more directly in compliance decisions and by requiring a report to Congress similar to that provided for in Title VI matters by 49 CFR 21.13(c). The first of these comments has been adopted, and the Secretary is charged with the responsibility of making the on-the-record noncompliance finding necessary for the termination of Federal funds. The legislative report requirement, however, is present in the Title VI regulations because of a statutory requirement (42 U.S.C. 2000d-1) which has no equivalent in section 504. Therefore, it is not necessary to include this requirement in the section 504 regulation.

**§ 27.127 Hearings.** There were four changes to this section. The first change involves the complainant who, under the

NPRM, was made a party to the proceedings. This provision was inconsistent with Title VI procedures, in which only the Department and the applicant or recipient are parties to the informal resolution and hearing processes. In order to be consistent with Title VI procedures, and to avoid the possibility of unwieldy three-party negotiations and hearings, the complainant has been deleted as a party. The complainant will have the opportunity, as complainants presently have under Title VI, of presenting information and views to the responsible Departmental official.

The second change involved adding language to subparagraph (a)(2) to specify the procedure to be followed in cases in which an applicant or recipient has waived its right to a hearing. When the hearing is waived, the responsible Departmental official and the applicant or recipient may also place information and arguments into the record.

The other two changes were the substitution of "responsible Departmental official" for the word "Department" in paragraphs (c) and (d). This change is intended to clarify the roles of actors in the hearing process. The responsible Departmental official, as with the applicant or recipient, appears as a party in the hearing. The official's role should be distinguished from that of the "Department" which, through the decision of the Secretary, will take action on the basis of the record developed at the hearing.

Relatively few comments were made on this section. One commenter asked that the convenience of the complainant be considered in determining the location of hearings. This factor will be taken into consideration, although it need not be made part of the regulation. Another commenter suggested that the complainant and its witnesses be reimbursed for travel and expenses. Since the complainant will not be a party to the hearing, this suggestion was not adopted.

**§ 27.129 Decisions and Notices.** The Department has revised this section in the interests of clarity and better administrative procedure. There are two principal changes. First, administrative due process is best served where the enforcement and decision-making functions of an agency are clearly separated. Therefore, the responsible Departmental official's role is delineated as enforcement. The official initiates enforcement proceedings and participates as a party in the proceedings. The authority to decide whether to find noncompliance and impose administrative sanctions is

reserved to the Secretary. This reservation of authority prevents any confusion between the "prosecutor" and "judge" roles in this type of proceeding. Moreover, it is highly likely that any matters that are unable to be settled informally will be sufficiently important and controversial to merit direct decision by the Secretary.

Second, the NPRM permitted alternative administrative procedures to be employed. Once a hearing was convened and an administrative law judge selected, the judge could either make what is called an "initial" decision (which becomes final upon approval by the Secretary unless a party raises exceptions to it) or make what is called a "proposed" or "recommended" decision (which is a non-binding recommendation to the decisionmaker upon which the parties may comment). Each of these paths for decision contained differing procedural details. To simplify this structure, the final rule provides that the administrative law judge makes a recommended decision, upon which the responsible Departmental official and applicant or recipient may comment, and that the Secretary makes the final decision. We are considering including a similar simplification in the Department's Title VI procedures, which are currently being revised by the Department.

As a result of these alterations, paragraphs (a) and (c) have been shortened by omitting references to the "initial decision" procedure. Paragraphs (b), (d) and (e) have been rewritten to provide for decisions by the Secretary, rather than by the responsible Departmental official. Paragraph (e), which provided for approval by the Secretary of decisions by the official, is no longer needed and has been deleted.

The "subsequent proceedings" provision (paragraph (f) in the final rule) has been changed in response to several public comments. One comment recommended that the rule provide procedures to govern post-termination hearings; the rule now provides that the hearing procedures of §§ 27.127 and 27.129, with certain exceptions, apply to these hearings. Another comment noted that the NPRM, in contrast with the Title VI regulations, said that sanctions "may" rather than "shall" remain in effect while a post-termination proceeding is pending. The rule now says "shall". In addition, consistent with the clarification of the role of the Secretary, the necessity of the Secretary's approval of the restoration of funding is stated explicitly in subparagraphs (1) and (2).

In consideration of the foregoing, a new Part 27 of Title 49 is added to the Code of Federal Regulations, as set forth below.

Issued in Washington, D.C. on May 25, 1979.

**Brock Adams,**  
*Secretary of Transportation.*

## Appendix

### *Correspondence Supporting Compliance With Section 85.4(b) of the HEW Guidelines*

In accordance with Section 85.4(b) of the Guidelines issued by the Department of Health, Education, and Welfare (HEW) for the implementation of Section 504 of the Rehabilitation Act of 1973, as amended, the Department of Transportation (DOT) submitted a proposed final rule with respect to Section 504 to HEW on April 2, 1979. On May 24, 1979, the Secretary of HEW advised the DOT that the DOT Section 504 final rule "complies with the HEW standards and guidelines." The April 2nd and May 24th letters are set forth below.

**The Secretary of Transportation,**  
*Washington, D.C., April 2, 1979.*

Hon. Joseph A. Califano, Jr.,  
*Secretary of Health, Education, and Welfare,*  
*Washington, D.C.*

Dear Joe: I am forwarding to you the Department of Transportation's proposed final regulations to implement Section 504 of the Rehabilitation Act of 1973. Following your review under Section 85.4(b) of your Department's Guidelines, I will publish the final DOT regulations in the *Federal Register*.

As you know from our discussions, this document represents the culmination of an extensive public comment period and a thorough review by my staff and myself. I believe the program in these regulations will provide effective transportation service for handicapped persons in conformity with the HEW Guidelines. The program also gives local officials and citizens an important role in shaping the local response to the regulations, within the context of Federal standards that ensure that the handicapped will benefit from significantly improved service.

I firmly believe the program is a reasonable and cost-effective approach to the implementation of Section 504 for the nation's transportation systems.

Sincerely,

**Brock Adams.**

Enclosure

**The Secretary of Health, Education, and Welfare,**  
*Washington, D.C., May 24, 1979.*

Hon. Brock Adams,  
*Secretary of Transportation, Washington,*  
*D.C.*

Dear Brock: I have reviewed your proposed final regulation implementing section 504 of the Rehabilitation Act of 1973. You had submitted your regulations to me on April 3, 1979, pursuant to my responsibilities under Executive Order 11914.

For the past five weeks, representatives of our Departments have discussed the difficult and complex issues raised by your regulation. I appreciate the cooperation that your Department has shown in meeting with HEW officials. Based on these discussions, a number of changes in the regulation you sent on April 3, 1979, have been agreed upon. With these changes, I now find that your Section 504 regulation complies with the HEW standards and guidelines implementing the Executive Order. Your regulation effectively resolves the unique and complex problems involved in making transportation systems in this country accessible to handicapped persons.

Once again, I congratulate you and your staff for the development of an equitable and reasonable Section 504 regulation. I believe this regulation will ensure that handicapped people in the United States will be able to use the nation's public transportation systems.

Sincerely,

**Joseph A. Califano, Jr.**

## **PART 27—NONDISCRIMINATION ON THE BASIS OF HANDICAP IN PROGRAMS AND ACTIVITIES RECEIVING OR BENEFITTING FROM FEDERAL FINANCIAL ASSISTANCE**

### **Subpart A—General**

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- 27.71 Federal Aviation Administration—Airports.
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### **Subpart E—Program Accessibility Requirements in Specific Operating Administration Programs: Mass Transportation**

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- 27.101 Period after program accessibility.
- 27.103 Transition plan.
- 27.105 Annual status report.
- 27.107 Community participation.
- 27.109–119 [Reserved].

### **Subpart F—Enforcement**

- 27.121 Compliance information.
- 27.123 Conduct of investigations.
- 27.125 Compliance procedure.
- 27.127 Hearings.
- 27.129 Decisions and notices.
- 27.131 [Reserved].

**AUTHORITY:** Sec. 504 of the Rehabilitation Act of 1973, as amended, 29 U.S.C. 794; section 16(a) of the Urban Mass Transportation Act of 1964, as amended, 49 U.S.C. 1612(a); section 165(b) of the Federal-Aid Highway Act of 1973, as amended, 23 U.S.C. 142 nt.

### **Subpart A—General**

#### **§ 27.1 Purpose.**

The purpose of this part is to carry out the intent of section 504 of the Rehabilitation Act of 1973 (29 U.S.C. 794) as amended, to the end that no otherwise qualified handicapped individual in the United States shall, solely by reason of his or her handicap, be excluded from the participation in, be denied the benefits of, or be subjected to discrimination under any program or activity receiving Federal financial assistance.

#### **§ 27.3 Applicability.**

This part applies to each recipient of Federal financial assistance from the Department of Transportation and to each program or activity that receives or benefits from such assistance.

#### **§ 27.5 Definitions.**

As used in this part:

"Accessible" means (a) with respect to new facilities, (1) conforming to the minimum standards of the "American National Standard Specifications for Making Buildings and Facilities Accessible to, and Usable by, the



Physically Handicapped," (ANSI A 117.1—1961 (R 1971) published by ANSI, Inc. ("ANSI Standards"),\* with respect to buildings and other fixed facilities to which ANSI standards are applicable; and (2) with respect to vehicles, other moving conveyances, or fixed facilities to which the ANSI standards do not apply, able to be entered and used by a handicapped person; (b) with respect to existing facilities, able to be entered and used by a handicapped person.

"Act" means the Rehabilitation Act of 1973, Pub. L. 93-112, as amended.

"Air Carrier Airport" means an airport serviced by a certificated air carrier unless such airport is served solely by an air carrier which provides: (1) passenger service at that airport in aircraft having a maximum passenger capacity of less than 56 passengers, or (2) cargo service in air transportation at that airport solely with aircraft having a maximum payload capacity of less than 18,000 pounds; provided, however, that if at any such airport, Federal funds are made available for terminal facilities, it shall be deemed to be an air carrier airport.

"Applicant" means one who submits an application, request, or plan to be approved by a Departmental official or by a primary recipient as a condition to eligibility for Federal financial assistance, and "application" means such an application, request, or plan.

"Closed station" means a station at which no services are provided to passengers by station attendants and at which trains make regularly scheduled stops.

"Commuter rail" means that portion of mainline railroad transportation operations which encompasses urban passenger train service for local short-distance travel between a central city and adjacent suburbs and which is characterized by multi-trip tickets, specific station-to-station fares, railroad employment practices, and usually only one or two stations in the central business district.

"Department" means the Department of Transportation.

"Discrimination" means denying handicapped persons the opportunity to participate in or benefit from any program or activity receiving Federal financial assistance.

"Facility" means all or any portion of buildings, structures, vehicles, equipment, roads, walks, parking lots, or other real or personal property or interest in such property.

"Federal financial assistance" means any grant, loan, contract (other than a procurement contract or a contract of

insurance or guaranty), or any other arrangement by which the Department provides or otherwise makes available assistance in the form of:

- (a) Funds;
- (b) Services of Federal personnel; or
- (c) Real or personal property or any interest in, or use of such property, including:

(1) Transfers or leases of such property for less than fair market value or for reduced consideration; and

(2) Proceeds from a subsequent transfer or lease of such property if the Federal share of its fair market value is not returned to the Federal Government.

"Fixed route bus system" means a system of buses of any size which operate on a fixed route pattern on a fixed schedule.

"Flag stop" means any station which is not a regularly scheduled stop but at which trains will stop to entrain or detrain passengers only on signal or advance notice.

"Handicapped person" means (1) any person who (a) has a physical or mental impairment that substantially limits one or more major life activities, (b) has a record of such an impairment, or (c) is regarded as having such an impairment. (2) As used in this definition, the phrase:

(a) "Physical or mental impairment" means (i) any physiological disorder or condition, cosmetic disfigurement, or anatomical loss affecting one or more of the following body systems: neurological; musculoskeletal; special sense organs; respiratory, including speech organs; cardiovascular, reproductive; digestive; genito-urinary; hemic and lymphatic; skin; and endocrine; or (ii) any mental or psychological disorder, such as mental retardation, organic brain syndrome, emotional or mental illness, and specific learning disabilities. The term "physical or mental impairment" includes, but is not limited to, such diseases and conditions as orthopedic, visual, speech, and hearing impairments; cerebral palsy; epilepsy; muscular dystrophy; multiple sclerosis; cancer; heart disease; mental retardation; emotional illness; drug addiction; and alcoholism.

(b) "Major life activities" means functions such as caring for one's self, performing manual tasks, walking, seeing, hearing, speaking, breathing, learning, and working.

(c) "Has a record of such an impairment" means has a history of, or has been classified, or misclassified, as having a mental or physical impairment that substantially limits one or more major life activities.

(d) "Is regarded as having an impairment" means:

(1) Has a physical or mental impairment that does not substantially limit major life activities but that is treated by a recipient as constituting such a limitation;

(2) Has a physical or mental impairment that substantially limits major life activity only as a result of the attitudes of others toward such an impairment; or

(3) Has none of the impairments set forth in paragraph (1) of this definition, but is treated by a recipient as having such an impairment.

"Head of Operating Administration" means the head of an operating administration within the Department (United States Coast Guard, Federal Highway Administration, Federal Aviation Administration, Federal Railroad Administration, National Highway Traffic Safety Administration, Urban Mass Transportation Administration, and Research and Special Programs Administration) providing Federal financial assistance to the recipient.

"Light rail" means a streetcar-type transit vehicle railway operated on city streets, semi-private rights-of-way, or exclusive private rights-of-way.

