



December 3, 2012

U.S. Department of Transportation
Docket Operations
M-30 West Building Ground Floor
1200 New Jersey Avenue, SE
Room W12-140
Washington, DC 20590-0001

RE: FTA-2012-0045

Dear Docket Clerk:

On behalf of the more than 1,500 member organizations of the American Public Transportation Association (APTA), I write to provide comments on the Federal Transit Administration's (FTA) Notice of Availability of Proposed Circular Chapter and Request for Comments on the Americans With Disabilities Act: Proposed Circular Chapter, Vehicle Acquisition published October 2, 2012, at 77 FR 60170.

About APTA

APTA is a non-profit international trade association of 1,500 public and private member organizations, including public transit systems; high-speed rail agencies; planning, design, construction and finance firms; product and service providers; academic institutions; and state associations and departments of transportation. More than ninety percent of Americans who use public transportation are served by APTA member transit systems.

General Comments

APTA fully supports the concept of publishing a comprehensive circular designed to assist agencies and riders in understanding and implementing fully compliant programs and ensure riders with disabilities have maximum, consistent access to public transportation services.

We believe this could best be accomplished by altering the proposed format to ensure the circular does not inadvertently confuse the requirements rather than clarify them. The current format alternates among direct quotes of regulatory provisions, paraphrasing of regulatory provisions, and comments amounting to recommendations or best practices without clear separation of those concepts. For example, proposed section 3.1 moves between paraphrased regulatory requirements and non-regulatory discussions of devices such as "S hooks" and "connecting loops," all under sub-headings that cite regulatory provisions. We believe this approach will prove counterproductive.

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A clearer alternative method of presenting this information and more would be, for each topic, to clearly and precisely provide the relevant regulatory language, separated from all other discussion. After the regulatory language, in a separate subparagraph clearly delineated, we recommend FTA provide concrete means of complying with those provisions and best practices. We believe the current information related to potential solutions and best practices be amplified to include references to specific practices rather than short, very general discussions (e.g., the discussion of “S hooks” and non-specific reference to alternative methods). It is this emphasis on various approved means of meeting regulatory requirements, where appropriate, that would lead to better understanding and implementation of the program and increased accessibility.

Additionally, we encourage FTA to hyperlink the circular as much as possible and to include references to all applicable regulations to ensure the circular serves as a primary reference for practitioners and users alike.

Specific Comments

Section 1

While FTA has noted the proposed circular would not detract from the applicable regulations, we believe FTA should also note that the circular is not intended to add requirements to those embedded in regulation. As throughout the draft, references should be provided and separated from commentary (see, e.g., section 1.2 and the discussion of vehicles procured by contractors and prospective contractors).

Section 2

We believe section 2.5 is not appropriate for this chapter. The discussion of what constitutes demand responsive service is not properly placed in a chapter on vehicle procurement and, as drafted, is quite misleading. Discussing what constitutes equivalent service is likewise out of place in this chapter. While we appreciate FTA’s efforts to place the requirements for demand responsive vehicles in context, doing so would likely lead to confusion as subsequent chapters are drafted. Essentially, this would start FTA down a path where circular users would have to jump between chapters to find divergent, possibly contradictory, information on a single topic.

Section 3

In addition to separating regulatory requirements from best practices, FTA should add discussions of over the road buses and intercity rail to this section. Over the road buses are used extensively in commuter bus service and agencies increasingly provide rail service of an intercity nature.

Figure 3-2 incorporates an error. The international symbol of accessibility, while helpful, is not required on buses.

Figure 3-4 includes several marked angles without explaining their significance. The angle references should be explained or removed. Moreover, the accompanying text, “entities *should* (emphasis added) obtain design specifications” including “independent laboratory test results” is an excellent example of the dangers of mixing regulatory requirements and discussion. Independent laboratory test results are rarely available and this language suggesting transit agencies *should* obtain them could easily mislead users of this circular and de facto create a new requirement.

As noted above, the discussion in draft section 3.1 of “S hooks” and “connecting loops” are additional examples of why regulatory requirements should be separated clearly from commentary.

Section 4

The discussion in draft section 4.1 attempting to explain why agencies may wish to go beyond the ADA in providing services to riders with disabilities inadvertently uses a poor example. Ramp slope and length are a complex topic, still under discussion and study at the US Access Board. We recommend FTA provide a more ‘cut and dried’ example if one is necessary to illustrate this point.

We believe FTA should amplify the point in draft section 4.3 concerning specifications. Too often, specifications call for compliance with all ADA requirements without calling out specific measurements, tolerances, etc. This almost invariably proves to be a disservice to the agency, the manufacturer, and the riders with disabilities dependent on the equipment’s compliance. The examples in the text box and its reference to “required minimum load tolerances” and foot candles of lighting are poor. A proper, well crafted specification would lay out what minimum tolerances are and where light measurements must be taken to ensure compliance. Finally, the text “sample documentation of test results” doesn’t seem to relate to the text box or other information near it.

Section 5

The term demand responsive system should not be included in this chapter as discussed above. The term designated public transportation, while drawn from the US Access Board guidelines, is unnecessary to this chapter.

Sections 6 and 7

As discussed above, we urge FTA to provide comprehensive references and hyperlink within and outside the document to the maximum extent feasible.

We appreciate the opportunity to assist the Administration in solving these important issues and would be happy to provide any additional information necessary to complete this

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process. For additional information, please contact James LaRusch, APTA's chief counsel and vice president corporate affairs, at (202) 496-4808 or jlarsch@apta.com.

Sincerely yours,

A handwritten signature in black ink, appearing to read "Michael P. Melaniphy". The signature is fluid and cursive, with a long, sweeping underline that extends to the right.

Michael P. Melaniphy
President & CEO

MPM/JPL/rk