



**U.S. Department of
Transportation**
Office of the Secretary
of Transportation

GENERAL COUNSEL

1200 New Jersey Avenue, SE
Washington, DC 20590

49 CFR 37.42(a)

5/24/12

QUESTION:

WHERE THE REQUIREMENTS OF SECTION 37.42 APPLY, WHICH CARS OF A TRAIN DOES A RAILROAD OPERATOR HAVE TO MAKE AVAILABLE TO PASSENGERS WITH DISABILITIES?

ANSWER:

- The performance standard of section 37.42(a) requires that passengers with disabilities “must have access to all accessible cars available to passengers without disabilities in each train using the station.
- The standard applies only to “accessible” cars meeting the requirements of 49 CFR Part 38. Some railroads continue to operate a number of inaccessible cars (e.g., 1950s-era double-decker commuter cars) that people with mobility impairments cannot enter and use. The requirement does not apply to cars of this kind.
- Moreover, the standard applies only to “cars available to passengers without disabilities” at a given station. There can be a number of situations in which not all cars in a train are made available to anyone at a station.
- For example, at a station with a relatively short platform, only cars 1-4 of an 8-car train may be available to any passenger. In some commuter rail systems, only two cars are open to be boarded by any passenger at a station.
- In situations like these, only those cars that are made available to other passengers at the station have to be made available to passengers with disabilities. The railroad operator generally would not be required to make cars available to passengers with disabilities that are not made available to other passengers.
- However, if all wheelchair locations are occupied by other wheelchair users in cars where the doors normally open at a station, the Department expects the railroad operator to double-stop or move a lift, where necessary, in order to provide transportation to a wheelchair user in an unoccupied wheelchair location. (Of course, railroad operators are always responsible for moving passengers’ luggage and other items out of wheelchair locations to permit their use by a wheelchair user.) Likewise, if the only way a passenger with a disability can access a food service car is through an adjacent car, then the railroad should provide access to the adjacent car.

The General Counsel of the Department of Transportation has reviewed this document and approved it as consistent with the language and intent of 49 CFR Part 37.