"Mass transportation" or "public transportation" means transportation by bus, or rail, or other conveyance, either publicly or privately owned, which provides to the public general or special service (but not including school buses or charter or sightseeing service) on a regular and continuing basis.

"Open station" means a station at which passengers may make reservations and purchase tickets and where passenger assistance is available for entraining and detraining passengers on trains which make regularly scheduled stops.

"Passenger" means anyone, except a working crew member, who travels on a vehicle the service of which is governed by these regulations.

"Primary recipient" means any recipient that is authorized or required to extend Federal financial assistance from the Department to another recipient for the purpose of carrying out a program.

"Public paratransit system" means those forms of collective passenger transportation which provide shared-ride service to the general public or special categories of users on a regular and predictable basis and which do not necessarily operate on fixed schedules or over prescribed routes.

"Qualified handicapped person" means:

(1) With respect to employment, a handicapped person who, with

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reasonable accommodation and within normal safety requirements, can perform the essential functions of the job in question, but the term does not include any individual who is an alcoholic or drug abuser whose current use of alcohol or drugs prevents such person from performing the duties of the job in question or whose employment, by reason of such current alcohol or drug abuse, would constitute a direct threat to property or the safety of others; and

(2) With respect to other activities, a handicapped person who meets the essential eligibility requirements for the receipt of such services.

"Rapid rail" means a subway-type transit vehicle railway operated on exclusive private rights-of-way with high-level platform stations.

"Recipient" means any State, territory, possession, the District of Columbia, or Puerto Rico, or any political subdivision thereof, or instrumentality thereof, any public or private agency, institution, organization, or other entity, or any individual in any State, territory, possession, the District of Columbia, or Puerto Rico, to whom Federal financial assistance from the Department is extended directly or through another recipient, for any Federal program, including any successor, assignee, or transferee thereof, but such term does not include any ultimate beneficiary under any such program.

"Secretary" means the Secretary of Transportation.

"Section 504" means section 504 of the Act.

"Transportation improvement program" means a staged multiyear program of transportation improvements including an annual element.

"Urbanized area" means an area so designated by the Bureau of Census, within boundaries which shall be fixed by responsible State and local officials in cooperation with each other, subject to approval by the Secretary, and which shall at a minimum, in case of any such area, encompass the entire urbanized area within a State as designated by the Bureau of Census.

#### § 27.7 Discrimination prohibited.

(a) *General.* No qualified handicapped person shall, solely by reason of his handicap, be excluded from participation in, be denied the benefits of, or otherwise be subjected to discrimination under any program or activity that receives or benefits from Federal financial assistance administered by the Department of Transportation.

#### (b) *Discriminatory actions prohibited.*

(1) A recipient, in providing any aid, benefit, or service, may not, directly or through contractual, licensing, or other arrangements, on the basis of handicap:

(i) Deny a qualified handicapped person the opportunity to participate in or benefit from the aid, benefit, or service;

(ii) Afford a qualified handicapped person an opportunity to participate in or benefit from the aid, benefit, or service that is not substantially equal to that afforded persons who are not handicapped;

(iii) Provide a qualified handicapped person with an aid, benefit, or service that is not as effective in affording equal opportunity to obtain the same result, to gain the same benefit, or to reach the same level of achievement as persons who are not handicapped;

(iv) Provide different or separate aid, benefits, or services to handicapped persons or to any class of handicapped persons unless such action is necessary to provide qualified handicapped persons with aid, benefits or services that are as effective as those provided to persons who are not handicapped;

(v) Aid or perpetuate discrimination against a qualified handicapped person by providing financial or other assistance to an agency, organization, or person that discriminates on the basis of handicap in providing any aid, benefit, or service to beneficiaries of the recipient's program;

(vi) Deny a qualified handicapped person the opportunity to participate in conferences, in planning or advising recipients, applicants or would-be applicants, or

(vii) Otherwise limit a qualified handicapped person in the enjoyment of any right, privilege, advantage, or opportunity enjoyed by others receiving an aid, benefit, or service.

(2) For purposes of this part, aids, benefits, and services, to be equally effective, are not required to produce the identical result or level of achievement for handicapped and nonhandicapped persons, but must afford handicapped persons equal opportunity to obtain the same result, to gain the same benefit, or to reach the same level of achievement, in the most integrated setting that is reasonably achievable.

(3) Even if separate or different programs or activities are available to handicapped persons, a recipient may not deny a qualified handicapped person the opportunity to participate in the programs or activities that are not separate or different.

(4) A recipient may not, directly or through contractual or other

arrangements, utilize criteria or methods of administration (i) that have the effect of subjecting qualified handicapped persons to discrimination on the basis of handicap, (ii) that have the purpose or effect of defeating or substantially reducing the likelihood that handicapped persons can benefit by the objectives of the recipient's program, or (iii) that yield or perpetuate discrimination against another recipient if both recipients are subject to common administrative control or are agencies of the same State.

(5) In determining the site or location of a facility, an applicant or a recipient may not make selections (i) that have the effect of excluding handicapped persons from, denying them the benefits of, or otherwise subjecting them to discrimination under any program or activity that receives or benefits from Federal financial assistance, or (ii) that have the purpose or effect of defeating or substantially impairing the accomplishment of the objectives of the program or activity with respect to handicapped persons.

(6) As used in this section, the aid benefit, or service provided under a program or activity receiving or benefitting from Federal financial assistance includes any aid, benefit, or service provided in or through a facility that has been constructed, expanded, altered, leased or rented, or otherwise acquired, in whole or in part, with Federal financial assistance.

(c) *Communications.* Recipients shall take appropriate steps to ensure that communications with their applicants, employees, and beneficiaries are available to persons with impaired vision and hearing.

(d) *Programs limited by Federal law.* In programs authorized by Federal statute or executive order that are designed especially for the handicapped, or for a particular class of handicapped persons, the exclusion of nonhandicapped or other classes of handicapped persons is not prohibited by this part.

#### 27.9 Assurance required.

(a) *General.* Each application for Federal financial assistance to carry out a program to which this part applies, and each application to provide a facility, shall, as a condition to approval or extension of any Federal financial assistance pursuant to the application, contain, or be accompanied by, written assurance that the program will be conducted or the facility operated in compliance with all the requirements imposed by or pursuant to this part. An applicant may incorporate these



assurances by reference in subsequent applications to the Department.

**(b) Future Effect of Assurances.**

Recipients of Federal financial assistance, and transferees of property obtained by a recipient with the participation of Federal financial assistance, are bound by the recipient's assurance under the following circumstances:

(1) When Federal financial assistance is provided in the form of a conveyance of real property or an interest in real property from the Department of Transportation to a recipient, the instrument of conveyance shall include a covenant running with the land binding the recipient and subsequent transferees to comply with the requirements of this part for so long as the property is used for the purpose for which the Federal financial assistance was provided or for a similar purpose.

(2) When Federal financial assistance is used by a recipient to purchase or improve real property, the assurance provided by the recipient shall obligate the recipient to comply with the requirements of this part and require any subsequent transferee of the property, who is using the property for the purpose for which the Federal financial assistance was provided, to agree in writing to comply with the requirements of this part. The obligations of the recipient and transferees under this part shall continue in effect for as long as the property is used for the purpose for which Federal financial assistance was provided or for a similar purpose.

(3) When Federal financial assistance is provided to the recipient in the form of, or is used by the recipient to obtain, personal property, the assurance provided by the recipient shall obligate the recipient to comply with the requirements of this part for the period it retains ownership or possession of the property or the property is used by a transferee for purposes directly related to the operations of the recipient.

(4) When Federal financial assistance is used by a recipient for purposes other than to obtain property, the assurance provided shall obligate the recipient to comply with the requirements of this part for the period during which the Federal financial assistance is extended to the program.

**§ 27.11 Remedial action, voluntary action and compliance planning.**

(a) *Remedial action.* (1) If the responsible Departmental official finds that a qualified handicapped person has been excluded from participation in, denied the benefits of, or otherwise

subjected to discrimination under, any program or activity in violation of this part, the recipient shall take such remedial action as the responsible Departmental official deems necessary to overcome the effects of the violation.

(2) Where a recipient is found to have violated this part, and where another recipient exercises control over the recipient that has violated this part, the responsible Departmental official, where appropriate, may require either or both recipients to take remedial action.

(3) The responsible Departmental official may, where necessary to overcome the effects of a violation of this part, require a recipient to take remedial action (i) with respect to handicapped persons who are no longer participants in the recipient's program but who were participants in the program when such discrimination occurred, and (ii) with respect to handicapped persons who would have been participants in the program had the discrimination not occurred.

(b) *Voluntary action.* A recipient may take steps, in addition to any action that is required by this part, to assure the full participation in the recipient's program or activity by qualified handicapped persons.

(c) *Compliance planning.* (1) A recipient shall, within 90 days from the effective date of this part, designate and forward to the head of any operating administration providing financial assistance, with a copy to the responsible Departmental official the names, addresses, and telephone numbers of the persons responsible for evaluating the recipient's compliance with this part.

(2) A recipient shall, within 180 days from the effective date of this part, after consultation at each step in paragraphs (c)(2) (i)–(iii) of this section with interested persons, including handicapped persons and organizations representing the handicapped:

(i) Evaluate its current policies and practices for implementing these regulations, and notify the head of the operating administration of the completion of this evaluation;

(ii) Identify shortcomings in compliance and describe the methods used to remedy them;

(iii) Begin to modify, with official approval of recipient's management, any policies or practices that do not meet the requirements of this part according to a schedule or sequence that includes milestones or measures of achievement. These modifications shall be completed within one year from the effective date of this part;

(iv) Take appropriate remedial steps to eliminate the effects of any discrimination that resulted from previous policies and practices; and

(v) Establish a system for periodically reviewing and updating the evaluation.

(3) A recipient shall, for at least three years following completion of the evaluation required under paragraph (c)(2) of this section, maintain on file, make available for public inspection, and furnish upon request to the head of the operating administration:

(i) A list of the interested persons consulted;

(ii) A description of areas examined and any problems identified; and

(iii) A description of any modifications made and of any remedial steps taken.

**§ 27.13 Designation of responsible employee and adoption of grievance procedures.**

(a) *Designation of responsible employee.* Each recipient that employs fifteen or more persons shall, within 90 days of the effective date of this regulation, forward to the head of the operating administration that provides financial assistance to the recipient, with a copy to the responsible Departmental official, the name, address, and telephone number of at least one person designated to coordinate its efforts to comply with this part. Each such recipient shall inform the head of the operating administration of any subsequent change.

(b) *Adoption of complaint procedures.* A recipient that employs fifteen or more persons shall, within 180 days, adopt and file with the head of the operating administration procedures that incorporate appropriate due process standards and provide for the prompt and equitable resolution of complaints alleging any action prohibited by this part.

**§ 27.15 Notice.**

(a) A recipient shall take appropriate initial and continuing steps to notify participants, beneficiaries, applicants, and employees, including those with impaired vision or hearing, and unions or professional organizations holding collective bargaining or professional agreements with the recipient, that it does not discriminate on the basis of handicap. The notification shall state, where appropriate, that the recipient does not discriminate in admission or access to, or treatment or employment in, its programs or activities. The notification shall also include an identification of the responsible employee designated pursuant to

§ 27.13(a). A recipient shall make the initial notification required by this section within 90 days of the effective date of this part. Methods of initial and continuing notification may include the posting of notices, publication in newspapers and magazines, placement of notices in recipients' publications and distribution of memoranda or other written communications.

(b) If a recipient publishes or uses recruitment materials or publications containing general information that it makes available to participants, beneficiaries, applicants, or employees, it shall include in those materials or publications a statement of the policy described in paragraph (a) of this section. A recipient may meet the requirement of this paragraph either by including appropriate inserts in existing materials and publications or by revising and reprinting the materials and publications. In either case, the addition or revision must be specially noted.

#### § 27.17 Effect of State or local law.

The obligation to comply with this part is not obviated or affected by any State or local law.

#### §§ 27.19-29 [Reserved].

### Subpart B—Employment Practices

#### § 27.31 Discrimination prohibited.

(a) *General.* (1) No qualified handicapped applicant for employment, or an employee shall, on the basis of handicap, be subjected to discrimination in employment under any program or activity that receives or benefits from Federal financial assistance.

(2) A recipient shall make all decisions concerning employment under any program or activity to which this part applies in a manner assuring that discrimination on the basis of handicap does not occur. A recipient may not limit, segregate, or classify applicants for employment or employees in any way that adversely affects their opportunities or status on the basis of handicap. This part does not prohibit the consideration of handicap in decisions affecting employment if the purpose and effect of the consideration is to remove or overcome impediments or the present effects of past impediments to the employment of handicapped persons.

(3) A recipient may not enter a contractual or other relationship that subjects qualified handicapped applicants for employment or employees to discrimination prohibited by this subpart. The relationships referred to in this paragraph include relationships with employment and referral agencies, with labor unions, with organizations

providing or administering fringe benefits to employees of the recipient, or with organizations providing training and apprenticeship programs.

(b) *Specific Activities.* A recipient shall not discriminate on the basis of handicap in:

(1) Recruiting, advertising, and processing of applications for employment;

(2) Hiring, upgrading, promoting, awarding tenure, demotion, transfer, layoff, termination, right of return from layoff, and rehiring;

(3) Rates of pay or any other form of compensation and changes in compensation;

(4) Job assignments, job classifications, organizational structures, position descriptions, lines of progression, and seniority lists;

(5) Leaves of absence, sick leave, or any other leave;

(6) Fringe benefits available by virtue of employment, whether or not administered by the recipient;

(7) Selection and financial support for training, including apprenticeship, professional meetings conferences, and other related activities, and selection for leaves of absence to pursue training;

(8) Employer-sponsored activities, including social or recreational programs; and

(9) Any other term, condition, or privilege of employment.

