



**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(b), 37.49(e), 37.57

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QUESTION:

IF A PLATFORM IS OWNED BY A PRIVATE ENTITY OTHER THAN THE PASSENGER RAILROAD, WHAT HAPPENS IF THE PRIVATE ENTITY OBJECTS TO THE CREATION OF A LEVEL BOARDING PLATFORM?

ANSWER:

- Under section 37.42(b), if there is a new or altered station serving a passenger rail system, in which no track passing through the station and adjacent to the platform is shared with existing freight rail operations, the passenger railroad must comply with the performance standard by providing level-entry boarding.
- Where a station platform is owned by a private entity (e.g., a freight railroad), other than the passenger railroad operator providing service at the station, section 37.49(e) provides that the passenger railroad operator is the “responsible person” for complying with the requirements of Subpart C of Part 37 (the subpart concerning transportation facilities).
- Under section 37.57, an owner or the person in control of an intercity or commuter rail station is required to provide reasonable cooperation to the responsible person for that station with respect to the efforts of the responsible person to comply with the requirements of Subpart C of Part 37.
- Consequently, the private entity that owns the station platform is required by section 37.57 to cooperate with the efforts of the passenger railroad to comply with the requirements of section 37.42(b). Because of this requirement, the private entity cannot refuse to permit the passenger railroad to construct or alter a platform that will provide level boarding.

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.