Amendment 2

Federal Transit Administration

Americans with Disabilities Act
Circular C 4710.1

Draft Chapters for Public Comment

November 2014

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Chapter 1 – Introduction and Applicability (Draft Published)

Chapter 2 – General Requirements Addendum (Draft Published)

[Insert at End of Chapter]

2.5 Monitoring to Ensure Compliance

FTA encourages transit agencies to regularly monitor service provision to ensure compliance with the DOT ADA requirements and to confirm adherence to agency policies and procedures. Monitoring should include both services provided in-house as well as contractor-provided services. This section presents service monitoring options.

2.5.1 Gathering Relevant Service Information

Relevant service data and information is essential to effective monitoring. Transit agencies should consider taking the following actions:

- Record the working condition of elevators as part of daily or regular facility inspections
- Note any reported issues with the working condition of elevators on dispatch or other central control logs to enable proper communication regarding outages and alternative services
- Record the working condition of vehicle lifts/ramps, securement systems, public address systems, and other accessibility equipment as part of vehicle pullout inspections
- Record in-service failures of lifts/ramps, as well as any actions taken (e.g., alternative transportation arranged) on dispatcher logs
- Include lifts/ramps, securement systems, public address systems, and other accessibility equipment on scheduled maintenance documents and forms
- Document all preventive maintenance and repairs
- Include any in-service issues in incident reports
- Record both requests for accessible information and communications and how such requests were accommodated

2.5.2 Regularly Reviewing Service Data

Transit agencies should regularly review service data both to ensure its completeness and accuracy and to identify any potential issues. This includes:

- Reviewing facility inspection records for completeness
- Comparing records of elevator outages from inspection forms or dispatch/central control logs with communications records (systemwide announcements, press releases, etc.) to note timeliness of announcements. Also note whether announcements included alternative service information
- Comparing vehicle pullout inspection records with pullout records to verify that pullout inspections are occurring each time
- Reviewing elevator and vehicle preventive maintenance records to verify adherence to maintenance schedules and to verify completion of maintenance on accessibility equipment
- Comparing accessibility equipment failure reports (from pullout inspection forms and dispatch logs) with repair records to confirm prompt completion of repairs

- Reviewing dispatch log records of in-service failures to confirm provision of appropriate alternative transportation

2.5.3 Directly Observing Service Provision

Directly observing service is important for checking compliance with certain requirements and policies, including:

- Use of securement systems, seat belts, and shoulder harnesses
- Accommodation of service animals
- Accommodation of personal oxygen and respirators
- Appropriate rider assistance and treatment
- Provision of route identification and stop announcements (See Chapter 6.)

In addition, service observations are helpful in assessing employee proficiency and adherence to agency policies and procedures.

Many transit agencies observe service provision directly with their own employees or using secret riders. Agencies also rely on surveillance records from on-board cameras. Agencies using employees to observe service should make every effort to maintain secrecy so that observations reflect true service performance.

Transit agencies may find it more efficient to use secret riders who use a service animal or travel with an oxygen supply to make in-service observations than to deploy observers who may have to ride for an extended period until encountering a rider with a service animal or oxygen supply.

2.5.4 Reviewing Rider Comments and Complaints

Because rider comments can reveal areas that need attention, tracking, investigating, and addressing rider comments and complaints is important. Transit agencies should pay particular attention to any patterns as potential indicators of systematic issues requiring changes in operational practices. See Chapter 12 for requirements and suggestions related to complaints and recordkeeping.

Chapter 3 – Transportation Facilities

3.1 Introduction

This chapter explains the U.S. Department of Transportation (DOT) Americans with Disabilities Act (ADA) requirements for transportation facilities with particular emphasis on the requirements for new construction and alterations. As defined in § 37.3, facilities are "all or any portion of buildings, structures, sites, complexes, equipment, roads, walks, passageways, parking lots, or other real or personal property, including the site where the building, property, structure, or equipment is located." As discussed in Chapter 1, this Circular addresses entities and services that fall explicitly under FTA's jurisdiction, covered in the following regulations from Part 37 Subparts A (General) and C (Transportation Facilities):

From Subpart A:

- Standards for accessible transportation facilities – § 37.9(a)–(c) and the requirements set forth in Appendices B and D to 36 CFR Part 1191, as modified by Appendix A to Part 37

From Subpart C:

- Construction of transportation facilities by public entities – § 37.41
- Service in an integrated setting to passengers at intercity, commuter, and high-speed rail station platforms constructed or altered after February 1, 2012 – § 37.42
- Alteration of transportation facilities by public entities – § 37.43
- Key stations in light and rapid rail systems – § 37.47
- Designation of responsible person(s) for intercity and commuter rail stations – § 37.49
- Key stations in commuter rail systems – § 37.51
- Public transportation programs and activities in existing facilities – § 37.61

This Circular does not address the following Subpart C regulations:

- Construction and alteration of transportation facilities by private entities – § 37.45[1]
- Key station exception for New York and Philadelphia – § 37.53
- Deadline for intercity rail station accessibility – § 37.55
- Required cooperation – § 37.57
- Differences in accessibility completion dates – § 37.59

This Circular does not alter, amend, supersede, or otherwise affect the DOT ADA regulations themselves or replace or reduce the need for detailed information in the regulations. Suggestions of good practices are included throughout the Circular; FTA recognizes that there are many different ways agencies can implement the regulatory requirements and ensure the delivery of compliant service.

[1] Section 3.1.2 addresses coordination with other entities, including private entities.

3.1.1 Original ADAAG and the DOT Standards for Accessible Transportation Facilities

Requirement

"For purposes of [Part 37], a transportation facility shall be considered to be readily accessible to and usable by individuals with disabilities if it meets the requirements of [Part 37] and the requirements set forth in Appendices B and D to 36 CFR Part 1191, which apply to buildings and facilities covered by the Americans with Disabilities Act, as modified by Appendix A to [Part 37]" (§ 37.9(a)).

"Facility alterations begun before January 26, 1992, in a good faith effort to make a facility accessible to individuals with disabilities may be used to meet the key station requirements set forth in §§ 37.47 and 37.51 of [Part 37], even if these alterations are not consistent with the requirements set forth in Appendices B and D to 36 CFR Part 1191 and Appendix A to [Part 37], if the modifications complied with the Uniform Federal Accessibility Standards (UFAS) or ANSI A117.1 (1980) (American National Standards Specification for Making Buildings and Facilities Accessible to and Usable by the Physically Handicapped). This paragraph applies only to alterations of individual elements and spaces and only to the extent that provisions covering those elements or spaces are contained in UFAS or ANSI A117.1, as applicable" (§ 37.9(b)).

"(1) New construction or alterations of buildings or facilities on which construction has begun, or all approvals for final design have been received, before November 29, 2006, are not required to be consistent with the requirements set forth in Appendices B and D to 36 CFR Part 1191 and Appendix A to [Part 37], if the construction or alterations comply with the former Appendix A to [Part 37], as codified in the October 1, 2006, edition of the Code of Federal Regulations.

(2) Existing buildings and facilities that are not altered after November 29, 2006, and which comply with the former Appendix A to [Part 37], are not required to be retrofitted to comply with the requirements set forth in Appendices B and D to 36 CFR Part 1191 and Appendix A to [Part 37]" (§ 37.9(c)).[2]

Discussion

Under the ADA, the U.S. Architectural and Transportation Barriers Compliance Board (Access Board) has the responsibility of creating guidelines for the accessibility of buildings, facilities, and vehicles subject to ADA requirements. These guidelines form the basis for standards incorporated by other Federal agencies, including U.S. DOT, into their ADA regulations. The original guidelines, known as the ADA Accessibility Guidelines (ADAAG), were revised and updated in 2004 to establish a single set of standards under both the ADA and the Architectural Barriers Act of 1968 (ABA), and became known as the ADA-ABA Accessibility Guidelines (ADA-ABA AG). Effective November 2006, DOT incorporated these standards with modifications into its ADA regulations. For this reason, the following discussion refers to ADAAG as the "Original ADAAG" and the revised standards as adopted by DOT in 2006 as the "DOT Standards."

Original ADAAG

The Access Board issued the aforementioned ADA Accessibility Guidelines (ADAAG) in 1991 and, on the same day, DOT met its obligation to implement the ADA regulations through verbatim incorporation of ADAAG (Original ADAAG) in Appendix A to Part 37.

[2] See Chapter 5 for a discussion of § 37.9(d) (equivalent facilitation) related to transportation facilities.

DOT Standards

The Access Board issued a major revision to ADAAG in 2004 after an extensive notice and comment period. Because this revision also updated the standards under the ABA, the new standards are known as the ADA-ABA AG. In addition, the Access Board issued technical amendments to the revised guidelines. In 2006, DOT issued a Final Rule adopting the Access Board's 2004 revisions and subsequent technical amendments to ADAAG into Part 37. In doing this, DOT made four additions or modifications to the new standards for accessible transportation facilities.

1. DOT retained in Appendix A Section 206.3 (location of accessible routes) an existing requirement that important elements of transportation facilities (ramps, elevators, or other circulation devices, fare vending or other ticketing areas, and fare collection areas) must be located to minimize the distance that individuals with disabilities must travel to use them. This strengthens the concept that accessible routes must coincide with or be located in the same general area as general circulation paths. For example, elevators should not be placed at the opposite end of a platform from stairways that provide a shorter route to the boarding areas.[3]
2. The requirement for detectable warnings on curb ramps is retained in Appendix A Section 406.8.
3. The requirements for bus boarding and alighting areas in Appendix A Section 810.2.2 apply "to the extent that construction specifications are within [the] control" of public entities; compliance is required to the maximum extent feasible.
4. In Appendix A Section 810.5.3 (coordination between rail platforms and rail vehicles per 36 CFR 1191) an exception is added providing that when the horizontal or vertical gap requirements cannot be met for operational or structural reasons, other methods are permissible.[4]

The requirements located in Appendices B and D to 36 CFR Part 1191 and in Part 37 Appendix A are together henceforth referred to as the "DOT Standards." The DOT Standards, which are different from the Department of Justice 2010 standards, contain the requirements that apply to transportation facilities.

Existing facilities built under and compliant with the original ADAAG do not have to be retrofitted to comply with the DOT Standards.[5] Any future alteration to an existing facility, however, must comply with the DOT Standards.

3.1.2 Transit Agency Responsibilities

Transit agencies must follow the DOT Standards when constructing new transportation facilities and when altering existing ones. (See Section 3.6 for requirements pertaining to key stations.)

Agencies must operate their transportation facilities in a manner that, when viewed in their entirety, are accessible to and usable by individuals with disabilities, as discussed throughout this chapter.

FTA recognizes that for many facilities, such as bus stops and commuter rail stations, transit agencies are not in control of all of the elements that individuals with disabilities need to use for facility access. For example, bus stops are often located within rights-of-way other public entities own and control. Commuter rail stations often have elements that different entities may own and control. Accessibility improvements to existing stations might require use of municipal rights-of-way. Transit agencies are expected to coordinate with other entities, especially during the design and construction or alteration of transportation facilities, to ensure accessibility to the maximum extent practicable.

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[3] This is a continuation of the requirement under ADAAG Section 10.3.1(1)

[4] This is a continuation of the requirement under ADAAG Section 10.3.1(9)

[5] DOT crafted language in § 37.9(c)(1) to address projects—either new construction or alteration of an existing facility—underway in 2006. For projects already in progress (i.e., actual construction had already begun or the final design had received all necessary approvals) before November 29, 2006, original ADAAG applies.