(c) A recipient's obligation to comply with this subpart is not affected by any inconsistent term of any collective bargaining agreement to which it is a party.

#### § 27.33 Reasonable accommodation.

(a) A recipient shall make reasonable accommodation to the known handicaps of an otherwise qualified applicant for employment or employee unless the recipient can demonstrate to the responsible Departmental official that the accommodation would impose an undue hardship on the operations of its program.

(b) Reasonable accommodation includes (but is not limited to):

(1) Making facilities used by employees readily accessible to and usable by handicapped persons;

(2) Job restructuring, part-time or modified work schedules, acquisition or modification of equipment, and similar actions; and

(3) The assignment of an employee who becomes handicapped and unable to perform his/her original duties to an alternative position with comparable pay.

(c) In determining, pursuant to paragraph (a) of this section, whether an

accommodation would impose an undue hardship on the operation of a recipient's program, factors to be considered include:

(1) The overall size of the recipient's program, including number of employees, number and type of facilities, and size of budget;

(2) The type of the recipient's operation, including the composition and structure of the recipient's workforce;

(3) The nature and cost of the accommodation needed; and

(4) Its effect on program accomplishments, including safety.

(d) A recipient shall not deny any employment opportunity to a qualified handicapped employee or applicant for employment if the basis for the denial is the need to make reasonable accommodations to the handicaps of the employee or applicant.

#### § 27.35 Employment criteria.

(a) A recipient shall not make use of an employment test or other selection criterion that has an adverse impact or tends to have an adverse impact on handicapped persons, unless:

(1) The test score or other selection criterion, as used by the recipient, is shown to be job-related for the position in question; and

(2) Alternative job-related tests or criteria that do not have an adverse impact or do not tend to have an adverse impact on handicapped persons are shown by the recipient to be unavailable.

(b) A recipient shall select and administer tests that, when administered to an applicant for employment or an employee with impaired sensory, manual, or speaking skills, nonetheless accurately measure what they purport to measure.

#### § 27.37 Preemployment inquiries.

(a) Except as provided in paragraphs (b) and (c) of this section, a recipient shall not conduct a preemployment medical examination or inquiry as to whether the applicant is a handicapped person or as to the nature or severity of a handicap. A recipient may, however, make preemployment medical examinations that are required by Federal law or regulation or inquiries into an applicant's ability to perform job-related functions.

(b) When a recipient is taking remedial action pursuant to § 27.11 (a) or (c), or when a recipient is taking affirmative action pursuant to section 505 of the Act (which relates to government procurement), the recipient may invite applicants for employment to

indicate whether and to what extent they are handicapped, provided that:

(1) The recipient makes clear that the information requested is intended for use solely in connection with the remedial action obligations or its voluntary or affirmative actions efforts; and

(2) The recipient makes clear that the information is being requested on a voluntary basis, that it will be kept confidential, that refusal to provide it will not subject the applicant or employee to any adverse treatment, and that it will be used only in accordance with this part.

(c) Nothing in this section prohibits a recipient from conditioning an offer of employment on the results of a medical examination conducted prior to the employee's entrance on duty, if:

(1) All entering employees in that category of job classification must take such an examination regardless of whether or not they are handicapped; and

(2) The results of such an examination are used only in accordance with this part.

(d) Information obtained in accordance with this section shall be collected and maintained on separate forms and treated confidentially, except that:

(1) Supervisors and managers may be informed of restrictions on the work or duties of handicapped persons and necessary accommodations;

(2) First aid and safety personnel may be informed, where appropriate, if the condition might require emergency treatment; and

(3) Government officials investigating compliance with the Act shall be provided relevant information upon request, consistent with the Privacy Act of 1974, 5 USC 552a.

#### §§ 27.39-59 [Reserved]

### Subpart C—Program Accessibility—General

#### § 27.61 Applicability.

This subpart applies to all programs of the Department of Transportation to which section 504 is applicable. Additional provisions with respect to certain specific programs of the Department are set forth in subparts D and E. The provisions of this subpart should be interpreted in a manner that will make them consistent with the provisions of subparts D and E. In the case of apparent conflict, the provisions of subparts D and E shall prevail.

#### § 27.63 Discrimination prohibited.

No qualified handicapped person shall, because a recipient's facilities are inaccessible to or unusable by handicapped persons, be denied the benefits of, be excluded from participation in, or otherwise be subjected to discrimination under any program or activity to which this part applies.

#### § 27.65 Existing facilities.

(a) *Program accessibility.* A recipient shall operate each program or activity to which this part applies so that, when viewed in the entirety, it is accessible to handicapped persons. This paragraph does not necessarily require a recipient to make each of its existing facilities or every part of an existing facility accessible to and usable by handicapped persons.

(b) *Methods.* A recipient may comply with the requirements of paragraph (a) of this section through such means as redesign of equipment, alteration of existing facilities and construction of new facilities in accordance with the requirements of § 27.67(d) or any other methods that result in making its program or activity accessible to handicapped persons. In choosing among available methods for meeting the requirements of paragraph (a) of this section, a recipient shall give priority to those methods that offer programs and activities to handicapped persons in the most integrated setting appropriate.

(c) *Structural changes.* Where structural changes are necessary to make programs or activities in existing facilities meet the requirements of paragraph (a) of this section, such changes shall be made as soon as practicable, but in no event later than three years after the effective date of this regulation unless otherwise provided in subpart D or E.

(d) *Transition plan.* In the event that structural changes to facilities are necessary to meet the requirements of paragraph (a) of this section, a recipient shall develop, and submit in duplicate to the cognizant operating administration providing Federal financial assistance, within one year of the effective date of this part, a transition plan listing the facilities and setting forth the steps necessary to complete such changes. The plan shall be developed with the assistance of interested persons, including handicapped persons or organizations representing handicapped persons. A copy of the transition plan and a list of the interested persons and organizations consulted shall be made available for public inspection. The plan shall, at a minimum:

(1) Identify each facility required to be modified by this part. Facilities shall be listed even though the recipient contemplates requesting a waiver of the requirement to modify the facility;

(2) Identify physical obstacles in the listed facilities that limit the accessibility of its program or activity to handicapped persons;

(3) Describe the methods that will be used to make the listed facilities accessible;

(4) Describe how and the extent to which the surrounding areas will be made accessible;

(5) Specify the schedule for taking the steps necessary to achieve overall program accessibility and, if the time period of the transition plan is longer than three years, identify steps that will be taken during each year of the transition period; and

(6) Indicate the person responsible for implementation of the plan.

(e) *Notice.* The recipient shall adopt and implement procedures to ensure that interested persons, including persons with impaired vision or hearing, can obtain information as to the existence and location of services, activities, and facilities that are accessible to and usable by handicapped persons.

#### 27.67 New facilities and alterations.

(a) *Design and construction.* Each facility or part of a facility constructed by, on behalf of, or for the use of a recipient shall be designed, constructed, and operated in a manner so that the facility or part of the facility is accessible to and usable by handicapped persons, if the construction was commenced after the effective date of this part; with respect to vehicles, unless otherwise provided in subpart D or E, this requirement is effective for vehicles for which solicitations are issued or which are leased after the effective date of this part.

(b) *Alteration.* Each facility or part of a facility which is altered by, on behalf of, or for the use of a recipient after the effective date of this part in a manner that affects or could affect the accessibility of the facility or part of the facility shall, to the maximum extent feasible, be altered in such a manner that the altered portion of the facility is readily accessible to and usable by handicapped persons.

(c) When an existing vehicle is renovated substantially to prolong its life, the vehicle shall, to the maximum extent feasible, meet the requirements for a comparable new vehicle. Lesser renovations shall incorporate accessibility features for a comparable

new vehicle when practicable and justified by the remaining life expectancy of the vehicle.

(d) *ANSI standards.* Design, construction or alteration of fixed facilities in paragraphs (a) and (b) of this section shall be in accordance with the minimum standards in the "American National Standard Specifications for Making Buildings and Facilities Accessible to, and Usable by, the Physically Handicapped," published by ANSI, Inc. (ANSI A117.1-1981 (R1971)), which is incorporated by reference in this part. Departures from particular requirements of these standards by the use of other methods shall be permitted when it is clearly evident that equivalent access to the facility or part of the facility is thereby provided.

#### § 27.69 [Reserved]

### Subpart D—Program Accessibility Requirements in Specific Operating Administration Programs; Airports, Railroads, and Highways

#### § 27.71 Federal Aviation Administration—Airports.

##### (a) *Fixed facilities; New terminals—*

(1) Terminal facilities designed and constructed by or for the use of a recipient of Federal financial assistance on or after the effective date of this part, the intended use of which will require it to be accessible to the public or may result in the employment therein of physically handicapped persons, shall be designed or constructed in accordance with the ANSI standards. Where there is ambiguity or contradiction between the definitions and the standards used by ANSI and the definitions and standards used in paragraph (a)(2) of this section, the ANSI terms should be interpreted in a manner that will make them consistent with the standards in paragraph (a)(2) of this section. If this cannot be done, the standards in paragraph (a)(2) of this section prevail.

(2) In addition to the ANSI standards, the following standards apply to new airport terminal facilities:

(i) *Airport terminal circulation and flow.* The basic terminal design shall permit efficient entrance and movement of handicapped persons while at the same time giving consideration to their convenience, comfort, and safety. It is also essential that the design, especially concerning the location of elevators, escalators, and similar devices, minimize any extra distance that wheelchair users must travel compared to nonhandicapped persons, to reach ticket

counters, waiting areas, baggage handling areas, and boarding locations.

(ii) *International accessibility symbol.* The international accessibility symbol shall be displayed at accessible entrances to buildings that meet the ANSI standards.

(iii) *Ticketing.* The ticketing system shall be designed to provide handicapped persons with the opportunity to use the primary fare collection area to obtain ticket issuance and make fare payment.

(iv) *Baggage check-in and retrieval.* Baggage areas shall be accessible to handicapped persons. The facility shall be designed to provide for efficient handling and retrieval of baggage by all persons.

(v) *Boarding.* Each operator at an airport receiving any Federal financial assistance shall assure that adequate assistance is provided for enplaning and deplaning handicapped persons. Boarding by jetways and by passenger lounges are the preferred methods for movement of handicapped persons between terminal buildings and aircraft at air carrier airports; however, where this is not practicable, operators at air carrier airport terminals shall assure that there are lifts, ramps, or other suitable devices not normally used for movement of freight that are available for enplaning and deplaning wheelchair users.

(vi) *Telephones.* Wherever there are public telephone centers in terminals, at least one clearly marked telephone shall be equipped with a volume control or sound booster device and with a device available to handicapped persons that makes telephone communication possible for persons wearing hearing aids.

(vii) *Teletypewriter.* Each airport shall ensure that there is sufficient teletypewriter (TTY) service to permit hearing-impaired persons to communicate readily with airline ticket agents and other personnel.

(viii) *Vehicular loading and unloading areas.* Several spaces adjacent to the terminal building entrance, separated from the main flow of traffic, and clearly marked, shall be made available for the loading and unloading of handicapped passengers from motor vehicles. The spaces shall allow individuals in wheelchairs or with braces or crutches to get in and out of automobiles onto a level surface suitable for wheeling and walking.

(ix) *Parking.* In addition to the requirements in the ANSI standards the following requirements shall be met:

(A) Curb cuts or ramps with grades not exceeding 8.33 percent shall be

provided at crosswalks between park areas and the terminal;

(B) Where multi-level parking is provided, ample and clearly marked space shall be reserved for ambulatory and semi-ambulatory handicapped persons on the level nearest the ticketing and boarding portion of the terminal facilities, and

(C) In multi-level parking areas, elevators, ramps, or other devices that can accommodate wheelchair users shall be easily available.

(x) *Waiting area/public space.* As the major public area of the airport terminal facility, the environment in the waiting area/public space should give the handicapped person confidence and security in using the facility. The space shall be designed to accommodate the handicapped providing clear direction about how to use all passenger facilities.

(xi) *Airport terminal information.* Airport terminal information systems shall take into consideration the needs of handicapped persons. The primary information mode shall be visual words and letters, or symbols, using lighting and color coding. Airport terminals shall also have facilities providing information orally.

(xii) *Public services.* Public service facilities such as public toilets, drinking fountains, telephones, travelers aid and first aid medical facilities shall be designed in accordance with ANSI standards.

(b) *Fixed facilities; existing terminals—*(1) *Structural changes.* Where structural changes are necessary to make existing air carrier terminals which are owned and operated by recipients of Federal financial assistance accessible to and usable by handicapped persons, such changes shall be made in accordance with the ANSI standards as soon as practicable, but in no event later than three years after the effective date of this part.

(2) *Ongoing renovation.* In terminals that are undergoing structural changes involving entrances, exits, interior doors, elevators, stairs, baggage areas, drinking fountains, toilets, telephones, eating places, curbs, and parking areas, recipients shall begin immediately to incorporate accessibility features.

(3) *Transition.* Where extensive structural changes to existing facilities are necessary to meet accessibility requirements, recipients shall develop a transition plan in accordance with § 27.65(d) and submit it to the Federal Aviation Administration (FAA). Transition plans are reviewed and approved or disapproved by the FAA as expeditiously as possible after they are received.

(4) *Boarding.* Each operator at an airport receiving any Federal financial assistance shall assure that adequate assistance is provided incident to enplaning and deplaning handicapped persons. Within three years from the effective date of this part, recipients operating terminals at air carrier airports that are not equipped with jetways or passenger lounges for boarding and unboarding shall assure that there are lifts, ramps, or other suitable devices, not normally used for movement of freight, are available for enplaning and deplaning wheelchair users.

(5) *Passenger services.* Recipients operating terminals at air carrier airports shall assure that there are provisions for assisting handicapped passengers upon request in movement into, out of, and within the terminal, and in the use of terminal facilities, including baggage handling.

(6) *Guide dogs.* Seeing eye and hearing guide dogs shall be permitted to accompany their owners and shall be accorded all the privileges of the passengers whom they accompany in regard to access to terminals and facilities.

#### § 27.73 Federal Railroad Administration—Railroads.

(a) *Fixed facilities.* (1) New facilities—(i) Every fixed facility or part of a facility—including every station, terminal, building, or other facility—designed or constructed by or for the use of a recipient of Federal financial assistance on or after the effective date of this part, the intended use of which will require it to be accessible to the public or may result in the employment therein of physically handicapped persons, shall be designed and constructed in accordance with the ANSI standards. Where there is ambiguity or contradiction between the definitions and the standards used by ANSI and the definitions and standards used in paragraph (a)(1)(ii) of this section, the ANSI terms should be interpreted in a manner that will make them consistent with the standards in paragraph (a)(1)(ii) of this section. If this cannot be done, the standards in paragraph (a)(1)(ii) of this section will prevail.

(ii) In addition to the ANSI standards the following standards also apply to rail facilities:

(A) *Station circulation and flow.* The basic station design shall permit efficient entrance and movement of handicapped persons while at the same time giving consideration to their convenience, comfort, and safety. The

design, especially concerning the location of elevators, escalators, and similar devices, shall minimize any extra distance that wheelchair users must travel, compared to nonhandicapped persons, to such ticket counters, baggage handling areas and boarding locations.

(B) *International accessibility symbol.* The international accessibility symbol shall be displayed at accessible entrances to buildings that meet ANSI standards.

(C) *Ticketing.* The ticketing system shall be designed to provide handicapped persons with the opportunity to use the primary fare collection area to obtain ticket issuance and make fare payment.

(D) *Baggage check-in and retrieval.* Baggage areas shall be accessible to handicapped persons. The facility shall be designed to provide for efficient handling and retrieval of baggage by all persons.

(E) *Boarding platforms.* All boarding platforms that are located more than two feet above ground or present any other dangerous condition, shall be marked with a warning device consisting of a string of floor material differing in color and texture from the remaining floor surface. The design of boarding platforms shall be coordinated with the vehicle design where possible in order to minimize the gap between platform and vehicle doorway and to permit safe passage by wheelchair users and other handicapped persons. Where level entry boarding is not provided, lifts, ramps or other suitable devices shall be available to permit boarding by wheelchair users.

(F) *Telephones.* At least one clearly marked telephone shall be equipped with a volume control or sound booster device and with a device available to handicapped persons that makes telephone communication possible for persons wearing hearing aids.

(G) *Teletypewriter.* Recipients shall make available a toll-free reservation and information number with teletypewriter (TTY) capabilities, to permit hearing-impaired persons using TTY equipment to readily obtain information or make reservations for any services provided by a recipient.

(H) *Vehicular loading and unloading areas.* Several spaces adjacent to the terminal entrance separated from the main flow of traffic and clearly marked shall be made available for the boarding and exiting of handicapped persons. The spaces shall allow individuals in wheelchairs or with braces or crutches to get in and out of vehicles onto a level surface suitable for wheeling or walking.

(I) *Parking.* Where parking facilities are provided, at least two spaces shall be set aside and identified for the exclusive use of handicapped persons. Curb cuts or ramps with grades not exceeding 8.33 percent shall be provided at crosswalks between parking areas and the terminal. Where multi-level parking is provided, ample space which is clearly marked shall be reserved for handicapped persons with limited mobility on the level which is most accessible to the ticketing and boarding portion of the terminal facilities; such level change shall be by elevator, ramp, or by other devices which can accommodate wheelchair users.

(J) *Waiting area/public space.* As the major public area of the rail facility, the environment in the waiting area/public space should give the handicapped persons confidence and security in using the facility. The space shall be designed to accommodate the handicapped by providing clear directions about how to use all passenger facilities.

(K) *Station information.* Station information systems shall take into consideration the needs of handicapped persons. The primary information mode shall be visual words and letters or symbols using lighting and color coding. Stations shall also have facilities for giving information orally. Scheduling information shall be available in a tactile format or through the use of a toll-free telephone number.

(L) *Public services.* Public service facilities, such as public toilets, drinking fountains, telephones, travelers aid and first aid medical facilities, shall be designed in accordance with ANSI standards.

(2) *Existing facilities—*(1) *Ongoing renovation.* All recipients shall begin immediately to incorporate accessibility features in stations and terminals that are already undergoing structural changes involving entrances and exits, interior doors, elevators, stairs, baggage areas, drinking fountains, toilets, telephones, eating places, boarding platforms, curbs, and parking garages.

(ii) *Structural changes.* Existing stations shall be modified to ensure that the facilities, when viewed in their entirety, are readily accessible to and usable by handicapped persons.

(iii) *Scheduling of structural changes.* (A) Within five years from the effective date of this section, recipients shall make accessible no less than one station in each Standard Metropolitan Statistical Area (SMSA) served by the recipient. Where there is more than one station in an SMSA, recipients shall select the station with the greatest

annual passenger volume for modification within five years.

(B) Within ten years of the effective date of this section, recipients shall make accessible all other stations in each SMSA.

(C) Within five years of the effective date of this section, recipients shall make accessible stations located outside of an SMSA and not located within 50 highway miles of an accessible station. Where there are two or more stations within 50 highway miles of one another, a recipient shall select the station with the greatest annual passenger volume for modification within five years.

(D) Within ten years of the effective date of this section, recipients shall make accessible all other stations located outside of an SMSA.

(iv) *Waiver procedure.* (A) Recipients may petition the Federal Railroad Administrator for a waiver from the requirement to make a particular station accessible under § 27.73(a)(2)(iii) (B) and (D). Such petitions shall be submitted no later than six years after the effective date of this section.

(B) A request for a waiver shall be supported by a written justification to the Federal Railroad Administrator. The justification shall include a record of a community consultative process in the area served by the station for which a waiver is sought. This request shall include a transcript of a public hearing. Handicapped persons and organizations in the area concerned shall be involved in the consultative process.

(C) Factors that are applicable to the determination on a petition for waiver and the conditions that would apply to the waiver include, but are not limited to: (1) The utilization of the station; (2) the cost of making modifications to the station; (3) and the availability of alternative, accessible means of transportation for handicapped persons that meet the needs of those persons for efficient and timely service at a fare comparable to rail fare from the area served by the station to the nearest accessible station in each direction of travel.

(D) Within 30 days of the date the waiver request is filed with the FRA, representatives of the FRA will meet with representatives of the Interstate Commerce Commission (ICC) to determine if the justification is adequate. The representatives will coordinate their efforts so that any changes requested by either FRA or ICC are consistent.

(E) If no agreement can be reached by the FRA and ICC on the adequacy of the justification within 60 days from the

date the representatives first meet, the waiver request shall be denied.

(v) *Transition plan.* Where extensive changes to existing facilities are necessary to meet accessibility requirements, recipients shall develop a transition plan in accordance with § 27.65(d) and submit it, in duplicate, to the Federal Railroad Administration (FRA).

(vi) *Approval of transition plan.* (A) Transition plans are reviewed and approved or disapproved as expeditiously as possible after they are received. Within 30 days from the date the plan is filed with the FRA, representatives of the FRA meet with representatives of the ICC to determine if the plan is adequate. The representatives coordinate their efforts so that any changes requested by either the FRA or the ICC are consistent.

(B) If no agreement can be reached by the FRA and the ICC within 60 days from the date the representatives first meet, the transition plan shall be disapproved.

(vii) *Existing danger.* Every existing facility and piece of equipment shall be free of conditions which pose a danger to the life or safety of handicapped persons. Upon discovery of such conditions, the danger shall be immediately eliminated and all necessary steps taken to protect the handicapped, or a particular category of handicapped persons, from harm during the period that the facility or equipment is being made safe.

(b) *Rail vehicles.* (1) Within five years from the effective date of this part, on each passenger train:

(i) At least one coach car shall be accessible;

(ii) Where sleeping cars are provided, at least one sleeping car shall be accessible; and

(iii) At least one car in which food service is available shall be accessible to handicapped persons, or they shall be provided food service where they are seated.

In cases where the only accessible car is first class, first class seating for handicapped persons shall be provided at coach fare.

(2) In order for a passenger car to be accessible to handicapped persons, the following shall be available:

(i) Space to park and secure one or more wheelchairs to accommodate persons who wish to remain in their wheelchairs, and space to fold and store one or more wheelchairs to accommodate individuals who wish to sit in coach seats.

(ii) Accessible restrooms with wide doorways, bars to assist the individual in moving from wheelchair to toilet, low sinks, and other appropriate modifications. These restrooms should be large enough to accommodate wheelchairs.

(3) All new rail passenger vehicles for which solicitations are issued after the effective date of this part by recipients of Federal financial assistance shall be designed so as to be accessible to handicapped persons and shall display the international accessibility symbol at each entrance.

(c) *Rail passenger service.* (1) No recipient shall deny transportation to any person who meets the requirements of this regulation because that person cannot board a train without assistance, or use on-train facilities without assistance, except as provided in this regulation.

(2) Handicapped persons who require the assistance of an attendant shall not be denied transportation so long as they are accompanied by an attendant. Handicapped persons who require the service of an attendant, but who are unaccompanied, are not required under this part to be transported by the recipient. Handicapped persons requiring the assistance of an attendant shall include those who cannot take care of any one of their fundamental personal needs.

(3) All recipients at stations, except flag stops and closed stations, shall, on advance notice of 12 hours or more, provide assistance to handicapped persons, except that those handicapped persons who require the services of an attendant shall give advance notice of at least 24 hours. Such assistance shall include, but is not limited to, advance boarding and assisting handicapped persons in moving from station platform onto the train and to a seat. The recipient shall provide the same assistance to handicapped persons as they leave the train or board another train in the process of changing trains. Recipients shall provide assistance upon request to handicapped persons in the use of station facilities and in the handling of baggage.

(4) In all open stations, there shall be prominently displayed a notice stating the location of the recipient's representative or agent who is responsible for providing assistance to handicapped persons. Recipients shall publish in their schedules a notice of those closed stations and flag stops at which assistance cannot be provided to handicapped persons.



(5) Assistance to handicapped persons in the use of on-train facilities shall be provided as follows:

(i) *General assistance.* Recipients shall provide assistance to handicapped persons in moving to and from accommodations, including assistance in moving to and from wheelchairs.

(ii) *Restroom facilities.* All recipients shall, upon request, provide assistance to handicapped persons needing assistance in gaining access to rest and washroom facilities.

(iii) *Sleeping car service.* All recipients on all trains where sleeping car service is provided shall, upon request, provide assistance in gaining access to the facilities on various accommodations, such as roomette, bedroom, or compartment.

(iv) *Dining and lounge car service.* Where dining cars, food service cars, or lounge cars are inaccessible to handicapped persons, all recipients shall, upon request, provide meal, beverage, and snack service to handicapped persons needing such service in their accommodations.

(6) *Assistance with wheelchairs, crutches, walkers, and canes.* All recipients shall provide coach or sleeping car space to store, and shall assist in storing, such orthopedic aids as wheelchairs, walkers, crutches, and canes. These orthopedic aids shall be stored on the same coach or sleeping car in which the handicapped person travels.

(7) *Notice of assistance available provided in the use of on-board facilities.* All recipients shall, on all coaches, sleeping cars, dining cars, food service cars, and lounge cars, permanently display a notice stating where and from whom assistance in the use of facilities of various cars may be obtained.

(8) *Bedridden and stretcher-bound passengers.* (i) Where equipment is designed or modified to accept bedridden or stretcher-bound passengers without unreasonable delay, the recipient shall provide assistance in the boarding of bedridden or stretcher-bound persons into sleeping quarters. Accessibility to coaches for these persons is not required.

(ii) Advance notification of 24 hours or more is mandatory in order to ensure provision of assistance to bedridden or stretcher-bound passengers. For the purpose of this section, assistance need not necessarily include placing the bedridden or stretcher-bound person into the compartment.

(9) *Passengers requiring life support equipment.* Recipients shall not be required to transport persons who are

dependent upon life support equipment needing power from the vehicle.

(10) *Guide dogs.* Seeing eye dogs and hearing guide dogs shall be permitted to accompany their owners on all passenger trains, and shall be permitted in coach, sleeping, and dining cars.

(11) *Services to deaf and blind passengers.* Recipients shall provide assistance to deaf and/or blind passengers, on request, by advising them of station stops.

(12) Recipients shall notify the public that they provide services that facilitate travel by handicapped persons.

(13) Recipients shall provide training to their employees sufficient to enable them to carry out the recipients' responsibilities under this section.

#### § 27.75 Federal Highway Administration—Highways.

(a) *New Facilities.*—(1) *Highway rest area facilities.* All such facilities that will be constructed with Federal financial assistance shall be designed and constructed in accordance with the ANSI standards.

(2) *Curb cuts.* All pedestrian crosswalks constructed with Federal financial assistance shall have curb cuts or ramps to accommodate persons in wheelchairs, pursuant to section 228 of the Federal-Aid Highway Act of 1973 (23 U.S.C. 402(b)(1)(F)).