Intercity (Amtrak) and Commuter Rail Stations

The Appendix D section on designating responsible person(s) for intercity and commuter rail stations explains coordination requirements for shared Amtrak and commuter rail stations:

> [Section 37.49] sets forth a mechanism for determining who bears the legal and financial responsibility for accessibility modifications to a commuter and/or intercity rail station. The final provision of the section is the most important. It authorizes all concerned parties to come to their own agreement concerning the allocation of responsibility. Such an agreement can allocate responsibility in any way acceptable to the parties. [DOT] strongly encourages parties to come to such an agreement.

As discussed in Chapter 1, private transportation providers' services are under Department of Justice (DOJ) jurisdiction, while Amtrak's services are under Federal Railroad Administration (FRA) jurisdiction. Construction of new facilities or modifications to existing facilities owned by or shared with Amtrak requires review and approval by FTA and FRA. (See Chapter 3.)

Bus Stops

Section 810.2 of the DOT Standards applies to construction, alteration, or relocation of bus stops. To the maximum extent practicable, bus stops should be sited at locations that comply with this section. New, altered, or relocated bus stops must have a firm, stable surface and must provide a clear length of 96 inches (2,440 mm), measured perpendicular to the curb or vehicle roadway edge, and a clear width of 60 inches (1,525 mm), measured parallel to the vehicle roadway. To the maximum extent practicable, the slope of the bus boarding and alighting area in the direction parallel to the roadway must be the same as that of the roadway; perpendicular to the roadway, the slope must not exceed 1:48, or not more than one inch over a distance of 48 inches. Bus stops must also connect via an accessible route to streets, sidewalks, or pedestrian paths.

As noted above, these requirements apply to the extent that construction specifications are within the control of public entities; compliance is required to the maximum extent practicable.

Bus stops located on streets without sidewalks must comply with the same requirements under Section 810.2 of the DOT Standards to the maximum extent practicable. In these cases, transit agencies must construct or locate bus stops with connections via an accessible route to the public right-of-way; if the only public right-of-way is a roadway, then the connections must be to the roadway.

Providing Accessible Routes to Bus Stops

FTA encourages transit agencies to work with other agencies to ensure that connections to bus stops are accessible. A bus stop with a level pad of the proper dimensions serves little value to an individual with a disability if the individual cannot reach the bus stop (to board a bus) or cannot travel beyond the bus stop (after alighting from a bus). An individual with a disability who could otherwise ride an accessible bus but cannot reach the bus stop due to the lack of an accessible path would be eligible for complementary paratransit, at least on a conditional basis. (See Chapter 9.) Therefore, agencies should be mindful of the location of their bus stops in relation to accessible pedestrian routes.

Bus Shelters

Transit agencies usually have control over bus shelters (where they exist). The DOT Standards specify that shelters must accommodate individuals using wheelchairs by providing a minimum clear floor or ground space entirely within the shelter that complies with Section 305 of the DOT Standards. Shelters must have an accessible path to the boarding and alighting area that complies with Section 810.2.3.

3.2 Common Issues in Applying the DOT Standards

The DOT Standards contain extensive requirements for scoping, access, parking, passenger and bus loading, path of travel to and within facilities, signage and communication, telephones and fare vending, and emergency egress and places of refuge. Transit agencies are required to follow the DOT Standards when embarking upon any new construction or alteration projects. To help guide agencies in complying with the DOT Standards, this section presents information on the following commonly misapplied or misinterpreted elements of the DOT Standards:

- Number and location of accessible station parking spaces
- Access aisles for passenger loading zones
- Curb ramps and track crossings
- Station platforms

3.2.1 Common Issues with Station Parking

Two common errors with respect to meeting station parking requirements are related to the number of accessible parking spaces and the proper location when more than one parking facility serves a station. Figure 3-1 illustrates both of these issues.

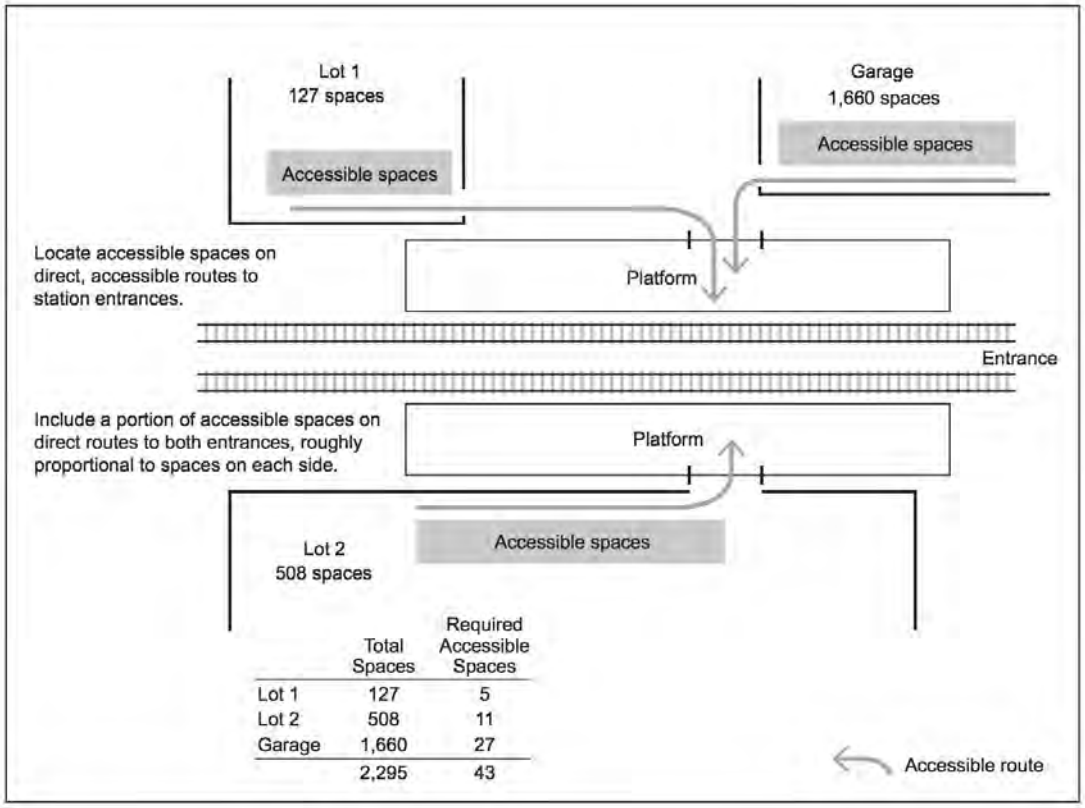


Figure 3-1 – Location and number of accessible parking spaces

Correctly Computing the Accessible Parking Requirement

The DOT Standards require the use of Table 208.2 to calculate the number of accessible spaces for a station parking facility. If multiple parking facilities serve a station, agencies are required to calculate the requirements for each parking facility separately. As illustrated in Figure 3-1, two parking lots and one parking garage together provide 2,295 spaces for a hypothetical station. Using Table 208.2, 43 accessible

spaces are required (five spaces for the first lot, 11 spaces for the second lot, and 27 spaces for the garage). Computing the accessible space requirements based on the total parking supply (2,295 spaces) would incorrectly yield 33 spaces, 10 fewer spaces than required.

Providing Accessible Spaces in the Proper Location

Accessible parking spaces must be located on the shortest route to one or more accessible station entrances. Generally, if parking is located near more than one station entrance, accessible spaces must be allocated to each accessible entrance.

However, the DOT Standards allow transit agencies to allocate accessible spaces to locations that will best serve those who will park there. These locations must minimize the travel distance to the station's accessible entrances. (See Figure 3-1.) In some circumstances, better accessibility might result from locating all of the accessible parking together, while in other circumstances better accessibility might result from dividing the accessible spaces in relation to vehicular arrival routes.

In stations with multiple accessible entrances, a good practice is to consult with riders with disabilities on where to best locate accessible parking, taking into account roadway access patterns, local climate, signage needs, and ease of circulation within parking facilities.

3.2.2 Common Issues with Passenger Loading Zones

At stations with designated passenger loading zones, these zones, except those required to comply with Section 209.2.2 (Bus Loading Zones) and Section 209.2.3 (On-Street Bus Stops) must provide at least one passenger loading zone complying with Section 503 in every continuous 100 linear feet (30 m) of loading zone space, or fraction thereof. (See Section 209.2.) A common mistake is to simply designate a portion of curb as accessible without providing the required clearly marked 60-inch wide access aisle at the same level as the vehicle pull-up space. Changes in level are not permitted, and the access aisle must be on an accessible route to the facility entrance. (See Section 503.4.) (See Figure 3-2.)

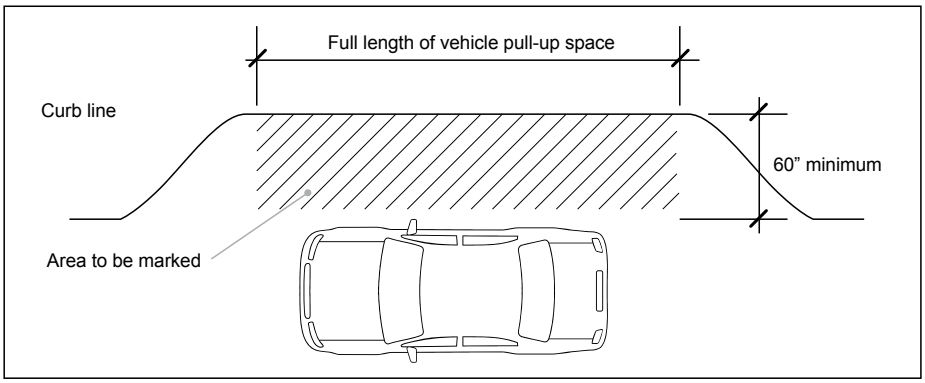


Figure 3-2 – Required dimensions for passenger loading zones and access aisle

3.2.3 Common Issues with Curb Ramps and Track Crossings

While many station elements are present along the accessible path of travel, two common issues are noncompliant curb ramps and improperly maintained track crossings.

Curb Ramps

The DOT Standards contain detailed requirements for curb ramps in Section 406. Many issues with curb ramps result from construction practices that do not adhere to design specifications, particularly landings that are not level because of field conditions. Additional common deficiencies include top landings that

are too small, ramps that are too steep, and counter slopes that are too steep. Other deficiencies commonly seen are excessive lips on the vertical transitions at the bottom of ramps and missing detectable warnings.

Careful monitoring during construction is important to ensure compliance. A good practice is to include provisions in construction documents specifying the Section 406 requirements (including detectable warnings) rather than simply directing contractors to construct ADA-compliant curb ramps. Figure 3-3 illustrates the requirements for curb ramps as well as these common deficiencies.

Detectable warnings must be 24 inches wide for the full width of the curb ramp, must visually contrast with adjacent surfaces (either light-on-dark or dark-on-light), and must have a pattern of truncated domes that conform to the specifications in Section 705.