(3) *Pedestrian over-passes, under-passes and ramps.* Pedestrian over-passes, under-passes and ramps, constructed with Federal financial assistance, shall be accessible to handicapped persons, including having gradients no steeper than 10 percent, unless:

(i) Alternate safe means are provided to enable mobility-limited persons to cross the roadway at that location; or

(ii) It would be infeasible for mobility-limited persons to reach the over-passes, under-passes or ramps because of unusual topographical or architectural obstacles unrelated to the federally assisted facility.

(b) *Existing Facilities.* *Rest area facilities.* Rest area facilities on Interstate highways shall be made accessible to handicapped persons, including wheelchair users, within a three-year period after the effective date of this part. Other rest area facilities shall be made accessible when Federal financial assistance is used to improve the rest area, or when the roadway adjacent to or in the near vicinity of the rest area is constructed, reconstructed or otherwise altered with Federal financial assistance.

#### §§ 27.77-79 [Reserved]

#### Subpart E—Program Accessibility, Requirements in Specific Operating Administration Programs: Mass Transportation

##### § 27.81 Purpose.

The purpose of this subpart is, in addition to implementing section 504 of the Rehabilitation Act of 1973, also to implement section 16(a) of the Urban Mass Transportation Act of 1964, as amended, and section 165(b) of the Federal-Aid Highway Act of 1973, as amended. These latter statutes are designed to increase the availability to elderly and handicapped persons of mass transportation that they can effectively utilize. Section 165(b) also requires access for elderly and handicapped persons to public mass transportation facilities, equipment, and services. This subpart consolidates and revises existing Urban Mass Transportation Administration (UMTA) regulations, policies, and administrative practices implementing the above statutes.

##### § 27.83 Fixed facilities for the public.

(a) *Existing fixed facilities.* Fixed facility accessibility shall be achieved by a staged sequence of fixed facility modifications, replacements, and new construction that reflects reasonable and steady progress. Changes not involving extraordinarily expensive structural changes to, or replacement of, existing facilities shall be implemented as soon as practicable but not later than three years after the effective date of this regulation. Other fixed facility accessibility changes shall be made as soon as practicable but no later than the deadlines specified in §§ 27.85-27.95.

(b) *New fixed facilities and alterations.* In addition to the requirements of § 27.87, new transit fixed facilities for the public shall incorporate such other features as are necessary to make the fixed facilities accessible to handicapped persons. Existing fixed facilities shall incorporate these same features to the extent provided by §§ 27.85-27.95. In particular among these features, the design of boarding platforms for level-entry vehicles shall be coordinated with the vehicle design in order to minimize the gap between the platform and vehicle doorway and to permit safe passage by wheelchair users and other handicapped persons. Special attention shall be given to the needs of handicapped persons in the areas of fare vending and collection systems, visual and aural information systems, telephones (wheelchair users

and persons with reduced hearing ability require certain accommodations), teletype machines to handle calls from deaf persons, vehicular loading and unloading areas, and parking areas at park-and-ride facilities.

#### § 27.85 Fixed route bus systems.

(a) *Program accessibility.* (1) Program accessibility for a fixed route bus system is achieved when:

(i) The system is accessible to handicapped persons who can use steps; and

(ii) The system, when viewed in its entirety, is accessible to wheelchair users. With respect to vehicles, this requirement means that at least one-half of the peak-hour bus service must be accessible and accessible buses must be used before inaccessible buses during off-peak service.

(2) Fixed route bus systems shall achieve program accessibility as soon as practicable but no later than three years after the effective date of this regulation; provided, however, that the time limit is extended to 10 years for the extraordinarily expensive structural changes to, or replacement of, existing facilities, including vehicles, necessary to achieve program accessibility.

(3) Nothing in this section shall require any recipient to install a lift on any bus for which a solicitation was issued on or before February 15, 1977.

(b) *New vehicles.* New fixed route buses of any size for which solicitations are issued after the effective date of this part shall be accessible to handicapped persons, including wheelchair users. With respect to new, standard, full-size urban transit buses, this requirement remains in effect until such time as solicitations for those buses must use UMTA's bid package entitled "Transbus Procurement Requirements."

#### § 27.87 Rapid and commuter rail systems.

(a) *Program accessibility.* Program accessibility for a rapid or a commuter rail system is achieved when the system, when viewed in its entirety, is accessible to handicapped persons, including wheelchair users. This general requirement means that:

(1) *Stations.* All stations must be accessible to handicapped persons who can use steps, and key stations must be accessible to wheelchair users.

(i) For rapid rail systems, key stations are those that are:

(A) Stations where passenger boardings exceed average station boardings by at least 15 percent;

(B) Transfer points on a rail line or between rail lines;

(C) Major interchange points with other transportation modes;

(D) End stations, unless an end station is close to another accessible station;

(E) Stations serving major activity centers of the following types: employment and government centers, institutions of higher learning, and hospitals or other health care facilities; or

(F) Stations that are special trip generators for sizeable numbers of handicapped persons.

(ii) For commuter rail systems, key stations are those that are:

(A) Transfer points on a rail line or between rail lines;

(B) Major interchange points with other transportation modes;

(C) End stations, unless an end station is close to another accessible station;

(D) Stations serving major activity centers of the following types: employment and government centers, institutions of higher learning, and hospitals or other health care facilities;

(E) Stations that are special trip generators for sizeable numbers of handicapped persons; or

(F) Stations that are distant from other accessible stations.

(2) *Vehicles.* All vehicles must be accessible to handicapped persons who can use steps, and one vehicle per train must be accessible to wheelchair users.

(3) *Connector service.* With respect to rapid rail systems, accessible connector service is provided between accessible and inaccessible stations. The connector service may be provided by regular bus service, special bus service, special service paratransit, or any other accessible means of transportation that will transport a handicapped person from the vicinity of an inaccessible rapid rail station to the vicinity of the nearest accessible station in the person's direction of travel, or vice-versa. Provision of connector service is an integral part of rapid rail program accessibility. The connector service, when combined with the key stations, must provide a level of service reasonably comparable to that provided for a nonhandicapped person.

(4) *Timing.* Rapid and commuter rail systems shall achieve program accessibility as soon as practicable but no later than three years after the effective date of this part; provided, however, that the time limit is extended to 30 years for extraordinarily expensive structural changes to, or replacement of, existing fixed facilities necessary to achieve program accessibility. Steady progress is required over that 30-year period. The time limit is extended to five years with respect to rapid rail vehicles

and 10 years with respect to commuter rail vehicles for extraordinarily expensive structural changes to, or replacement of, existing rail vehicles. Complete connector service for rapid rail systems shall be provided no later than 30 years after the effective date of this part. Over this time period, there shall be a steady build-up of the connector service that is coordinated with the completion of key stations; however, no later than 12 years from the effective date of this part, the connector service shall provide effective and efficient utilization of those key stations that have been made accessible.

(5) *Assessment.* Twelve years after the effective date of this part, rapid and commuter rail operators shall prepare a full report for the Department on what accessibility improvements have been made, what the costs have been, and what the ridership attributable to the accessibility improvements has been.

(b) *New vehicles.* New rapid rail vehicles for which solicitations are issued after the effective date of this part shall be accessible, except that gap closing devices, if determined to be necessary for accessible operation of stations or cars, are not required for vehicles for which solicitations are issued before January 1, 1983. New commuter rail vehicles for which solicitations are issued on or after January 1, 1983, shall be accessible to wheelchair users; however, new commuter rail vehicles for which solicitations are issued after the effective date of this part shall be accessible to handicapped persons who can use steps.

#### § 27.89 Light rail systems.

(a) *Program accessibility.* Program accessibility for a light rail system is achieved when the system, when viewed in its entirety, is accessible to handicapped persons, including wheelchair users. This general requirement means that:

(1) *Stations.* All stations must be accessible to handicapped persons who can use steps, and key stations must be accessible to wheelchair users. Key stations are those that are:

(i) Transfer points on a rail line or between rail lines;

(ii) Major interchange points with other transportation modes;

(iii) End stations, unless an end station is close to another accessible station;

(iv) Stations serving major activity centers of the following types: employment and government centers, institutions of higher learning and



hospitals or other health care facilities; or

(v) Stations that are special trip generators for sizeable numbers of handicapped persons.

(2) **Vehicles.** Each light rail vehicle must be accessible to handicapped persons who can use steps; at least one-half of the peak-hour light rail service must be accessible to wheelchair users and accessible light rail vehicles must be used before inaccessible vehicles during off-peak service.

(3) **Timing.** Light rail systems shall achieve program accessibility as soon as practicable but no later than three years after the effective date of this part; provided, however, that the time limit is extended to 20 years for extraordinarily expensive structural changes to, or replacement of, existing fixed facilities and vehicles necessary to achieve program accessibility.

(4) **Assessment.** Twelve years after the effective date of this part, light rail operators shall prepare a full report for the Department on what accessibility improvements have been made, what the costs have been, and what the ridership attributable to the accessibility improvements has been.

(b) **New vehicles.** New light rail vehicles for which solicitations are issued on or after January 1, 1983, shall be accessible to wheelchair users; however, new light rail vehicles for which solicitations are issued after the effective date of this part shall be accessible to handicapped persons who can use steps.

#### § 27.91 Paratransit systems.

(a) **General.** Each paratransit system shall be operated so that the system, when viewed in its entirety, is accessible to handicapped persons, including wheelchair users. This means that the system must operate a number of vehicles sufficient to provide generally equal service to handicapped persons who need such vehicles as is provided to other persons. Where new vehicles must be purchased or structural changes must be made to meet this requirement, the purchase or changes shall be made as soon as practicable but no later than three years after the effective date of this regulation.

(b) **New vehicles.** New paratransit vehicles for which solicitations are issued after the effective date of this part shall be accessible to handicapped persons, unless the paratransit system is and will remain in compliance with paragraph (a) of this section without the new vehicles being accessible.

#### § 27.93 Systems not covered by §§ 27.85–27.91.

(a) **Scope.** This section applies to forms of mass transportation not covered by §§ 27.85–27.91 (e.g., ferry boat).

(b) **General.** (1) Program accessibility for a subject system is achieved when the system, when viewed in its entirety, is accessible to handicapped persons, including wheelchair users.

(2) Subject systems shall achieve program accessibility as soon as practicable but in no event later than three years after the effective date of this regulation, provided, however, that this period may be extended upon appeal to the Urban Mass Transportation Administrator if program accessibility can be achieved only through extraordinarily expensive structural changes to or replacement of, existing facilities, including vehicles, and if other accessible modes of transportation are available that meet the needs of handicapped persons for efficient and timely service at a fare comparable to that of the subject system in the service area of that system.

#### § 27.95 Program policies and practices.

(a) Program policies and practices that prevent a system subject to this subpart from achieving program accessibility shall be modified as soon as reasonably possible but in no event later than three years after the effective date of this part. This three-year period shall prevail over the one-year period of § 27.11(c)(2).

(b) The following program policies and practices which influence the achievement of program accessibility shall, along with any other appropriate practice, be addressed in the planning process:

(1) Safety and emergency policies and procedures.

(2) Periodic sensitivity and safety training for personnel.

(3) Accommodations for companions or aides of handicapped travelers.

(4) Intermodal coordination of transportation providers.

(5) Coordination with social service agencies that provide or support transportation for handicapped persons.

(6) Comprehensive marketing considerate of handicapped persons' travel needs.

(7) Leasing, rental, procurement, and other related administrative practices.

(8) Involvement of existing private and public operators of transit and public paratransit in planning and competing to provide other accessible modes and appropriate services.

(9) Regulatory reforms to permit and encourage accessible services.

(10) Management supervision of accessible facilities and vehicles.

(11) Maintenance and security of accessibility features.

(12) Labor agreements and work rules.

(13) Appropriate insurance coverage.

#### § 27.97 Interim accessible transportation.

(a) **Period prior to interim accessible transportation.** Until the requirement of paragraph (b) of this section is met, the annual element of each urbanized area's transportation improvement program submitted to UMTA after the effective date of this part shall exhibit a reasonable level of effort in programming projects or project elements designed to benefit handicapped persons who cannot otherwise use the recipient's transportation system until it is made accessible in accordance with the requirements of this part. Reasonable progress in implementing previously programmed projects, including those programmed before the effective date of this part, shall be demonstrated by recipients. Recipients, working through the Metropolitan Planning Organization (MPO), shall use their best efforts to comply with this paragraph in a way that will support the achievement of program accessibility and make the transition to interim accessible transportation efficient and cost-effective. Recipients, working through the MPO, shall also use their best efforts to coordinate and use effectively all available special services and programs in the community. Recipients in non-urbanized areas are generally subject to the requirements of this paragraph concerning special efforts in programming and implementation.

(b) **Interim accessible transportation—(1) General.** No later than three years after the effective date of this part, each recipient whose system has not achieved program accessibility shall provide or assure the provision of interim accessible transportation for handicapped persons who could otherwise use the system if it had been made accessible. Such transportation shall be provided until program accessibility has been achieved. An area's fixed route bus system will satisfy this requirement for a rail system if the bus system has achieved program accessibility and if the bus system serves the inaccessible portions of that rail system.

(2) **Standards and expenditures.** (i) The standards for interim accessible transportation shall be developed in cooperation with an advisory group of representatives of local handicapped persons and groups and be set forth in

the transition plan. During the period for interim accessible transportation, the recipient shall be obligated to spend annually an amount equal to two percent of the financial assistance it receives under section 5 of the Urban Mass Transportation Act of 1964, as amended, on such transportation, provided that a lower amount may be spent during any year when UMTA finds that the local advisory group had agreed with the recipient that expenditures at a lower level will provide an adequate level of service. If a recipient does not receive financial assistance under section 5, its obligation shall be an amount equal to two percent of the annual financial assistance it receives for mass transportation from the Department, with the same provision concerning lower expenditures. The recipient is not obligated to spend more on interim accessible transportation than the amount specified in this paragraph.