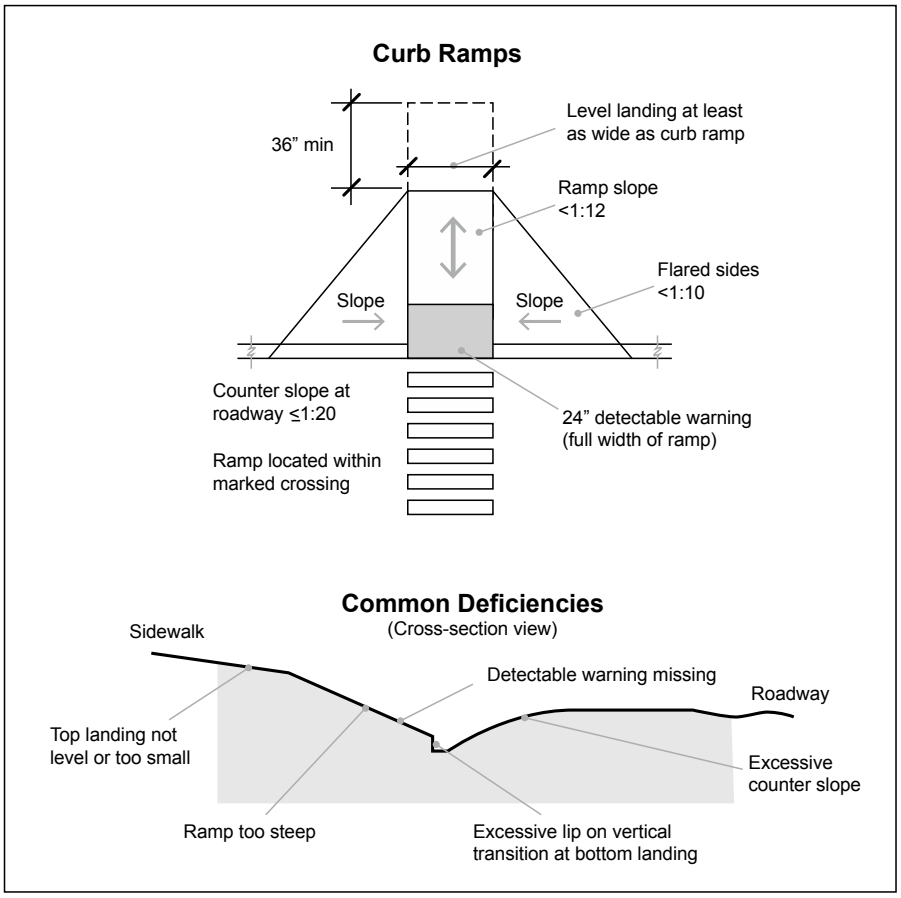


Figure 3-3 – Curb ramp requirements and common deficiencies

Track Crossings

The DOT Standards contain detailed requirements for track crossings in Section 810.10. At rail stations where an accessible route to boarding platforms crosses tracks, the route must meet the Section 402 accessible route requirements, with an exception that openings for wheel flanges are permitted to be a maximum of 2.5 inches wide. As part of an accessible route, the track crossing cannot have level changes greater than 1/4 inch vertical plus 1/4 inch if beveled at a 1:2 angle. (See Section 303.) Thus, if the top of rail has beveled edges, it can extend up to 1/2 inch above the surface on either side of the flange gap, but the least possible level change is preferable. (See Figure 3-4.)

A common issue occurs when flangeway gaps exceed 2.5 inches. This can cause mobility devices to become caught and/or stopped within a track crossing, which is a critical safety consideration. The regulations require that track crossings, as an accessibility feature, be maintained in operative condition.

(See Chapter 2.) Track crossings require regular maintenance because bituminous concrete may form raised ridges at the tracks or concrete pads between the tracks may shift. In such instances where the requirement for a maximum 2.5-inch gap cannot be met or maintained, other means of crossing the track may need to be explored.

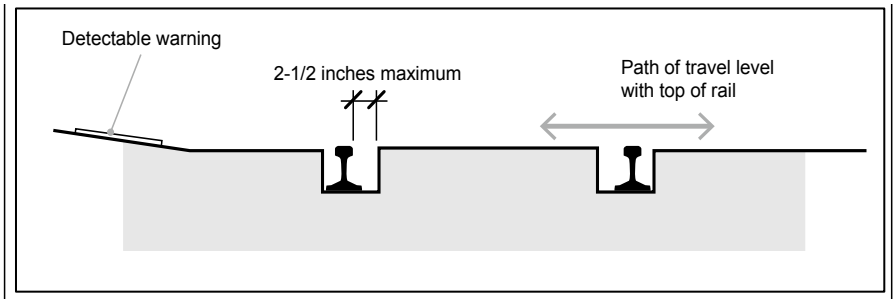


Figure 3-4 – Track crossing cross-section

3.2.4 Common Issues with Station Platforms

The following discussion includes several common issues with station platforms, including:

- Platform and vehicle coordination
- Detectable warnings
- Platform signage
- Directions to accessible means of egress

Platform and Vehicle Coordination

The DOT Standards (Section 810.5.3) require rail platforms to be positioned so that they coordinate with the Part 38 requirements for transportation vehicles. For rapid rail systems, the gap between the station platform and the vehicle floor under normal operating conditions must be no more than ± 5/8 inch vertical and three inches horizontal. (See § 38.53(d)/36 CFR 1192.53(d).)

For light rail, the same dimensions apply. (See § 38.73(d)/36 CFR 1192.73(d).) In addition, low-level platforms must be at least 8 inches above the top of rail. (See Section 810.5.3.) The DOT Standards provide for an exception when vehicle boarding is from sidewalks or from street level; low-level platforms may be less than 8 inches.

The § 37.42 platform-vehicle coordination requirements discussed later in this chapter (see Section 3.6), which apply to intercity, commuter, and high-speed rail service but do not apply to rapid rail or light rail service, are frequently misunderstood. For commuter rail platforms, where existing freight service does not also use the track the platform serves, the requirements for platform-vehicle coordination are the same as for rapid rail. (See § 38.93(d).) Situations where existing freight service uses the same track as the commuter rail service are addressed in § 37.42. The section also contains detailed provisions for demonstrating that alternatives to level-entry boarding meet the performance standard of providing access for individuals with disabilities, including individuals who use wheelchairs, to all accessible cars available to riders without disabilities in each train using the station.

Detectable Warnings

The detectable warning requirements in Section 705 specify requirements for truncated domes, including size, spacing, and contrast, as well as the dimensional requirements along platform edges. The requirements in Section 810.5.2 specify requirements for platform boarding edges not protected by platform screens. A commonly misunderstood element of these requirements is that the orientation of the

dome pattern is not part of the requirement; it is commonly aligned at 45 degrees to the platform edge but parallel orientation is also acceptable.

Station Platform Signage

The DOT Standards contain detailed requirements for station platform signs with the name of the station. They must be visible so that riders can identify the station from within the train and know whether or not to get off the train. Station names must be clearly visible and within the sight lines of standing and sitting riders from within the vehicle on both sides when not obstructed by another vehicle. (See Section 810.6.3.) Text on signs must be sized to be legible at the distance from which train riders will view it. (See Section 703.5.)

At stations with center platforms, a common issue is the lack of adequate station name signs across from the platform (i.e., to the right of the train). In these instances, a rider in a side-facing seat facing the right side of the train (i.e., away from the platform) cannot identify the station name without turning 180 degrees to read the sign on the center platform.

Directions to Accessible Means of Egress

The DOT Standards also require signs for those navigating stations. In stations where some but not all means of egress from platforms are accessible, signs are required on station platforms to direct people to the accessible means of egress. For example, in stations with stairs at one end of the platform and an accessible egress at the other end of the platform, clear and frequent directional signs along the entire accessible path are essential. (See Section 216.4.3.) Such signs are also required to direct people along the accessible path to areas of rescue assistance. (See Section 216.4.2.)

In stations with inaccessible egress paths, a good practice is to include signs on the non-accessible path directing individuals to the accessible exit.

3.3 New Construction of Transportation Facilities

Requirement

"A public entity shall construct any new facility to be used in providing designated public transportation services so that the facility is readily accessible to and usable by individuals with disabilities, including individuals who use wheelchairs. This requirement also applies to the construction of a new station for use in intercity or commuter rail transportation. For purposes of this section, a facility or station is 'new' if its construction begins (i.e., issuance of notice to proceed) after January 25, 1992, or, in the case of intercity or commuter rail stations, after October 7, 1991" (§ 37.41(a)).

Discussion

New facilities that public entities construct must comply with the DOT Standards. In addition to new stations for use in public transit and intercity or commuter rail transportation, the requirement also applies to other types of facilities, such as bus boarding areas and intermodal centers. The DOT Standards contain detailed requirements for all elements of a facility. Attachment 3-1 contains a DOT Standards checklist to facilitate the review of design and construction of new transportation facilities. This checklist can also be applied to elements of facility alterations. (See Section 3.4.)

3.3.1 Structural Impracticability in New Construction

Requirement

"(1) Full compliance with the requirements [for new construction] is not required where an entity can demonstrate that it is structurally impracticable to meet the requirements. Full compliance will be considered structurally impracticable only in those rare circumstances when the unique characteristics of terrain prevent the incorporation of accessibility features.

(2) If full compliance with this section would be structurally impracticable, compliance with this section is required to the extent that it is not structurally impracticable. In that case, any portion of the facility that can be made accessible shall be made accessible to the extent that it is not structurally impracticable.

(3) If providing accessibility in conformance with this section to individuals with certain disabilities (e.g., those who use wheelchairs) would be structurally impracticable, accessibility shall nonetheless be ensured to persons with other types of disabilities (e.g., those who use crutches or who have sight, hearing, or mental impairments) in accordance with this section" (§ 37.41(b)).

Discussion

Section 37.41(b) provides public entities a limited exception to the requirement that new facilities be readily accessible in rare circumstances where the agency can demonstrate that it is structurally impracticable to fully comply. These rare circumstances may occur when the unique characteristics of terrain prevent the incorporation of accessibility features. In its Final Rule adopting the DOT Standards, DOT noted that for new construction, the structural impracticability standard may not be applied to a situation in which a facility is simply located in "hilly" terrain or on a plot of land with steep grades.

If it is not possible to meet all of the DOT Standards in all parts of the facility due to demonstrated structural impracticability, public entities are still required to meet the DOT Standards to the greatest extent possible for the portions where there are structural constraints and to comply fully in the other portions of the facility that are not structurally constrained. For example, if constructing a station entrance served by stairs but not by an elevator, the entrance must still comply with the DOT Standards for stairs and railings, doors, signage, lighting, the route surface, and any amenities such as telephones.

FTA encourages transit agencies constructing new stations or stops in steeply sloped environments to make every effort to find a location that affords the greatest accessibility practicable. For FTA-funded facilities, grantees must provide documentation substantiating any claim that compliance with a particular DOT Standard is structurally impracticable. This is required for FTA to determine compliance with DOT ADA regulations for grant-making purposes. This documentation must describe all aspects of siting and design and must demonstrate compliance with the DOT Standards to the maximum extent possible.

3.4 Alteration of Transportation Facilities

Requirement

"(1) When a public entity alters an existing facility or a part of an existing facility used in providing designated public transportation services in a way that affects or could affect the usability of the facility or part of the facility, the entity shall make the alterations (or ensure that the alterations are made) in such a manner, to the maximum extent feasible, that the altered portions of the facility are readily accessible to and usable by individuals with disabilities, including individuals who use wheelchairs, upon the completion of such alterations.

(2) When a public entity undertakes an alteration that affects or could affect the usability of or access to an area of a facility containing a primary function, the entity shall make the alteration in such a manner that, to the maximum extent feasible, the path of travel to the altered area and the bathrooms, telephones, and drinking fountains serving the altered area are readily accessible to and usable by individuals with disabilities, including individuals who use wheelchairs, upon completion of the alterations. Provided, that alterations to the path of travel, drinking fountains, telephones and bathrooms are not required to be made readily accessible to and usable by individuals with disabilities, including individuals who use wheelchairs, if the cost and scope of doing so would be disproportionate.

(3) The requirements of this paragraph also apply to the alteration of existing intercity or commuter rail stations by the responsible person for, owner of, or person in control of the station.

(4) The requirements of this section apply to any alteration which begins (i.e., issuance of notice to proceed or work order, as applicable) after January 25, 1992, or, in the case of intercity and commuter rail stations, after October 7, 1991" (§ 37.43).

Discussion

49 CFR § 37.3 defines an alteration as:

> Change to an existing facility, including, but not limited to, remodeling, renovation, rehabilitation, reconstruction, historic restoration, changes or rearrangements in structural parts of elements, and changes or rearrangement in the plan configuration of walls and full-height partitions.

The DOT Standards define alteration as:

> A change to a building or facility that affects or could affect the usability of the building or facility or portion thereof. Alterations include, but are not limited to, remodeling, renovation, rehabilitation, reconstruction, historic restoration, resurfacing of circulation paths or vehicular ways, changes or rearrangement of the structural parts or elements, and changes or rearrangement in the plan configuration of walls and full-height partitions. Normal maintenance, reroofing, painting or wallpapering, or changes to mechanical and electrical systems are not alterations unless they affect the usability of the building or facility. (See Section 106.5.)

An "alteration" within the meaning of the regulations is a change that affects the usability of the facility involved. "Usability" in this context is broadly defined to include renovations that affect the use of a facility in any way, and not simply changes that relate directly to access. For example, as explained in case law from 2011, "…the complete replacement of a stairway or total overhaul of an escalator should be considered 'remodeling, renovation, rehabilitation [or] reconstruction' in the ordinary sense of those words."[6]

However, not all work on a station constitutes an "alteration" for purposes of the ADA. For instance, "normal maintenance, reroofing, painting, or wallpapering, asbestos removal, or changes to mechanical or electrical systems are not alterations unless they affect the usability of the building or facility." (See § 37.3.)

Because transportation facilities can be complex environments, the regulations account for these complexities. Concepts such as "disproportionate," "primary function," "path of travel" and "to the maximum extent feasible" are defined in §§ 37.43(b)–(h), with further guidance provided in Appendix D. Appendix D also explains the legislative intent of "maximum extent feasible" and defines feasibility and costs (including disproportionate costs), as explained in the following sections.

6 Disabled in Action of Pennsylvania v. Southeastern Pennsylvania Transportation Authority (SEPTA), 635 F.3d 87 (3rd Cir. 2011)

It is important to note that the requirements for alterations are in addition to and separate from the requirements for key stations under §§ 37.47, 37.51, and 37.53. Key stations effectively represented a deadline by which certain stations meeting the requirements of § 37.47 would be made accessible, whether the entity had otherwise planned on making improvements to those stations or not. The requirements for alterations apply to any station that is undergoing alterations, whether it had previously been designated as "key" or not.

3.4.1 Maximum Extent Feasible

Requirement

"As used in this section, the phrase *to the maximum extent feasible* applies to the occasional case where the nature of an existing facility makes it impossible to comply fully with applicable accessibility standards through a planned alteration. In these circumstances, the entity shall provide the maximum physical accessibility feasible. Any altered features of the facility or portion of the facility that can be made accessible shall be made accessible. If providing accessibility to certain individuals with disabilities (e.g., those who use wheelchairs) would not be feasible, the facility shall be made accessible to individuals with other types of disabilities (e.g., those who use crutches, those who have impaired vision or hearing, or those who have other impairments)" (§ 37.43(b)).

Discussion

Because there are circumstances where facility alterations are extremely complex, both the DOT ADA regulations and the DOT Standards discuss and define the phrase "maximum extent feasible." This phrase within the meaning of Title II of the ADA and applicable regulations governing "alterations" of existing public transportation facilities refers to "technical feasibility" rather than economic feasibility.

The DOT Standards define "technically infeasible" as follows:

> With respect to an alteration of a building or a facility, something that has little likelihood of being accomplished because existing structural conditions would require removing or altering a load-bearing member that is an essential part of the structural frame; or because other existing physical or site constraints prohibit modification or addition of elements, spaces, or features that are in full and strict compliance with the minimum requirements.

3.4.2 Areas of Primary Function and Path of Travel

Requirement

"As used in this section, a 'primary function' is a major activity for which the facility is intended. Areas of transportation facilities that involve primary functions include, but are not necessarily limited to, ticket purchase and collection areas, passenger waiting areas, train or bus platforms, baggage checking and return areas and employment areas (except those involving non-occupiable spaces accessed only by ladders, catwalks, crawl spaces, very narrow passageways, or freight (non-passenger) elevators which are frequented only by repair personnel)" (§ 37.43(c)).

"As used in this section, a 'path of travel' includes a continuous, unobstructed way of pedestrian passage by means of which the altered area may be approached, entered, and exited, and which connects the altered area with an exterior approach (including sidewalks, parking areas, and streets), an entrance to the facility, and other parts of the facility. The term also includes the restrooms, telephones, and drinking fountains serving the altered area. An accessible path of travel may include walks and sidewalks, curb ramps and other interior or exterior pedestrian ramps, clear floor paths through corridors, waiting areas,

concourses, and other improved areas, parking access aisles, elevators and lifts, bridges, tunnels, or other passageways between platforms, or a combination of these and other elements" (§ 37.43(d)).

Discussion

The regulations define, and Appendix D explains, primary function as a major activity for which the facility is intended. Primary function areas include waiting areas, ticket purchase and collection areas, train or bus platforms, baggage checking and return areas, and employment areas (with some exceptions stated in the rule for areas that are used by service personnel and are very difficult to access).

Appendix D also notes that when making an alteration to a primary function area (or access to an area containing a primary function), public entities are required to make the alteration in such a way as to ensure that the path of travel to the altered area and the restrooms, telephones, and drinking fountains servicing the altered area are readily accessible to and usable by individuals with disabilities, including individuals who use wheelchairs. However, alterations to the path of travel and to drinking fountains, telephones, and restrooms do not have to be completed if the cost and scope of making them accessible is disproportionate. (See Section 3.4.3.)

3.4.3 Disproportionate Costs

Requirement

"(1) Alterations made to provide an accessible path of travel to the altered area will be deemed disproportionate to the overall alteration when the cost exceeds 20 percent of the cost of the alteration to the primary function area (without regard to the costs of accessibility modifications).

(2) Costs that may be counted as expenditures required to provide an accessible path of travel include:

(i) Costs associated with providing an accessible entrance and an accessible route to the altered area (e.g., widening doorways and installing ramps);

(ii) Costs associated with making restrooms accessible (e.g., grab bars, enlarged toilet stalls, accessible faucet controls);

(iii) Costs associated with providing accessible telephones (e.g., relocation of phones to an accessible height, installation of amplification devices or TDDs);

(iv) Costs associated with relocating an inaccessible drinking fountain" (§ 37.43(e)).

Discussion

A detailed analysis is necessary to determine whether the cost of making the path of travel to an altered area is "disproportionate." As discussed above, public entities that alter a primary function area (or access to an area containing a primary function) must make the alteration in such a way as to ensure that the path of travel to the altered area and the restrooms, telephones, and drinking fountains servicing the altered area are accessible. However, public entities do not have to complete alterations to the path of travel, drinking fountains, telephones, and restrooms if the cost and scope of making them accessible is "disproportionate" to the overall cost of the alteration.

In other words, when altering a primary function area, if the costs of changes to the path of travel are disproportionate, then public entities are required only to complete those changes for which the costs are not disproportionate.

Alterations made to provide an accessible path of travel to the altered area are deemed disproportionate when the cost associated with the accessible path exceeds 20 percent of the cost of the alteration to the primary function area (without regard to the costs of accessibility modifications).

For example, consider a non-key subway station that only has stair access and the only way to provide access to individuals who use wheelchairs would be to install elevators. An alteration project to the platform areas might involve retiling the platform surface at a cost of $150,000. Accordingly, costs to make alterations to provide an accessible path of travel to platforms that exceed $30,000 would be disproportionate, and more costly path of travel improvements like elevators would not be required. On the other hand, if extensive renovations to the platforms and mezzanine are planned, and elevators would increase the cost of the renovations by 20 percent or less, they must be included.

When altering a primary function area, only the costs of the additional alterations to the path of travel are relevant to calculating disproportionate costs. The altered area itself must be accessible.

In this context, "costs" include those necessary to bring the alteration project to its conclusion, such as design, engineering, and construction. Ongoing maintenance and other continuing operating costs are not part of the comparison. For example, it would be appropriate to consider the costs of designing, engineering, and construction for the alterations to the primary function area, including ADA compliance for the altered elements. The total would form the basis against which the costs of providing an accessible path of travel would be measured for purposes of determining disproportionality. It would not be appropriate to include the ongoing expected maintenance costs associated with elevators as part of the costs of the path of travel.

3.4.4 Accessibility Improvements When Costs are Disproportionate

Requirement

"(1) When the cost of alterations necessary to make a path of travel to the altered area fully accessible is disproportionate to the cost of the overall alteration, then such areas shall be made accessible to the maximum extent without resulting in disproportionate costs;

(2) In this situation, the public entity should give priority to accessible elements that will provide the greatest access, in the following order:

(i) An accessible entrance;

(ii) An accessible route to the altered area;

(iii) At least one accessible restroom for each sex or a single unisex restroom (where there are one or more restrooms);

(iv) Accessible telephones;

(v) Accessible drinking fountains;

(vi) When possible, other accessible elements (e.g., parking, storage, alarms)" (§ 37.43(f)).

"If a public entity performs a series of small alterations to the area served by a single path of travel rather than making the alterations as part of a single undertaking, it shall nonetheless be responsible for providing an accessible path of travel" (§ 37.43(g)).

(1) "If an area containing a primary function has been altered without providing an accessible path of travel to that area, and subsequent alterations of that area, or a different area on the same path of travel, are undertaken within three years of the original alteration, the total cost of alteration to the primary function areas on that path of travel during the preceding three year period shall be considered in determining whether the cost of making that path of travel is disproportionate;

(2) For the first three years after January 26, 1992, only alterations undertaken between that date and the date of the alteration at issue shall be considered in determining if the cost of providing accessible features is disproportionate to the overall cost of the alteration.

(3) Only alterations undertaken after January 26, 1992, shall be considered in determining if the cost of providing an accessible path of travel is disproportionate to the overall cost of the alteration" (§ 37.43(h)).

Discussion

Transit agencies are not permitted to circumvent the requirements for path of travel alterations by making a series of small alterations to the area served by a single path of travel. Limitations also apply to alterations of different areas served by a single path of travel within three years of the original alteration. When considering undertaking subsequent alterations on a single path of travel within three years, agencies must consider the total cost of alteration to the primary function areas on that path of travel during the preceding three-year period in determining whether the cost of making that path of travel accessible is disproportionate.

Public entities are encouraged to consider the cost-effectiveness of undertaking alterations of multiple elements. The DOT Standards note that,

> Although covered entities are permitted to limit the scope of an alteration to individual elements, the alteration of multiple elements within a room or space may provide a cost-effective opportunity to make the entire room or space accessible.