(ii) Subject to the expenditure limitation of paragraph (b)(2)(i) of this section, interim accessible transportation shall be available within the recipient's normal service area and during normal service hours and, to the extent feasible, meet the following requirements: there shall be no restrictions on trip purpose; combined wait and travel time, transfer frequency, and fares shall be comparable to that of the regular fixed-route system; service shall be available to all handicapped persons who could otherwise use the system if it had been made accessible, including wheelchair users who cannot transfer from a wheelchair and those who use powered wheelchairs; and there shall be no waiting list such that handicapped persons who have qualified or registered for the service are consistently excluded from that service by virtue of low capacity.

(3) *Coordination of existing services.* The recipient, working through the MPO, shall use its best efforts to coordinate and use effectively all available special services and programs in the community in order to ensure the provision of service that meets the standards of paragraph (b)(2)(ii) of this section. Such services and programs may reduce the recipient's expenditure obligation under paragraph (b)(2)(i) of this section if, in accordance with that paragraph, the handicapped advisory committee agrees that the full level of expenditure is not necessary.

**§ 27.99 Waiver for existing rapid, commuter, and light rail systems.**

A recipient that operates a rapid rail, commuter rail, or light rail system in

existence on the effective date of this part may, through the MPO for the area or areas concerned, petition the Secretary for a waiver of any of its obligations under § 27.87 or § 27.89 with respect to accessibility for handicapped persons. Waiver requests may only be submitted after the MPO and handicapped persons and organizations representing handicapped persons in the community, through a consultative process, have developed arrangements for alternative service substantially as good as or better than that which would have been provided absent a waiver. Petitions shall be supported by a record of the community consultative process, including a transcript of a public hearing with notice and consultation with handicapped persons and organizations representing handicapped persons, and a complete transition plan for an accessible system. The Secretary may grant such a petition in his or her discretion, provided that the Secretary determines that local alternative service to handicapped persons will be substantially as good as or better than that which would have been provided by the waived requirement of this subpart. If the petition is for the major rapid rail system in New York, Chicago, Philadelphia, Boston or Cleveland (those systems currently operated by the New York City Transit Authority, the Chicago Transit Authority, the Southeastern Pennsylvania Transportation Authority, the Massachusetts Bay Transportation Authority, and the Greater Cleveland Regional Transit Authority) and the waiver is granted, the petitioner shall spend, or shall ensure that other UMTA recipients in the urbanized area spend, on an annual basis, at least an amount equal to five percent of the urbanized area's funds under section 5 of the Urban Mass Transportation Act of 1964, as amended, on this alternative service. For the purposes of the five percent measurement, "urbanized area" refers to the portion of an urbanized area located in one state.

**§ 27.101 Period after program accessibility.**

Following the achievement of program accessibility, all recipients whose systems are covered by this subpart shall continue to work with the MPO concerned to coordinate special services for handicapped persons.

**§ 27.103 Transition plan.**

(a) *General.* A transition plan shall be prepared for each urbanized and non-urbanized area receiving financial assistance from the Department for mass transportation. The transition plan

is a document which describes the results of planning for program accessibility and defines a staged, multi-year program. The purpose of the plan is to identify the transportation improvements and policies needed to achieve program accessibility and to provide interim accessible transportation prior to the achievement of program accessibility in compliance with this part. The requirements of § 27.65(d) apply to transition plans prepared under this section unless they conflict with the requirements of this section, in which case the requirements of this section shall prevail.

(b) *Planning process.* (1) The urban transportation planning process of each urbanized and non-urbanized area receiving financial assistance from the Department for mass transportation shall include the development and periodic reappraisal and refinement of a transition plan which is an outgrowth of ongoing activities to plan public mass transportation facilities and services that can effectively be utilized by elderly and handicapped persons pursuant to 23 CFR 450.120(a)(5).

(2) The transition plan shall cover the entire period required to achieve program accessibility.

(3) The level of detail in the transition plan shall be appropriate for the size of the urban area, the complexity of its mass transportation system and the scheduling of its accessibility improvements.

(4) The development and periodic reappraisal and refinement of the transition plan shall:

(i) In urbanized areas, be done under the direction of the Metropolitan Planning Organization (MPO) in cooperation with State and local officials and operators of publicly owned mass transportation services in conformance with 23 CFR 450.306(a) and (b);

(ii) In non-urbanized areas, be done under the direction of local elected officials in cooperation with transit operators and the State; and

(iii) Be performed with community participation required by § 27.107.

(5) The transition plan shall be endorsed by the MPO in urbanized areas pursuant to 23 CFR 450.112(b) and shall be endorsed by the recipients responsible for implementing improvements and policies specified in the transition plan, with the recipient endorsement required only for the portions of the plan which affect each such recipient.

(c) *Plan content.* The transition plan shall include:

(1) Identification of public transportation vehicles, fixed facilities, services, policies, and procedures that do not meet the program accessibility requirements of this part;

(2) Identification by system and recipient of the improvements and policies required for bringing them into conformance with this part, including any required interim accessible transportation; the plan should indicate how interim accessible transportation service levels and fares were determined;

(3) Establishment of priorities among the improvements, reasonable implementation schedules, and system accessibility benchmarks (the plan should document phasing criteria, identify which projects are necessary to meet three-year requirements, and set appropriate benchmarks for longer-term efforts);

(4) Assignment of responsibility among public transportation service providers for the implementation of improvements and policies;

(5) Identification of coordination activities to improve the efficiency and effectiveness of existing services;

(6) Estimation of total costs and identification of sources of funding for implementing the improvements in the plan;

(7) Description of community participation in the development of the transition plan; and

(8) Identification of responses to substantive concerns raised during public hearings on the plan.

(d) *Timing.* (1) Transition plans shall be transmitted, in duplicate, for approval to UMTA as soon as practicable but not later than one year from the effective date of this part, except that for urbanized areas with inaccessible rapid rail systems, the plan shall be transmitted not later than 18 months after the effective date of this part. Upon request and an adequate showing of need, the one-year period may be extended to 18 months for urbanized areas with inaccessible rail systems other than rapid rail.

(2) Transition plans will be reviewed and approved or disapproved by UMTA as expeditiously as possible after they are received.

(3) The transition plan shall periodically be reappraised and refined, particularly to add details of accessibility improvements as their scheduled implementation dates are approached. Amendments to the plan resulting from reappraisals or refinements shall be submitted in the same manner as the original plan, with

community participation and UMTA approval.

(e) *Transportation improvement program.* Annual elements of transportation improvement programs submitted for UMTA approval shall be consistent with the requirements of this part and with the local transition plan, once that plan has been approved by UMTA.

#### § 27.105 Annual status report.

(a) In order to provide a basis upon which a determination of compliance can be made, each recipient of UMTA assistance (or MPO on its behalf), beginning in the year following submission of the transition plan, shall provide an annual status report on its compliance with this part. The report shall provide a summary of the recipient's accomplishments and activities for meeting the schedule of improvements in the area's approved transition plan.

(b) The first annual status report shall include a copy of the three compliance planning items listed in § 27.11(c)(3). Subsequent annual status reports shall reflect any changes made as a result of the requirement of § 27.11(c)(2)(v) for periodically reviewing and updating the compliance planning.

#### § 27.107 Community participation.

(a) *General.* This section applies to recipients whose systems are covered by subpart E. Community involvement, particularly by handicapped persons or organizations representing handicapped persons, during the development of the transition plan and at least annually during its implementation, during significant changes in the transition plan, and at the time of any request for waiver is required.

(b) *Participation.* Agencies performing the planning, programming, and implementation activities required by this subpart shall use adequate citizen participation mechanisms or procedures during those activities. The mechanisms shall ensure continuing consultation, from initial planning through implementation, with handicapped persons, advocacy organizations of handicapped persons (where available), public and private social service agencies, public and private operators of existing transportation for handicapped persons, public and private transportation operators, and other interested and concerned persons.

(c) *Hearing.* A public hearing, with adequate notice, shall be held on the proposed transition plan and on significant changes to the plan, and a written response shall be provided for

substantive concerns raised during the hearing. This response shall indicate whether the plan has been or will be changed to accommodate the concerns and the rationale for changing or not changing the plan.

#### §§ 27.109-119 [Reserved]

### Subpart F—Enforcement

#### § 27.121 Compliance information.

(a) *Cooperation and assistance.* The responsible Departmental official, to the fullest extent practicable, seeks the cooperation of recipients in securing compliance with this part and provides assistance and guidance to recipients to help them comply with this part.

(b) *Compliance reports.* Each recipient shall keep on file for one year all complaints of noncompliance received. A record of all such complaints, which may be in summary form, shall be kept for five years. Each recipient shall keep such other records and submit to the responsible Departmental official or his/her designee timely, complete, and accurate compliance reports at such times, and in such form, and containing such information as the responsible Department official may prescribe. In the case of any program under which a primary recipient extends Federal financial assistance to any other recipient, the other recipient shall also submit compliance reports to the primary recipient so as to enable the primary recipient to prepare its report.

(c) *Access to sources of information.* Each recipient shall permit access by the responsible Departmental official or his/her designee during normal business hours to books, records, accounts, and other sources of information, and to facilities that are pertinent to compliance with this part. Where required information is in the exclusive possession of another agency or person who fails or refuses to furnish the information, the recipient shall so certify in its report and describe the efforts made to obtain the information. Considerations of privacy or confidentiality do not bar the Department from evaluating or seeking to enforce compliance with this part. Information of a confidential nature obtained in connection with compliance evaluation or enforcement is not disclosed by the Department, except in formal enforcement proceedings, where necessary, or where otherwise required by law.

(d) *Information to beneficiaries and participants.* Each recipient shall make available to participants, beneficiaries, and other interested persons such

information regarding the provisions of this regulation and its application to the program for which the recipient receives Federal financial assistance, and make such information available to them in such manner, as the responsible Departmental official finds necessary to apprise them of the protections against discrimination provided by the Act and this part.

#### § 27.123 Conduct of investigations.

(a) *Periodic compliance reviews.* The responsible Departmental official or his/her designee, from time to time, reviews the practices of recipients to determine whether they are complying with this part.

(b) *Complaints.* Any person who believes himself/herself or any specific class of individuals to be harmed by failure to comply with this part may, personally or through a representative, file a written complaint with the responsible Departmental official. A Complaint must be filed not later than 180 days from the date of the alleged discrimination, unless the time for filing is extended by the responsible Departmental official or his/her designee.

(c) *Investigations.* The responsible Departmental official or his/her designee makes a prompt investigation whenever a compliance review, report, complaint, or any other information indicates a possible failure to comply with this part. The investigation includes, where appropriate, a review of the pertinent practices and policies of the recipient, and the circumstances under which the possible noncompliance with this part occurred.

(d) *Resolution of matters.* (1) If, after an investigation pursuant to paragraph (c) of this section, the responsible Departmental official finds reasonable cause to believe that there is a failure to comply with this part, the responsible Departmental official will inform the recipient. The matter is resolved by informal means whenever possible. If the responsible Departmental official determines that the matter cannot be resolved by informal means, action is taken as provided in § 27.125.

(2) If an investigation does not warrant action pursuant to paragraph (d)(1) of this section, the responsible Departmental official or his/her designee so informs the recipient and the complainant, if any, in writing.

(e) *Intimidating and retaliatory acts prohibited.* No employee or contractor of a recipient shall intimidate, threaten, coerce, or discriminate against any individual for the purpose of interfering with any right or privilege secured by

section 504 of the Act or this part, or because the individual has made a complaint, testified, assisted, or participated in any manner in an investigation, hearing, or proceeding, under this part. The identity of complainants is kept confidential at their election during the conduct of any investigation, hearing or proceeding under this part. However, when such confidentiality is likely to hinder the investigation, the complainant will be advised for the purpose of waiving the privilege.

#### § 27.125 Compliance procedure.

(a) *General.* If there is reasonable cause for the responsible Departmental official to believe that there is a failure to comply with any provision of this part that cannot be corrected by informal means, the responsible Departmental official may recommend suspension or termination of, or refusal to grant or to continue Federal financial assistance, or take any other steps authorized by law. Such other steps may include, but are not limited to:

(1) A referral to the Department of Justice with a recommendation that appropriate proceedings be brought to enforce any rights of the United States under any law of the United States (including other titles of the Act), or any assurance or other contractual undertaking; and

(2) Any applicable proceeding under State or local law.

(b) *Refusal of Federal financial assistance.* (1) No order suspending, terminating, or refusing to grant or continue Federal financial assistance becomes effective until:

(i) The responsible Departmental official has advised the applicant or recipient of its failure to comply and has determined that compliance cannot be secured by voluntary means; and

(ii) There has been an express finding by the Secretary on the record, after opportunity for hearing, of a failure by the applicant or recipient to comply with a requirement imposed by or pursuant to this part.

(2) Any action to suspend, terminate, or refuse to grant or to continue Federal financial assistance is limited to the particular recipient who has failed to comply, and is limited in its effect to the particular program, or part thereof, in which noncompliance has been found.

(c) *Other means authorized by law.* No other action is taken until:

(1) The responsible Departmental official has determined that compliance cannot be secured by voluntary means;

(2) The recipient or other person has been notified by the responsible

Departmental official of its failure to comply and of the proposed action;

(3) The expiration of at least 10 days from the mailing of such notice to the recipient or other person. During this period, additional efforts are made to persuade the recipient or other person to comply with the regulations and to take such corrective action as may be appropriate.