Finally, the discussion in Appendix D to Part 37 states:

> In looking at facility concepts like 'disproportionality' and 'to the maximum extent feasible,' [DOT] will consider any expenses related to accessibility for passengers. It is not relevant to consider non-passenger related improvements (e.g., installing a new track bed) or to permit 'gold-plating' (attributing to accessibility costs the expense of non-related improvements, such as charging to accessibility costs the price of a whole new door, when only adding a new handle to the old door was needed for accessibility).

For example, if a transit agency's renovation of a rail station includes the installation of a new track structure and track bed, then costs of these alterations are not attributable to the costs of making the path of travel to the altered passenger area accessible.

Transit agencies with questions about calculating disproportionate costs for facility alterations are encouraged to seek assistance from the FTA Office of Civil Rights.

3.4.5 When the Altered Area is the Path of Travel

In some cases, the path of travel itself will be the area that is undergoing alterations. In these instances, the path of travel will be subject to the general requirement that the altered area be accessible to and usable by persons with disabilities, including wheelchair users, to the maximum extent feasible; disproportionality does not apply.

For example, when a transit agency undertakes a station renovation project replacing the staircases leading to and from the station platform, the end result must be an accessible station entrance. In most cases, this will likely involve the installation of elevators. In this case, because the agency is renovating the path of travel, the cost of installing elevators cannot be considered disproportionate.

As noted above, where site-specific conditions render it infeasible to meet this requirement, such conditions must be documented for FTA review to ensure that the alteration is eligible for Federal funding.

3.5 Construction or Alteration of Intercity, Commuter, and High-Speed Rail Platforms

Requirement

"In addition to meeting the requirements of Sections 37.9 and 37.41, an operator of a commuter, intercity, or high-speed rail system must ensure, at stations that are approved for entry into final design or that begin construction or alteration of platforms on or after February 1, 2012, that the following performance standard is met: individuals with disabilities, including individuals who use wheelchairs, must have access to all accessible cars available to passengers without disabilities in each train using the station" (§ 37.42(a)).

Discussion

For new intercity, commuter, and high-speed rail stations approved for entry into final design or beginning construction after February 1, 2012, passengers with disabilities, including passengers who use wheelchairs, must have access to the same accessible cars as passengers without disabilities. This standard applies to alterations as well as new construction. Alterations include reconstruction of a platform that replaces its surface, changes its height, or structural changes that affect the platform's usability. Operators are not required to retrofit pre-existing platforms.

Section 810.5 covers the requirements for rail platforms, including standards for slope, detectable warnings, and platform and vehicle floor coordination to facilitate level-entry boarding. For level boarding, the horizontal gap between the platform and a rail car cannot exceed 10 inches (13 inches on curves), and the car floor cannot be more than 5.5 inches above or below the platform. Where the horizontal gap exceeds 3 inches and the vertical difference is more than ±5/8 inch, the gaps must be mitigated by using a bridge plate, ramp, or other appropriate device. (See § 37.42(f) and Chapter 4.)

In December 2011, DOT provided additional guidance on these requirements in a series of documents, which are available on FTA's ADA webpage and cover the following:

- When do the requirements of Section 37.42 begin to apply? (Applies to § 37.42(a).)
- What if a private entity owns the platform? (Applies to § 37.42(b) & (e).)
- What alterations to platforms trigger Section 37.42 requirements? (Applies to § 37.42(a).)
- Minimum platform height requirements
- Situations where level boarding is not feasible (Applies to § 37.42(b).)
- Plans for meeting service standards (Applies to § 37.42(d).)

3.5.1 Stations Not Shared with Freight Rail Operations

Requirement

"For new or altered stations serving commuter, intercity, or high-speed rail lines or systems, in which no track passing through the station and adjacent to platforms is shared with existing freight rail operations, the performance standard of paragraph (a) of this section must be met by providing level-entry boarding to all accessible cars in each train that serves the station" (§ 37.42(b)).

Discussion

Individuals with disabilities, including individuals who use wheelchairs, must have access to all accessible cars available to passengers without disabilities in each train using the station. Access to all accessible cars is necessary to meet the integrated setting principle. Except where tracks adjacent to

platforms are shared with freight rail service, the performance standard must be met by providing level boarding for all accessible cars in the train.

Also see DOT guidance regarding platform ownership by a private entity other than a freight railroad and situations where level boarding is not feasible, discussed in Section 3.5.

3.5.2 Stations Shared with Freight Rail Operations

Requirement

"For new or altered stations serving commuter, intercity, or high-speed rail lines or systems, in which track passing through the station and adjacent to platforms is shared with existing freight rail operations, the railroad operator may comply with the performance standard of [§ 37.42(a)] by use of one or more of the following means:

(1) Level-entry boarding;

(2) Car-borne lifts;

(3) Bridge plates, ramps or other appropriate devices;

(4) Mini-high platforms, with multiple mini-high platforms or multiple train stops, as needed, to permit access to all accessible cars available at that station; or

(5) Station-based lifts" (§ 37.42(c)).

Discussion

Transit agencies may employ a range of boarding methods, listed above, at stations shared with freight rail operations. The regulations provide a performance standard to ensure that passengers with disabilities can access each accessible train car that other passengers can board. DOT will apply this performance standard in its review of the agency's proposed boarding system. The rule applies on a station-by-station basis. A separate plan for meeting the standard is required for each station or group of stations being constructed or altered together.

If a private entity such as a freight railroad owns the platform, the private entity must cooperate with the passenger railroad (the "responsible person" per § 37.49(e)) in meeting the standard and cannot refuse to permit the passenger railroad from providing boarding in an integrated setting.

Also see DOT guidance regarding platform ownership by a private entity other than a freight railroad and situations where level boarding is not feasible, as discussed in Section 3.5.

3.5.3 Process for Approval of Methods Other Than Level-entry Boarding

Requirement

"Before constructing or altering a platform at a station covered by [§ 37.42(c)], at which a railroad proposes to use a means other than level-entry boarding, the railroad must meet the following requirements:

(1) If the railroad operator not using level-entry boarding chooses a means of meeting the performance standard other than using car-borne lifts, it must perform a comparison of the costs (capital, operating, and life-cycle costs) of car-borne lifts and the means chosen by the railroad operator, as well as a comparison of the relative ability of each of these alternatives to provide service to individuals with disabilities in an integrated, safe, timely, and reliable manner. The railroad operator must submit a copy of this analysis to FTA or FRA at the time it submits the plan required by paragraph (d)(2) of this section.

(2) The railroad operator must submit a plan to FRA and/or FTA, describing its proposed means to meet the performance standard of [§ 37.42(a)] at that station. The plan must demonstrate how boarding equipment or platforms would be deployed, maintained, and operated; and how personnel would be trained and deployed to ensure that service to individuals with disabilities is provided in an integrated, safe, timely, and reliable manner.

(3) Before proceeding with constructing or modifying a station platform covered by [§ 37.42(c) & (d)], the railroad must obtain approval from the FTA (for commuter rail systems) or the FRA (for intercity rail systems). The agencies will evaluate the proposed plan and may approve, disapprove, or modify it. The FTA and the FRA may make this determination jointly in any situation in which both a commuter rail system and an intercity or high-speed rail system use the tracks serving the platform. FTA and FRA will respond to the railroad's plan in a timely manner, in accordance with the timetable set forth in paragraphs (d)(3)(i) through (d)(3)(iii) of this paragraph.

(i) FTA/FRA will provide an initial written response within 30 days of receiving a railroad's written proposal. This response will say either that the submission is complete or that additional information is needed.

(ii) Once a complete package, including any requested additional information, is received, as acknowledged by FRA/FTA in writing, FRA/FTA will provide a substantive response accepting, rejecting, or modifying the proposal within 120 days.

(iii) If FTA/FRA needs additional time to consider the railroad's proposal, FRA/FTA will provide a written communication to the railroad setting forth the reasons for the delay and an estimate of the additional time (not to exceed an additional 60 days) that FRA/FTA expect to take to finalize a substantive response to the proposal.

(iv) In reviewing the plan, FRA and FTA will consider factors including, but not limited to, how the proposal maximizes accessibility to individuals with disabilities, any obstacles to the use of a method that could provide better service to individuals with disabilities, the safety and reliability of the approach and related technology proposed to be used, the suitability of the means proposed to the station and line and/or system on which it would be used, and the adequacy of equipment and maintenance and staff training and deployment" (§ 37.42(d)).

Discussion

The regulations prescribe the process entities must follow in order to propose a method other than level-entry boarding for consideration and approval by FTA (for commuter rail) or FRA (for intercity or high-speed rail). For commuter rail stations using existing freight or Amtrak tracks, joint FTA/FRA approval may be required.

Other than level-entry boarding, car-borne lifts are the preferred alternative. Other methods can be considered only after an analysis comparing costs and the ability of each of these alternatives to provide service to individuals with disabilities in an integrated, safe, timely, and reliable manner.

A facility owner must submit this analysis and a plan for deployment, maintenance, and operation of the alternative means of boarding and receive approval from FTA or FRA before proceeding.

Also see DOT guidance regarding plans for meeting service standards. (See Section 3.5.)

3.5.4 Requirements for a Combination of Low and High Platforms

Requirement

"In any situation using a combination of high and low platforms, a commuter or intercity rail operator shall not employ a solution that has the effect of channeling passengers into a narrow space between the face of the higher-level platform and the edge of the lower platform.

(1) Except as provided in paragraph (e)(2) of this paragraph, any obstructions on a platform (mini-high platforms, stairwells, elevator shafts, seats, etc.) shall be set at least six feet back from the edge of a platform.

(2) If the six-foot clearance is not feasible (e.g., where such a clearance would create an insurmountable gap on a mini-high platform or where the physical structure of an existing station does not allow such clearance), barriers must be used to prevent the flow of pedestrian traffic through these narrower areas" (§ 37.42(e)).

Discussion

Commuter or intercity rail operators must follow specific requirements when low and high platforms are in use. This includes the prohibition against employing a solution that has the effect of channeling passengers into a narrow space between the face of the higher-level platform and the edge of the lower platform.

Operators must ensure that mini-high platforms are at least six feet back from the edge of a platform. Where the six-foot clearance is not feasible, operators must use barriers to prevent the flow of pedestrian traffic through narrower areas such as where such a clearance would create an insurmountable gap on a mini-high platform or where the physical structure of an existing station does not allow such clearance.

The six-foot clearance requirement also applies to other structures, including elevators, stairs, or seats that may constrain the space at the platform edge.

Although the requirement applies to new construction or alterations, a good practice is to install barriers on all existing rail platforms where mini-high platforms or other obstructions create a narrow space along the platform edge.

3.6 Key Stations

3.6.1 Overview of Key Stations Requirements

Given that most fixed-guideway systems in the United States were constructed prior to enactment of the ADA, and realizing that exclusive reliance on new construction and alterations would result in little-to-no improvement in accessibility for those systems, the ADA required public entities operating light and rapid rail systems and commuter rail systems to identify "key stations" that would be altered in the near term to ensure a basic degree of usability by individuals with disabilities (42 USC § 12147(b) and 42 USC § 12162(e)(2)(a), respectively).

Sections 37.47 through 37.51 of the DOT ADA regulations incorporated these requirements. By statute, the deadline for key station compliance was July 26, 1993. For rapid rail and light rail systems the FTA Administrator could have extended this deadline until July 26, 2020, for extraordinarily expensive structural changes to or replacement of existing facilities, provided that two-thirds of the key stations were compliant by July 26, 2010. For commuter rail systems, the FTA Administrator was permitted to extend the deadline to July 26, 2010.