#### § 27.127 Hearings.

(a) *Opportunity for hearing.* Whenever an opportunity for a hearing is required by § 27.125(b), reasonable notice is given by the responsible Departmental official by registered or certified mail, return receipt requested, to the affected applicant or recipient. This notice advises the applicant or recipient of the action proposed to be taken, the specific provision under which the proposed action is to be taken, and the matters of fact or law asserted as the basis for this action, and either:

(1) Fixes a date not less than 20 days after the date of such notice within which the applicant or recipient may request a hearing; or

(2) Advises the applicant or recipient that the matter in question has been set for hearing at a stated place and time.

The time and place shall be reasonable and subject to change for cause. The complainant, if any, also is advised of the time and place of the hearing. An applicant or recipient may waive a hearing and submit written information and argument for the record. The failure of an applicant or recipient to request a hearing constitutes a waiver of the right to a hearing under section 504 of the Act and § 27.125(b), and consent to the making of a decision on the basis of such information as may be part of the record.

(b) If the applicant or recipient waives its opportunity for a hearing, the responsible Departmental official shall notify the applicant or recipient that it has the opportunity to submit written information and argument for the record. The responsible Departmental official may also place written information and argument into the record.

(c) *Time and place of hearing.* Hearings are held at the office of the Department in Washington, D.C., at a time fixed by the responsible Departmental official unless he/she determines that the convenience of the applicant or recipient or of the Department requires that another place be selected. Hearings are held before an Administrative Law Judge designated in accordance with 5 U.S.C. 3105 and 3344

(section 11 of the Administrative Procedure Act).

(d) *Right to counsel.* In all proceedings under this section, the applicant or recipient and the responsible Departmental official have the right to be represented by counsel.

(e) *Procedures, evidence and record.*

(1) The hearing, decision, and any administrative review thereof are conducted in conformity with sections 554 through 557 of Title 5 of the United States Code, and in accordance with such rules of procedure as are proper (and not inconsistent with this section) relating to the conduct of the hearing, giving notice subsequent to those provided for in paragraph (a) of this section, taking testimony, exhibits, arguments and briefs, requests for findings, and other related matters. The responsible Departmental official and the applicant or recipient are entitled to introduce all relevant evidence on the issues as stated in the notice for hearing or as determined by the officer conducting the hearing. Any person (other than a government employee considered to be on official business) who, having been invited or requested to appear and testify as a witness on the government's behalf, attends at a time and place scheduled for a hearing provided for by this part may be reimbursed for his/her travel and actual expenses in an amount not to exceed the amount payable under the standardized travel regulations applicable to a government employee traveling on official business.

(2) Technical rules of evidence do not apply to hearings conducted pursuant to this part, but rules or principles designed to assure production of the most credible evidence available and to subject testimony to cross examination are applied where reasonably necessary by the Administrative Law Judge conducting the hearing. The Administrative Law Judge may exclude irrelevant, immaterial, or unduly repetitious evidence. All documents and other evidence offered or taken for the record are open to examination by the parties and opportunity is given to refute facts and arguments advanced by either side. A transcript is made of the oral evidence except to the extent the substance thereof is stipulated for the record. All decisions are based on the hearing record and written findings shall be made.

(e) *Consolidation or joint hearings.* In cases in which the same or related facts are asserted to constitute noncompliance with this regulation with respect to two or more programs to which this part applies, or

noncompliance with this part and the regulations of one or more other Federal departments or agencies issued under section 504 of the Act, the responsible Departmental official may, in agreement with such other departments or agencies, where applicable, provide for consolidated or joint hearings. Final decisions in such cases, insofar as this regulation is concerned, are made in accordance with § 27.129.

#### § 27.129 Decisions and notices.

(a) *Decisions by Administrative Law Judge.* After the hearing, the Administrative Law Judge certifies the entire record including his recommended findings and proposed decision to the Secretary for a final decision. A copy of the certification is mailed to the applicant or recipient and to the complainant, if any. The responsible Departmental official and the applicant or recipient may submit written arguments to the Secretary concerning the Administrative Law Judge's recommended findings and proposed decision.

(b) *Final decision by the Secretary.* When the record is certified to the Secretary by the Administrative Law Judge, the Secretary reviews the record and accepts, rejects, or modifies the Administrative Law Judge's recommended findings and proposed decision, stating the reasons therefor.

(c) *Decisions if hearing is waived.* Whenever a hearing pursuant to § 27.125(b) is waived, the Secretary makes his/her final decision on the record, stating the reasons therefor.

(d) *Rulings required.* Each decision of the Administrative Law Judge or the Secretary contains a ruling on each finding or conclusion presented and specifies any failures to comply with this part.

(e) *Content of orders.* The final decision may provide for suspension or termination, or refusal to grant or continue Federal financial assistance, in whole or in part, under the program involved. The decision may contain such terms, conditions, and other provisions as are consistent with and will effectuate the purposes of the Act and this part, including provisions designed to assure that no Federal financial assistance will thereafter be extended unless and until the recipient corrects its noncompliance and satisfies the Secretary that it will fully comply with this part.

(f) *Subsequent proceedings.* (1) An applicant or recipient adversely affected by an order issued under paragraph (e) of this section is restored to full eligibility to receive Federal financial

assistance if it satisfies the terms and conditions of that order or if it brings itself into compliance with this part and provides reasonable assurance that it will fully comply with this part.

(2) Any applicant or recipient adversely affected by an order entered pursuant to paragraph (e) of this section may, at any time, request the responsible Departmental official to restore its eligibility, to receive Federal financial assistance. Any request must be supported by information showing that the applicant or recipient has met the requirements of subparagraph (1) of this paragraph. If the responsible Departmental official determines that those requirements have been satisfied, he/she may restore such eligibility, subject to the approval of the Secretary.

(3) If the responsible Departmental official denies any such request, the applicant or recipient may submit a request, in writing, for a hearing specifying why it believes the responsible Departmental official should restore it to full eligibility. It is thereupon given a prompt hearing, with a decision on the record. The applicant or recipient is restored to eligibility if it demonstrates to the satisfaction of the Secretary at the hearing that it satisfied the requirements of paragraph (f)(1) of this section.

(4) The hearing procedures of § 27.127(b)-(c) and paragraphs (a)-(d) of this section apply to hearings held under subparagraph (3) of this paragraph.

(5) While proceedings under this paragraph are pending, the sanctions imposed by the order issued under paragraph (e) of this section shall remain in effect.

[FR Doc. 79-18659 Filed 5-30-79; 8:45 am]

BILLING CODE 4910-62-M

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## Appendix B

### CITIZENS AND TECHNICAL ADVISORY COMMITTEE ON TRANSIT SERVICE PLANNING FOR HANDICAPPED PERSONS IN THE RACINE URBANIZED AREA

Dan C. Johnson, Chairman.....	Executive Director, Society's Assets, Inc.
Susan A. Bill, Vice-Chairman.....	Training Coordinator, Development Disabilities Information Service
Kurt W. Bauer.....	Executive Director, South-eastern Wisconsin Regional Planning Commission
Michael J. Glasheen.....	Transit Planner, City of Racine
John M. Hartz.....	Director, Bureau of Transit, Wisconsin Department of Transportation
Robert G. Heck.....	President, City of Racine Common Council
Bruce Howard.....	President, Omni Services
Allan P. Kasprzak.....	Community Development Officer, Wisconsin Department of Health and Social Services
Frank B. Miezio.....	Administrator, Lincoln Lutheran Home
Catherine P. Mocarski.....	Aging Coordinator, Racine County Human Services Department
Diane P. Sharp.....	Citizen Member
Harvey Shebesta.....	District Director, Wisconsin Department of Transportation
William J. Szylkowski.....	Citizen Member
Jack Taylor.....	President, Taylor Enterprises, Inc.

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Appendix C

TRANSCRIPT ON THE PUBLIC HEARING ON THE  
PUBLIC TRANSIT SYSTEM ACCESSIBILITY PLAN  
FOR THE RACINE URBANIZED AREA AND RELATED MATERIALS

Public Hearing on Transit Operator

Transition Plan for the Racine Urbanized Area

Held May 28, 1980

Racine City Hall

Racine, Wisconsin

Joseph Kendrick  
Court Reporter

P R E S E N T

DAN C. JOHNSON.....Chairman of Committee for  
Handicapped  
WILLIAM SZYLKOWSKI.....Member of Committee  
ALLAN KASPRCAK.....Member of Committee  
DIANE SHARP.....Member of Committee  
MICHAEL GLASHEEN.....Transit Department, Racine,  
Wisconsin.  
ALBERT A. BECK..... SEWRPC - Staff

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MR. JOHNSON: Good evening, my name is Dan Johnson  
and I am Chairman of the Committee for the Handicapped  
and we are here tonight to discuss Nondiscrimination  
on the Basis of Handicapped in Federally Assisted  
Programs and Activities Receiving or Benefitting from  
Federal Financial Assistance Plan and the other members  
present are William Szykowski, Allan Kasprcak, Diane  
Sharp and Michael Glasheen from the Transportation  
Department of Racine and Albert A. Beck, member of the  
Staff of SEWRPC, who will now discuss and review the  
plan.

MR. BECK: Before I make any comment on the plan,  
you have a supplement sheet and we would like you to  
pass it around and indicate your name if you intend to  
speak and also indicate if you are here representing any

1 particular agency or group.

2 Under the provisions of a U.S. Department of Transporta-  
3 tion rule entitled Nondiscrimination on the Basis of  
4 Handicap in Federally Assisted Programs and Activities  
5 Receiving or Benefitting from Federal Financial Assis-  
6 tance, which was issued May 31, 1979, all recipients of  
7 U.S. Dot funds must make their federally assisted pro-  
8 grams accessible to handicapped persons--- including  
9 those persons who are nonambulatory wheelchair bound and  
10 those persons with vision and hearing impairments.  
11 For recipients of U.S. DOT funds being used for public  
12 transportation programs in particular, the provisions  
13 of the rule require that any existing services, policies,  
14 or practices of these programs which discriminate  
15 against handicapped persons must be changed or eliminated  
16 and that projects must be planned, programmed, and im-  
17 plemented to make the equipment and facilities used in  
18 federally assisted public transportation programs accessible  
19 to the handicapped by removing physical barriers which  
20 make it difficult or impossible for handicapped persons  
21 to use these facilities as vehicles.

22 The rule provides that any recipient of federal funds  
23 whose program is not currently accessible to the handi-  
24 capped and who cannot achieve program accessibility  
25 by July 2, 1980 must prepare a plan identifying the

1 projects which will be undertaken each year until the  
2 program is accessible.

3 The rule provides for no alternative but to make the  
4 program accessible as soon as practicable--that is no  
5 alternative program or service can be considered for  
6 implementation as a substitute except on an interim  
7 basis until program accessibility is achieved.

8 Within the Racine urbanized area, there is presently one  
9 recipient of federal funds affected by this rule: the  
10 Belle Urban System. The Belle Urban System is the  
11 formal name of the public transit system owned by the  
12 City of Racine and operated by the private management  
13 firm of Taylor Enterprises, Inc. The public transit  
14 system presently relies on federal transit assistance  
15 funds available under programs administered by the U.S.  
16 Department of Transportation, Urban Mass Transportation  
17 Administration, to provide funds necessary for both  
18 operating and capital assistance projects.

19 The transition plan prepared by the City of Racine and the  
20 Southeastern Wisconsin Regional Planning Commission  
21 identifies the major projects which must be undertaken  
22 each year by the City of Racine to make its public  
23 transportation program accessible. Major projects  
24 prescribed in the plan include the undertaking of formal  
25 accessibility studies for the facilities used by the

Belle Urban System, including the buildings and bus passenger waiting shelters, to determine the nature and extent of existing barriers to handicapped participation in the public transit program and to establish a schedule for modifying the facilities to remove any such barriers.

The plan also prescribes a broad range of minor, but to handicapped persons significant, changes in the transit system policies and practices and the institution of new policies and practices all intended to make it possible for handicapped persons to effectively use the Belle Urban System as it becomes accessible.

Finally, the plan calls for the achievement of accessibility for the Belle Urban System through the purchase of new buses equipped with accessible features, including wheelchair lift devices and kneeling features. Purchase of the equipment necessary for the Belle Urban System to achieve accessibility in 50 percent of the buses used in operating the system during the peak periods of transit ridership has been staged to occur over an eight-year period. Under this staged plan, the Belle Urban System will not have purchased enough buses to meet the federal accessibility requirements until July 1988. In compliance with the current U.S. Department of Transportation rule, the City of Racine will continue to fund the operation of a demand-responsive specialized

transportation service provided by the Lincoln Lutheran Specialized Transportation Program to handicapped persons residing within the City of Racine at least until July 1988, when the fixed route bus system achieves accessibility. In addition, the advisory committee involved in the preparation of this transit operators' transition plan has recommended that the City of Racine, in recognition of the inability of mainline accessible bus service to adequately serve the mobility needs of the area's handicapped population, voluntarily continue to support some form of specialized transportation service after July 1988 for those handicapped persons who are unable to use the accessible bus service provided by the Belle Urban System.

MR. JOHNSON: Are there any comments? The procedure is that this will go to the Common Council for approval and adoption and I suppose that will be July 1st so that implementation can take place. If there is nothing else, thank you for coming tonight.

(WHEREUPON, the hearing was concluded.)