The primary requirement for key stations is to alter the stations to provide at least one fully accessible entrance and accessible route to all areas necessary for the use of the transportation system. In many cases, this requires the installation of elevators, which may require coordination with municipalities or other entities to acquire the necessary right-of-way. Stations not designated as key stations are not required to be made accessible unless they undergo alterations, in which case the DOT Standards apply as discussed above in Sections 3.3 and 3.4, respectively.

Key stations must meet the DOT Standards throughout in the same manner as other new or altered stations with several exceptions. The DOT Standards for key stations provide exceptions for route-specific entrances and direct connections to pre-existing non-transportation facilities. In addition, pre-existing escalators are not required to comply. Thus, upon completion of the required alterations to the key station, people using wheelchairs can reach all primary function areas needed to use the station (including platforms, ticketing, toilets, waiting rooms, drinking fountains, etc.), although their path of travel may vary from the general public access route. In addition, the key station must meet all other DOT Standards throughout for elements in place when the station was made accessible, including signs, detectable warnings on platform edges, accessible fare vending, text telephones, visual display of public address announcements, etc. Finally, any subsequent alterations transit agencies make to key stations must comply with the DOT Standards.

3.7 Public Transportation Programs and Activities in Existing Facilities

3.7.1 Considerations for All Individuals with Disabilities

Requirement

"A public entity shall operate a designated public transportation program or activity conducted in an existing facility so that, when viewed in its entirety, the program or activity is readily accessible to and usable by individuals with disabilities" (§ 37.61(a)).

Discussion

As discussed in the Appendix D section on public transportation programs and activities in existing facilities, transit agencies have a responsibility to conduct their programs in an accessible manner, even when those activities do not rise to the level of alteration.

The following are examples of accessible and usable programs and activities:

- User-friendly fare cards
- Accessible websites and mobile applications
- User-friendly schedules
- Edge detection on rail platforms
- Adequate lighting
- Use of telecommunication display devices (TDDs), 711 Relay telephones, broadcast text messaging, and similar devices for use by individuals with speech and hearing impairments
- Enhanced wayfinding and signage for people with visual impairments, including public address announcements and text-to-speech devices
- Continuous pathways for individuals with visual and ambulatory impairments
- Public address systems and clocks

The Appendix D discussion emphasizes that while there is not a definitive list of ways to accommodate individuals with various types of disabilities that are applicable to all transportation facilities, transit agencies should consider as many actions short of alteration that do apply in specific transit systems and stations.

Attachment 3-1
Rail Station Checklist for New Construction and Alterations

This checklist provides a format for design review of new or altered facilities and for inspection during construction. It can also be used for review of existing facilities to determine whether maintenance or corrective action is needed. This checklist does not address the exceptions in Section 206.4.4 specific to key stations.

Contents

1 Parking (DOT Standards 208, 502)

Accessible Parking Spaces	
Are spaces provided for visitor self-parking?	☐ Yes ☐ No
Are the spaces owned, leased, or operated by the transit agency? If yes, complete the following for each parking facility	☐ Yes ☐ No
Total parking spaces provided	
Number of designated accessible parking spaces provided	
Number of accessible spaces required per table below (If parking is provided in multiple facilities, required accessible spaces must be calculated for each facility, and numbers rounded up to the next whole number (208.2))	
Number of designated van spaces provided	
Number of van spaces required (One in every 6 accessible spaces, but not less than 1 must be designated "van accessible" (208.2.4))	

Total Spaces	Minimum Accessible Spaces Required
1–25	1
26–50	2
51–75	3
76–100	4
10–150	5
151–200	6
201–300	7
301–400	8
401–500	9
501–1,000	2 percent of total
1,001 and over	20 plus 1 for each 100 over 1,000

Accessible Parking Elements	Note OK, No, or N/A. Note dimensions if No
Note: Where parking serves more than one accessible entrance, parking spaces must be dispersed and located on the shortest accessible route to the accessible entrances (208.3.1)	
Location	
Accessible parking space closest in lot to accessible entrance of building it serves (208.3.1)	
Accessible spaces adjacent to accessible route (502.7)	
Width	
≥ 96" for cars + 60" aisle (may be paired) (502.2, 502.3)	
≥ 132" for vans + 60" aisle or ≥ 96" + 96" aisle (may be paired) (502.2)	
If angled van parking, access aisle on passenger side of space (502.3.4)	
Aisles marked to discourage parking in them (502.3.3) and entire aisle at same level as parking space	
Entire aisle at same level as parking space (502.3.3)	
Vertical Clearance	
Minimum for van 98" from entrance to van space (502.5)	
Signage	
International symbol of accessibility (ISA) symbol on sign mounted ≥ 60" from the ground to bottom of sign (502.6)	
ISA plus "van accessible" at van parking spaces mounted 60" from the ground to bottom of sign (502.6)	
Surface	
Stable, firm, and slip resistant	
Slope ≤ 1:48 (2.1%) (502.4)	

2 Passenger Loading Zones (DOT Standards 209, 503)

Number (209.2.1)	Note OK, No, or N/A. Note dimensions if No
Where loading zones are provided, at least one accessible loading zone space provided	
At least one accessible space in every 100 linear feet of total loading zone space	
Vehicle Pull-up Space (503.2)	
96” wide and ≥ 20’ long	
Access Aisle Location (503.3)	
Adjacent to vehicle pull-up space	
Adjoins/connects to an accessible route	
Does not overlap vehicular way	
Access Aisle Dimensions (503.3)	
≥ 60” wide	
Extends full length of vehicle pull-up space it serves	
Access Aisle Surface	
Marked with surface treatment to discourage parking in access aisle (503.3.3)	
Stable, firm, and slip resistant and no changes in level > ¼ inch (503.4)	
Slope ≤ 1:48 (2.1%) in all directions (503.4)	
Vehicle pull-up space and access aisle at same level with no changes in level (503.4)	
Vertical Clearance (503.5)	
At least 114” vertical clearance at vehicle pull-up spaces, access aisles, and vehicular route from entrance to passenger loading zone, and from passenger loading zone to vehicular exit	

3 Bus Boarding and Alighting Areas (DOT Standards 209, 810)

Identify bus boarding and alighting facilities within the scope of review and complete the following sheet for each of them. Where the transit entity does not control the facility and connections to and from it, coordination with the municipality or other controlling entity is recommended.

Control	Note OK, No, or N/A. Note dimensions if No
Does transit entity control the bus boarding/alighting facility? (209.2.2) (810.2)	
Connections	
Accessible route between all bus stops within site and accessible entrance (206.2.1)	
Accessible route to streets, sidewalks, and pedestrian paths (810.2.3)	
Boarding and Alighting Area (810.2.2)	
≥ 96” perpendicular to the roadway, from curb or road edge	
≥ 60” long parallel to the roadway	
Slope (810.2.4)	
Parallel to the roadway the slope is the same as the roadway, to the maximum extent practicable	
Perpendicular to the roadway the slope is ≤ 1:48 (2.1%)	
Bus Route Signs (810.4)	
Non-glare finish (703.5.1)	
Contrast between characters and background (703.5.1)	
Width of uppercase “O” is between ≥ 55% and ≤ 110% of the height of uppercase “I” (703.5.4)	
Character height meets 703.5.5 to maximum extent practicable (See Section 14 of this attachment for requirements.) Note: Bus schedules, timetables, and maps not required to comply	
Width of uppercase “I” ≥ 10% to ≤ 30% of the height (703.5.7)	
Closest characters must be spaced between ≥ 10% and ≤ 35% of the character height (703.5.8)	
Bus Shelters (218.4) (810.3)	
Connected by an accessible route to bus boarding and alighting area (810.3)	
Clear floor area of ≥ 30” by ≥ 48” entirely within shelter (305.3) (810.3)	
One side adjoins accessible route (305.6)	
If access confined on any of three sides, ≥ 36” for front approach or ≥ 60” for parallel approach (305.7)	
Surface stable, firm, and slip resistant and no changes in level > ¼ inch (305.2) (302.1)	

4 Accessible Routes (DOT Standards 206, 207, 402, 403)

Identify routes that people use to get from points of arrival to a platform and all station elements such as ticketing, telephones, bathrooms, etc. Using example below, prepare a sketch or use an available site plan and floor plans. Then number and name each route for use while walking, applying the checklist. For design review, mark accessible routes on plans.

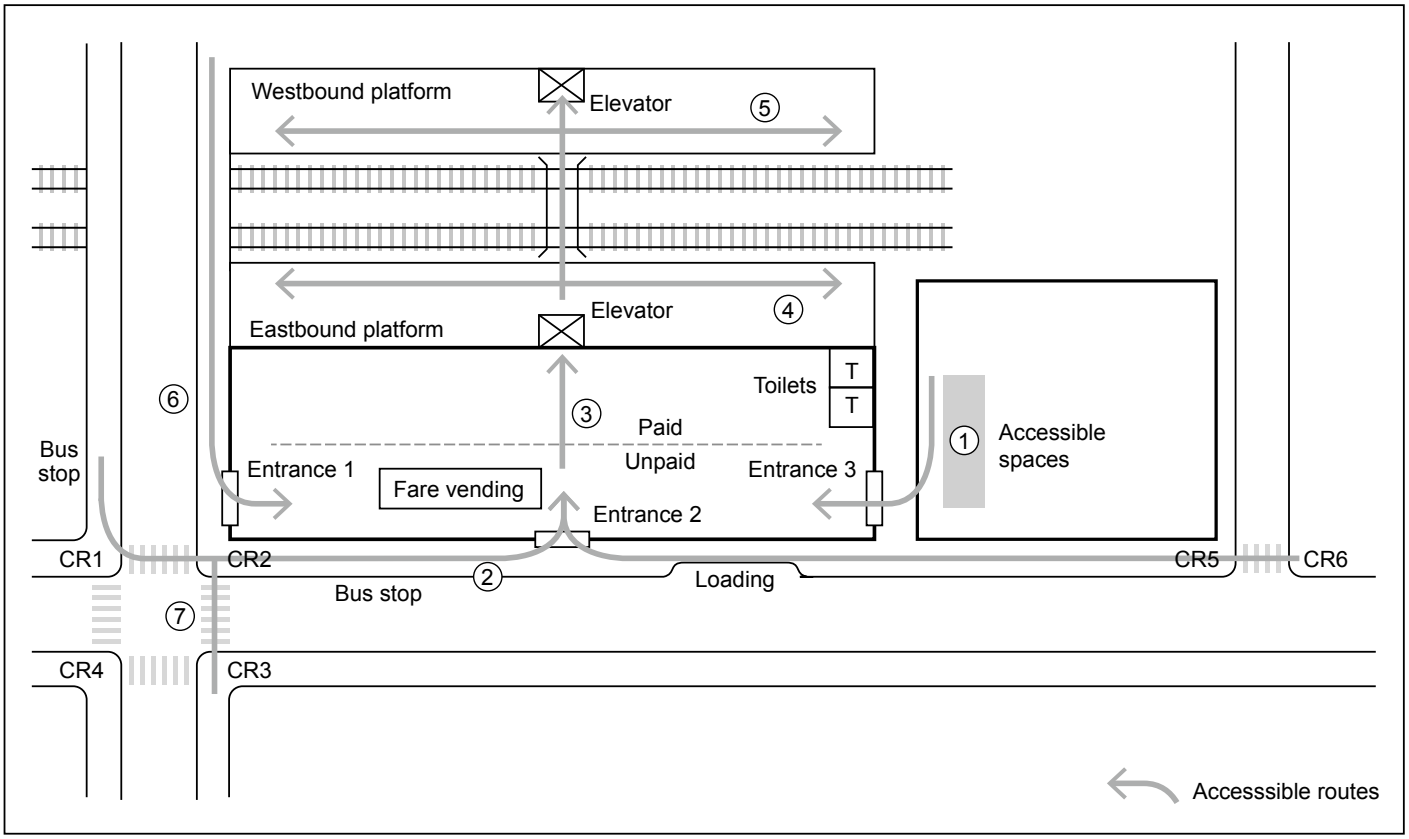
Note arrival points, including:

- Public sidewalks from adjacent land uses/city blocks (include curb ramps (CR) and street crossings adjacent to the facility)
- External bus loading for each adjacent bus route serving the facility
- Each separate area of accessible parking
- Each separate area of accessible loading
- Each accessible entrance

Note elements within the facility, including routes:

- To and along each internal bus platform
- To and along the full length of each rail platform
- To each separate area of waiting, ticket vending, telephones, toilet rooms, etc. (group these if appropriate to simplify number of routes)

Example: “Route 1 from accessible parking through station entrance to unpaid area; Route 2 from bus stop and loading to unpaid area; Route 3 from unpaid area via elevator to eastbound platform; Route 4 along length of eastbound platform; etc.”



Sample Drawing of Accessible Routes to Below-grade Rail Station

Assess each accessible route and note OK, No, or N/A Note dimensions if No	Route					
	1	2	3	4	5	6
Accessible route coincides with general public route and minimizes distance relative to general public route (206.3 as modified by Part 37 Appendix A)						
Accessible routes are interior where circulation paths are interior (206.3)						
At least one accessible route connects all transportation system elements required to be accessible at the same site (206.2.2)						
Doors ≥ 32” wide (403.5.1)						
Route from ≥ 32” wide to < 36” wide for distance of ≤ 24” (403.5.1)						
Remainder of route ≥ 36” wide for distance of ≥ 48” (403.5.1)						
If route is < 60” wide, space ≥ 60” wide x 60” long at intervals not to exceed 200’ (403.5.3)						
Where accessible route makes U-turn around an obstacle ≤ 48” wide,						
Pathway width is ≥ 42” on approaches (403.5.2)						
Pathway width is ≥ 48” in turn (403.5.2)						
Vertical clearance ≥ 80” except at door closers and door stops (307.4)						
Vertical clearance ≥ 78” at door closers and door stops (307.4)						
If area adjoining accessible route has vertical clearance < 80”, cane-detectable barrier ≤ 27” above floor (307.4)						
Objects protrude from walls into the accessible route ≤ 4” between 27” and 80” above the floor, EXCEPT handrails may protrude ≤ 4 ½” (307.2)						
Objects protrude from posts or pylons into the accessible route ≤ 12” between 27” and 80” above the floor (307.3)						
Surface stable, firm, and slip resistant (302.1) and cross slope ≤ 1:48 (2.1%) (403.3)						
Vertical changes ≤ ½ inch (303.4)						
Vertical changes between ¼ inch and ½ inch are beveled with slope ≤ 1:2 (303.3)						
Untreated vertical changes ≤ ¼ inch (303.2)						
Gratings openings ≤ ½ inch (302.3)						
Long dimension of openings perpendicular to path of travel (302.3)						
Any openings in floor or surface ≤ ½ inch						
At track crossings, horizontal gap on the inner edge of each rail ≤ 2½” (810.10) and crossings comply with requirements for surface and level change						

5 Directional Signs (DOT Standards 216.3, 216.4, 703)

Identify directional signs identifying routes to station elements (e.g. to accessible entrances and egresses, elevators, bus facilities, etc.).

List signs and routes with sequences of signs:

Sign/Route 1: _____ Sign/Route 4: _____

Sign/Route 2: _____ Sign/Route 5: _____

Sign/Route 3: _____ Sign/Route 6: _____

Assess each accessible route and note OK, No, or N/A Note dimensions if No	**Sign/Route**					
	1	2	3	4	5	6
Where accessible route diverges from general public route, visual signs are required that show direction to accessible egress and route (216.3, 216.4.3, IBC 2003, 1007.7) Is number and location of signs sufficient to show direction?						
Sign Characteristics (703.5)						
Non-glare finish (703.5.1)						
Contrast between characters and background (703.5.1)						
Characters conventional in form. No italic, oblique, script, highly decorative, or other unusual forms (703.5.3)						
Width of uppercase “O” is between ≥ 55% and ≤ 110% of the height of uppercase “I” (703.5.4)						
Character height of ≥ 2” for signs between > 70” and ≤ 120” above the ground (703.5.5)						
Width of uppercase “I” ≥ 10% to ≤ 30% of the height (703.5.7)						
Closest characters spaced between ≥ 10% and ≤ 35% of the character height (703.5.8)						
Spacing between the baselines of separate lines of characters ≥ 135% and ≤ 170% percent of character height (703.5.9)						
For characters ≥ 40” and ≤ 70” above the ground and viewed from < 72 inches horizontal, height of uppercase letter “I” ≥ 5/8” (703.5.5)						
For characters > 70” and ≤ 120” above the ground and viewed from < 180 inches horizontal, character height of uppercase letter “I” ≥ 2” (703.5.5)						
For signs > 120” above the ground and viewed from < 21 feet horizontal, character height of uppercase letter “I” ≥ 3” (703.5.5)						
Note: Use Table 703.5.5 to increase character height for longer horizontal viewing distances.						

6 Curb Ramps (DOT Standard 406)

Curb ramps or ramps are required wherever there is a vertical change of ≥ ½" on an accessible path (303.4). Identify locations where curb ramps are on the accessible route and/or curbs where there is no ramp. Attach additional sheets for additional curb ramps and identify locations on map or diagram.

Curb Ramp 1: _____ Curb Ramp 4: _____

Curb Ramp 2: _____ Curb Ramp 5: _____

Curb Ramp 3: _____ Curb Ramp 6: _____

Note OK, No, or N/A. Note dimensions if No	Ramp Location					
	1	2	3	4	5	6
Ramps (except flared sides) at marked crossings within the markings (406.5)						
Diagonal curb ramps at marked crossings have ≥ 48" clear from ramp bottom to the marking (406.6)						
Ramp ≥ 36" wide, not including flared sides (406.1) (405.5)						
Landings ≥ 36" long and ≥ width of the curb ramp at top of ramp (406.4)						
Transition to street or gutter flush and free of abrupt changes (no lip) (303.3)						
Ramp slopes at sites where space limitations exist,						
≥ 1:10 (10%) to ≤ 1:8 (12.5%) for ≤ 3" rise (405.2)						
≥ 1:12 (8.3%) to ≤ 1:10 (10%) for ≤ 6" rise (405.2)						
All other ramp slopes, ≤ 1:12 (8.3%) (406.1) (405.2)						
Side flares ≤ 1:10 (10%) (406.3)						
Cross slope ≤ 1:48 (2.1%) (405.3)						
Counter slope of adjoining gutter, road, or accessible route surface ≤ 1:20 (5%) (406.2)						
Detectable warnings per 705.1, contrasting with adjoining surfaces for full width of the ramp (excluding flared sides) and either:						
Full depth of curb ramp, or						
≥ 24" from the back of curb (406.8)						
The detectable warning contrasts visually with adjoining surfaces, either light-on-dark or dark-on-light (705.1.3)						
The detectable warning consists of raised truncated domes with:						
Base diameter ≥ 0.9" to ≤ 1.4" and top diameter 50% to 65% of base diameter (705.1.1)						
Height of 0.2" (705.1.1)						
Center-to-center spacing ≥ 1.6" to ≤ 2.4" and base-to-base spacing ≥ 0.65" (705.1.2)						
Islands at street crossings either:						
Cut through level with the street surface (406.7)						
Curb ramps provided at both sides of island with a ≥ 48" long ≥ 36" wide level area connecting the ramps (406.7)						

7 Entrances (DOT Standards 206, 207)

Label each entrance below (also note on sketch).

Entrance 1:_____ Entrance 2 _____ Entrance 3: _____

Entrance 4:_____ Entrance 5 _____ Entrance 6: _____

Note OK, No, or N/A. Note dimensions if No	Entrance					
	1	2	3	4	5	6
Accessibility						
At least 60% of all public entrances accessible (206.4.1)						
At least one accessible entrance for each group of transit routes (206.4.4.1)						
If direct connections to commercial, retail, or residential facilities, each must have an accessible route from point of connection to boarding platforms and accessible transportation elements (206.4.4.2)						
All direct access to facility from parking structure accessible (206.4.2)						
Signage at Defined Entrances (216.6)						
If an entrance is not accessible, signage at entrance and along path of travel directs to nearest accessible entrance						
Accessible entrance, when not all entrances are accessible, is designated with ISA						
Tactile Sign Location						
If visual entrance sign (“station name” or “entrance”) is provided at an entrance, then raised letter and braille signs are also provided at all such entrances in uniform location (810.6.1) (703.4.2)						
Single door: Tactile sign is provided at latch side of door						
Double door two active leafs: Tactile sign is provided at right side of door						
Double door one active leaf: Tactile sign is provided on the inactive leaf						
Doors with closers and without hold-open devices: Tactile sign as described above, or push side of door						
If no wall space at prescribed location, sign on nearest adjacent wall						
Signage for Undefined Entrances (810.6.1)						
At least one tactile sign is placed in a central location						
Mounting						
Mounting height ≥ 48” to base of lowest tactile character and ≤ 60” to base of highest tactile character (703.4.1)						
At doors: Signs containing tactile characters located so clear floor space ≥ 18” by ≥ 18” centered on tactile characters, provided beyond arc of door swing between closed position and 45° open position (703.4.2)						
Tactile Characters						
Raised Characters (703.2)						
Characters raised 1/32”						
Upper case sans serif						
Characters ≥ 5/8” to ≤ 2” high						
≥ 3/8” separation from borders and decorative elements						
Grade 2 Braille Characters (703.3)						
Below text; if multi-lined, below entire text						
Separated from tactile characters and raised borders ≥ 3/8”						
Braille dots domed or rounded shape						

8 Doors (DOT Standard 404)

Doors to accessible spaces are required to be accessible (404.1). Identify configuration for each approach to each door (e.g., latch side pull) per Figure 404.2.4.1.

Door 1 _____

Door 2:_____

Door 3:_____

Door 4:_____

Door 5:_____

Identify each door along each accessible route and note OK, No, or N/A. Note dimensions if No	Door				
	1	2	3	4	5
Alternate means of egress adjacent to any revolving door (404.2.1)					
Clearances					
Level landing of ≥ 42” + door width wide from hinge side (404.2.4.1)					
Level landing ≥ 60” perpendicular to door for width of landing (404.2.4.1)					
Note any restricted door approaches. Front, hinge side, and latch side approaches have minimum clearances, shown in “Door Maneuvering Clearances”					
Two doors in series: Distance between doors ≥ 48” plus width of doors swinging into space between doors (404.2.6)					
Ground Surface					
Thresholds (404.2.5) ≤ ½ inch					
Existing or altered thresholds ≤ 3/4 inch with edges beveled 1 high: 2 wide					
Door Width (404.2.3)					
Measured from door face to stop with door open at 90°					
In recess: > 24” deep, door ≥ 36” wide					
All other doors: ≥ 32” wide					
Operation					
Can be opened with one hand (404.2.7) (309.4)					
Lever-operated, U-shaped, or push mechanism					
Mechanism ≥ 34” to ≤ 48” above ground (404.2.7)					
Interior hinged door opening force ≤ 5 foot pounds (404.2.9); not applicable to exterior doors					
For fire doors, minimum force allowable by appropriate authority per applicable fire code					
Doors with closers: sweep period of ≥ 5 seconds from 90° open position to point 12° from latch (404.2.8.1)					

9 Ramps (DOT Standards 303, 405)

Change in level along accessible route greater than ½ inch requires ramp (303.4). Identify ramps and locations where ramps are required.