1 STATE OF WISCONSIN )  
2 COUNTY OF RACINE ) SS:  
3 )

4 I, JOSEPH KENDRICK, do hereby certify that I am a  
5 stenographic reporter; that I was present at the hearing in  
6 the above entitled action, and that I recorded the same in  
7 shorthand; that the above and foregoing is a true, correct  
8 and exact copy, in longhand, of my shorthand notes taken at  
9 said hearing.

10 Dated this 18<sup>th</sup> day of June, 1980.  
11

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14  
15   
16 Reporter  
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25

Exhibit 1

ATTENDANCE ROSTER

PUBLIC HEARING ON PUBLIC TRANSIT SYSTEM  
ACCESSIBILITY PLAN FOR THE RACINE URBANIZED AREA

Racine City Hall

May 28, 1980

Committee Members

Dan C. Johnson	Executive Director, Society's
Chairman	Assets, Inc.
Susan A. Bill	Training Coordinator, Developmental
Vice-Chairman	Disabilities Information Service
Michael J. Glasheen	Transit Planner, City of Racine
Allan P. Kasprzak	Community Development Officer,
	Wisconsin Department of Health and
	Social Services
Diane P. Sharp	Citizen Member
William J. Szykowski	Citizen Member

Press

Sean Devlin	<u>Racine Journal Times</u>
Gary Suhr	WRJN Radio

SEWRPC Staff

Albert A. Beck	Senior Planner
Philip C. Evenson	Assistant Director

Attendees

Eleanor Collins	1505 Monroe Avenue, Racine
Mary Gelding	3716 Douglas Avenue, Racine
Debra Harris	1518 Douglas Avenue, Racine
Dorothy Kloss	5000 Graceland Boulevard, Racine
Larry Peterson	319 Graham Street, Racine
Howard Yandel	1309 Frederick Street, Racine



Exhibit 2

NEWS RELEASE ANNOUNCING PUBLIC HEARING

NEWS RELEASE

Release Date: Immediate

Officials of the Belle Urban System today announced that a public hearing and informational meeting will be held on Wednesday May 28, 1980 to discuss a plan to improve the Belle Urban System for use by persons with disabilities or handicaps.

The hearing, under the sponsorship of the Elderly and Handicapped Transportation task force steering committee, will be held at 7:00 P.M. in Common Council Chambers, Room 205, City Hall, Racine Wisconsin.

The plan is called the "Transit Operators Transition Plan for the Racine Urbanized Area." The plan identifies transit related projects which need to be undertaken to eliminate any existing discriminations toward persons with handicaps or disabilities and to improve accessibility to the programs, services, buildings and equipment of the Belle Urban System.

Highlights of the plan are:

- 1) The purchase of wheelchair - lift equipped buses over the next eight years to guarantee that 50% or more of the buses operating during peak travel periods are accessible to persons with handicaps.
- 2) The modification of transit system buildings for access by persons with handicaps.
- 3) The improvement of citizen participation in the transit planning process.
- 4) Other efforts to eliminate any existing discrimination against persons with handicaps.

City Transit Planner Michael Glasheen stated that "this plan is required by the U.S. Department of Transportation under the so-called 504 Regulations. The plan was prepared by the staff of the Southeastern Wisconsin Regional Planning Commission (SEWRPC) in consultation with City representatives and under the review of a Steering Committee of the City of Racine's Elderly and Handicapped Transportation Task Force." Glasheen also noted that the plan has to be approved by the City, SEWRPC and the Urban Mass Transportation Administration before all requirements are met.

Section 504 of the Rehabilitation Act of 1973 states that "no otherwise qualified handicapped individual in the United States.... shall, solely by reason of his handicap, be excluded from the participation in, be denied the benefits of, or be subjected to discrimination under any program or activity receiving Federal Financial assistance....."

On May 31, 1979, as a result of the Rehabilitation Act of 1973, the Secretary of the U.S. Department of Transportation issued final rules under 49 CFR, Part 27 titled "Nondiscrimination on the Basis of Handicap in Federally-Assisted Programs and Activities Receiving or Benefitting from Federal Financial Assistance." Included in that document is the requirement for the preparation of the plan for which the public hearing will be held.

For further information contact Mr. Michael Glasheen, Belle Urban System 414-636-9166 or Mr. Dan C. Johnson, Chairman-Steering Committee, 414-637-9128.

MJG:sae

May 28, 1980

Journal Times	WRJN
Shoreline Leader	WFNY
Racine Labor	WRKR
Racine Courier	WWEG
Channel 8	WGTD

The foregoing news release was distributed to the following media outlets serving the Racine area:

Newspapers

Racine Journal Times  
Shoreline Leader  
Racine Labor Newspaper  
Racine Courier

Radio and Television

WRJN Radio  
WFNY Radio  
WRKR Radio  
WWEG Radio  
WGTD-TV

Exhibit 3

LEGAL NOTICE OF PUBLIC HEARING

This public hearing notice was published in the Racine Journal Times on May 19, 1980.

Notice of Public Hearing  
And Informational Meeting

Notice is hereby given that a public hearing will be held by the Steering Committee of the City of Racine's Elderly and Handicapped Transportation Task Force in the Common Council Chambers, Room 205, 730 Washington Avenue at 7:00 P.M., May 28, 1980, for the purpose of giving the public a chance to comment on the City of Racine's plan to improve the Belle Urban System for use by persons with disabilities or handicaps.

The plan is called the "Transit Operators Transition Plan for the Racine Urbanized Area". The plan identifies transit related projects which need to be undertaken to eliminate any existing discriminations toward persons with handicaps or disabilities and to improve accessibility to the programs, services, buildings and equipment of the Belle Urban System.

Highlights of the plan are:

1. The purchase of wheelchair lift-equipped buses to guarantee that 50% or more of the buses operating during peak travel periods are accessible to persons with handicaps.
2. The modification of transit system buildings for access by persons with handicaps.
3. The improvement of citizen participation in the transit planning process.
4. Other efforts to eliminate any existing discrimination against persons with handicaps.

Copies of the draft plan will be available for public inspection and copying during business hours beginning May 19, 1980 at the following locations:

1. Racine City Hall, Room 103, 730 Washington Ave.
2. Belle Urban System transit garage, 1824 Kentucky St.
3. The Town or Village Halls of each municipality around the City of Racine.

4. Offices of Society's Assets, 1445 Junction Ave.
5. The Southeastern Wisconsin Regional Planning Commission, Room 305, 916 North East Avenue, Waukesha.

In addition, limited copies of a summary report may be obtained at each of the above locations.

A tape recorded copy of the summary report is available for loan in Room 103, City Hall, Racine Wisconsin. This office is open 8 - 12 A.M. and 1 - 5 P.M., Monday through Friday.

An interpreter will be at the public hearing for the assistance of hearing-impaired individuals.

This plan is a requirement of the U.S. Department of Transportation under Final Rule 49 CFR, Part 27, commonly called the "504 Regulations". The plan was prepared by the Staff of the Southeastern Wisconsin Regional Planning Commission working with the Steering Committee of the City of Racine's Elderly and Handicapped Transportation Task Force. The plan is subject to further review and approval of the City of Racine, The Southeastern Wisconsin Regional Planning Commission and the Federal Urban Mass Transportation Administration.

Dan C. Johnson, Chairman  
Steering Committee of  
The City of Racine's  
Elderly and Handicapped  
Transportation Task Force

NEWSPAPER ARTICLES PERTAINING TO PUBLIC HEARING

# Hearing to eye bus access

A plan which may lead to greater access by the handicapped to the services of the Belle Urban System (BUS) will be discussed at a public hearing at 7 p.m. Wednesday.

The plan is aimed at identifying steps needed to eliminate discrimination against people with handicaps and to improve accessibility to services and facilities of the public transit system.

Plan highlights include purchase during the next eight years of enough wheel-chair-lift buses to assure that at least 50 percent of the buses operating during peak periods are accessible to people with handicaps.

Other aspects call for the modification of Belle Urban System buildings to provide access for handicapped people, improvement of citizen participation in the transit planning process and other ef-

forts aimed specifically at eliminating barriers to the use of the transit system by the handicapped.

City Transit Planner Michael Glasheen said current costs mean an additional \$11,000 for a bus built with a wheel-chair lift, against a cost of \$13,000 to \$15,000 to put the machinery into existing buses.

He said current projections are the city would need about 20 lift-equipped buses to meet the 50 percent standard by 1988, but added that recent legislation requires that any federal bus purchase subsidies be used only for lift-equipped buses.

"So ultimately, by 1990 or so we should be 100 percent accessible," Glasheen said. He said the city system will have 17 such buses by 1983.

Among other handicap aids is a "kneeling feature" available on all buses

as an option and on some models as standard equipment, Glasheen said. Buses with that feature can exhaust the air from an airbag on the suspension nearest the door, allowing the bus to drop five to six inches and lower the first step of the bus by that much.

That feature is not required by law, he added.

The Racine plan was developed by the staff of the Southeastern Wisconsin Regional Planning Commission, consulting with city representatives and a steering committee of the Elderly and Handicapped Transportation Task Force.

Before the plan is finally approved, Glasheen said, it must have the endorsement of Racine, the regional planning commission and the federal Urban Mass Transit Administration.

THE RACINE JOURNAL TIMES

May 25, 1980

# Plan heard to equip buses for handicapped

By Sean P. Devlin  
of the Journal Times

A plan to make Racine's public transit system accessible to the handicapped will be offered for City Council approval without changes.

About a dozen persons attended a public hearing on the plan Wednesday evening, but no comments, either in support or opposition, were offered.

The plan calls for purchase by the Belle Urban System (BUS) of buses equipped with wheelchair lifts so that by 1988 at least 50 percent of peak hour buses carry the devices.

Other aspects of the plan include special driver training to deal with wheelchair-bound passengers, and modification of bus stop shelters, BUS buildings and other facilities to make them accessible to wheelchairs.

Basically, the plan proposes to take actions required by the federal government

of any transit system receiving federal funds.

One thing not required, but proposed in the plan, is the continuation of the demand-responsive transit service now provided under contract through the Lincoln Lutheran Specialized Transportation program.

There is some debate over whether the latest requirements are that 50 percent of the city's buses must be made wheelchair accessible or that all the buses must be so equipped.

In addition, new legislation is pending in Congress, according to City Transit Planner Michael Glasheen, which would further change the regulations.

Whatever the requirement, however, it currently would free the city from having to provide the service now offered through the Lincoln Lutheran program.

But the plan notes that wheelchair lifts on buses would not remove the problems of crowds, the inability to get to or from the bus stop, and inclement weather

which would not be eliminated by changing bus equipment.

"A need for a specialized transportation service available to certain transportation-handicapped individuals should continue to exist," the report said.

Those factors have led to some hostility to the wheelchair lift idea in some other areas of southeastern Wisconsin, according to Philip Evenson, assistant director of the Southeastern Wisconsin Regional Planning Commission.

"In Kenosha there is some resistance to the lifts," Evenson said, "apparently based on the feeling of some of the handicapped that they would be better served by some kind of specialized transportation."

The law, as it stands now, relieves communities which have at least 50 percent of their buses equipped with wheelchair lifts from the obligation to provide specialized transportation such as the Lincoln Lutheran program.

Because of that there is the feeling

that provision of accessible buses may put an end to specialized transportation services.

In addition, some have questioned the effectiveness and cost-efficiency of the lifts.

It is estimated they will cost \$10,000, in 1980 dollars, for each of the 20 buses expected to be purchased and in service by 1988. An earlier SEWRPC study estimated that 4,500 residents of the Racine urbanized area are "transportation handicapped," and of those, approximately 240 are wheelchair-bound.

The study estimated that addition of lifts to the buses will result in 1 to 1½ one-way trips daily by wheelchair-bound passengers who previously have not used the BUS system.

However James Marshall of SEWRPC said the overall effect of lifts would be more like 30 additional one-way trips daily, because the lifts may be used by handicapped persons who are not in wheelchairs and because ancillary equipment,

such as the "kneeling feature," handholds and seating priorities may attract other handicapped.

Evenson said there has been some concern that in dealing with handicapped passengers bus systems may disrupt schedules so much that non-handicapped passengers may be driven away. Some buses, he said, are designed to place the lifts at the rear, requiring the driver to go to the rear to operate it.

However, he said Milwaukee's experience has been that so few handicapped use the buses that they are able to send supervisors out on a case-by-case basis to make sure schedules are maintained.

"I guess the hope is that the technology will develop and improve enough to smooth out the operation of mainline bus service to the handicapped," he said.

The Racine plan, if approved by the Council, will be forwarded to SEWRPC for the endorsement needed before it can go to the federal Urban Mass Transit Administration.

THE RACINE JOURNAL TIMES

May 29, 1980

## Appendix D

### LINCOLN LUTHERAN SPECIALIZED TRANSPORTATION REVIEW AND EVALUATION COMMITTEE

Michael J. Glasheen.....	Transit Planner, City of Racine
Francisco Lugo.....	Acting Racine Area Representative, Wisconsin Department of Health and Social Services, Division of Vocational Rehabilitation
Frank B. Miezio.....	Administrator, Lincoln Lutheran Home
Catherine P. Mocarski.....	Aging Coordinator, Racine County Human Services Department
Frederick M. Poulsen.....	Developmental Disabilities Coordinator, Racine County Human Services Department
Barbara Seitz.....	Nutrition Program Coordinator, Lincoln Lutheran Home
Irene Van Parys.....	Program Coordinator, Lincoln Lutheran Specialized Transportation

#### Nonvoting Ex-Officio Members

Helen M. Underwood, Moderator.....	Associate Director, Racine County Planning Council
Dan C. Johnson.....	Executive Director, Society's Assets, Inc.