Ramp 1:_____ Ramp 3: _____

Ramp 2:_____ Ramp 4: _____

Note OK, No, or N/A. Note dimensions if No	1	2	3	4
Clearances				
Ramp straight and not curved (405.7)				
Minimum width 36” (between handrails) (405.5)				
Grade Slope				
Running slope ≤ 1:12 (8.3%) (406.1) (405.2) and ≤ 30” rise (run 30’ – 50’) (405.6)				
Cross slope ≤ 1:48 (2.1%) (405.3)				
Landings				
Landings at top and bottom of each run (405.7)				
Vertical rise between landings not to exceed 30” (405.6); therefore, minimum ramp run length 30’ to achieve1:12 slope, 50’ to achieve1:20 slope				
Landing length ≥ 60” long (405.7.3)				
Landing width along straight run ≥ width of ramp (405.7.2)				
Landings at a change of direction ≥ 60” x 60” (405.7.4)				
Surface (405.4)				
Stable, firm, and slip resistant				
No change in level on ramp runs				
Handrails				
Handrails provided on both sides for length of ramp, if ramp rise > 6” (405.8)				
Handrail continuous (505.3)				
Outside rail continuous for length of each run				
Inside rail continuous between runs				
Handrails extend ≥ 12” horizontally beyond top and bottom of ramp (505.10.1).				
End of handrail returned to wall, guard, or floor (405.9.1) (505.10.1)				
Tops ≥ 34” to ≤ 38” above ground (505.4)				
Clearance ≥ 1 ½” from adjoining surface (505.5)				
Circular handrail diameter ≥ 1 ¼” and ≤ 2” (505.7.1)				
Non-circular handrail perimeter dimension ≥ 4” and ≤ 6 ¼” and diameter ≤ 2 ¼” (505.7.2)				
Edge Protection				
Edge protection (A or B below) provided on each side of ramp runs and landings if ramp rise > 6” (405.9) or drop-off > ½ inch within 10”of landing area (405.9)				
A: Surface of run or landing extends ≥ 12” beyond inside surface of handrail				
B: Curb or barrier that prevents passage of 4” sphere any portion of which is within 4” of floor/ground surface				
Handrail may protrude ≤ 4 ½” from wall (307.2)`				

10 Elevators (DOT Standard 407)

A passenger elevator complying with accessibility guidelines is required to serve each level in all multistory stations if not served by a ramp (206.2.3). Label elevators by location (use sketch if available).

Elevator 1: _____ Elevator 3: _____

Elevator 2: _____ Elevator 4: _____

Note OK, No, or N/A. Note dimensions if No	Elevator			
	1	2	3	4
Location (206.3)				
Elevator in same area as non-accessible level changes?				
Hoistway Signage (407.2.3)				
Raised and Braille floor designations on both jambs (407.2.3.1)				
Mounting height ≥ 48” from ground to base of lowest tactile character and ≤ 60” to base of highest tactile character (703.4.1)				
At main entry level, tactile star on both jambs (407.2.3.1)				
Characters				
Upper case sans serif (703.2)				
Characters ≥ 2” high (407.2.3.1)				
Characters raised 1/32” (703.2)				
Accompanied by Grade 2 Braille (703.2)				
Hall Call Buttons (All Levels) (407.2.1)				
Clear floor area at call buttons ≥ 48” deep by ≥ 60” wide by ≥ 80” high (407.2.1.3)				
Up button above the down button (407.2.1.4)				
Visible signals light up when call registered and extinguish when call answered (407.2.1.5)				
Centerline of lowest call button ≥ 15” above the floor (407.2.1.1)				
Centerline of highest call button ≤ 48” above the floor (407.2.1.1)				
Button ≥ 3/4” in smallest dimension (407.2.1.2)				
Buttons raised or flush (407.2.1)				
Hall Signals (All Levels) (407.2.2.2)				
Signal visible from area adjacent to the hall call button				
Hall lantern fixtures > 72” above the floor at centerline				
Visible signal ≥ 2 ½” at centerline				
Audible signal one for “up” and two for “down” or verbal annunciators (407.2.2.3)				
Door Operations				
Time from notification that car is answering a call until doors begin to close ≥ 5 seconds (407.3.4)				
Door remains fully open ≥ 3 seconds (407.3.5)				
Horizontal gap between car and hall floors ≤ 1 ¼” at all levels (407.4.3)				
Vertical gap between car and hall floors ≤ ½” at all levels (407.4.4)				
Reopening devices effective at heights of 5” and 29” above floor (407.3.3.1)				
Reopening devices do not require contact to be activated (407.3.3.2)				
Reopening devices effective for 20 seconds minimum (must repeatedly reopen door for 3 seconds during this period of time) (407.3.3.3)				

Note OK, No, or N/A. Note dimensions if No	Elevator			
	1	2	3	4
Car Controls				
Emergency control buttons grouped at bottom of panel (407.4.6.4.2)				
Lowest button centerline ≥ 35” from floor (407.4.6.4.1)				
If > 16 buttons, highest button centerline ≤ 54” from floor (407.4.6.1)				
If ≤ 16 buttons, highest button centerline ≤ 48” from floor (407.4.6.1)				
Control buttons ≥ 3/4” in smallest dimension (407.4.6.2.1)				
Control buttons raised or flush (407.4.6.2)				
Raised character and braille designations immediately to the left of all buttons (407.4.7.1.2)				
Raised Characters (703.2)				
Upper case sans serif				
Characters raised ≥ 1/32”				
Characters ≥ 5/8” to ≤ 2” high				
≥ 3/8” separation from borders and decorative elements				
Tactile symbols identify main floor, emergency stop, alarm, door open and close, and phone (407.4.7.1.3)				
Floor buttons have visual signals that light when call is registered and extinguish when call answered (407.4.7.1.4)				
Car Position Indicators (407.4.8)				
Audible car position indicator provided				
Visual car position indicator provided				
Visual indicator over door or over control panel, (407.4.8.1.2)				
Floor number on indicators ≥ ½” high (407.4.8.1.1)				
Visual and audible signal as car passes/stops at floor (407.4.8.1.3)				
Elevator Car Requirements				
Elevator Car Dimensions (407.4.1)				
≥ 54” clear depth from inside of door to back wall				
≥ 51” clear depth from inside of front wall to back wall				
Off-centered door ≥ 68” clear width, door width ≥ 36”				
Centered door ≥ 80” clear width, 42” minimum door width				
Elevator Door Dimensions (407.4.1)				
Off-centered door ≥ 36” clear width				
Centered door ≥ 42” clear width				
Floor covering stable, firm, slip resistant, and no vertical changes (407.4.2)				
Illumination ≥ 5 foot-candles (54 lux) (407.4.5)				
Emergency Communication				
Identified by tactile symbol and characters adjacent to device (407.4.9)				
Highest operable part ≤ 48” above floor (407.4.9, 308)				
Lowest operable part ≥ 15” above floor (407.4.9, 308)				

Note OK, No, or N/A. Note dimensions if No	Elevator			
	1	2	3	4
Raised Characters (703.2)				
Upper case sans serif				
Characters raised 1/32”				
Characters 5/8” to 2” high				
≥ 3/8” separation from borders and decorative elements				
Operation does not require tight grasping, pinching, or twisting of the wrist or >5 pounds force (205.1, 309.4)				
Requires both visual and audible indication (708.2)				
Note: Inside dimensions of elevator cars and clear width of elevator doors must comply with Table 407.4.1 (below)				
Exception: Existing elevator car configurations that provide a clear floor area of 16 square feet (1.5 square meters) minimum and also provide an inside clear depth of 54” (1,370 mm) minimum and a clear width of 36” (915 mm) minimum are permitted				

Elevator Car Dimensions

	Minimum Dimensions			
Door Location	**Door Clear Width**	**Inside Car, Side to Side**	**Inside Car, Back Wall to Front Return**	**Inside Car, Back Wall to Inside Face of Door**
Centered	42 inches (1065 mm)	80 inches (2030 mm)	51 inches (1.295 mm)	54 inches (1.370 mm)
Side (off-centered)	36 inches (915 mm)[1]	68 inches (1725 mm)	51 inches (1.295 mm)	54 inches (1.370 mm)
Any	36 inches (915 mm)[1]	54 inches (1370 mm)	80 inches (2.030 mm)	80 inches (2.030 mm)
Any	36 inches (915 mm)[1]	60 inches (1525 mm)[2]	60 inches (1.525 mm)[2]	60 inches (1.525 mm)[2]

1. A tolerance of minus 5/8” (16mm) is permitted
2. Other car configurations that provide a turning space complying with Section 304 with door closed shall be permitted

Table 407.4.1

11 Wayside Lifts (DOT Standard 410)

Identify lifts along accessible routes.

Lift 1: _____ Lift 3:_____

Lift 2: _____ Lift 4:_____

Note OK, No, or N/A. Note dimensions if No	Lifts			
	1	2	3	4
Platform lift permitted only where exterior site constraints make ramp or elevator infeasible (206.7.5)				
Lift located to minimize travel distance compared to non-accessible routes (206.3)				
Clearances				
Clear floor area at operable parts ≥ 48" deep by ≥ 60" wide (309.2, 305.7)				
End doors and gates ≥ 32" wide (410.6)				
Side doors and gates ≥ 42" wide (410.6)				
Clear floor space in lift platform ≥ 30" x ≥ 48" (410.3)				
Clear vertical clearance ≥ 80" (410.1)				
Horizontal gap between car and hall floors ≤ 1 ¼" at all levels (410.4)				
Surface				
Floor surface in lift is stable, firm, and slip resistant (410.2)				
Controls				
If horizontal obstruction ≤ 10", controls mounted between ≥ 15" and ≤ 48" (308.2, 308.3)				
If horizontal obstruction > 10" to ≤ 24", controls mounted between ≥ 15" and ≤ 44" (308.2.2)				
Operation				
Unassisted entry, operation, and exit (410.1)				
Controls are operable with one hand without grasping, pinching, or twisting (309.4)				
Force required for controls ≤ 5 foot pounds (309.4)				
Doors remain open ≥ 20 seconds (410.6)				

12 Escalators (New Stations) (DOT Standard 810)

Identify escalators along accessible routes.

Escalator 1: _____ Escalator 3: _____

Escalator 2: _____ Escalator 4: _____

Note OK, No, or N/A. Note dimensions if No	Escalators			
	1	2	3	4
Escalators clear width of ≥ 32" (810.9)				
At the top and bottom of each escalator run, ≥ 2 and ≤ 4 contiguous treads level beyond comb plate before risers begin to form (810.9, ASME A17.1 Sec. 6.1.3.6.5)				
Slip resistant strip of contrasting color on the back and side of each tread ≥ 1 ½" and ≤ 2" wide (810.9, ASME A17.1 Sec. 6.1.3.5.6)				

13 Ticketing and Automatic Fare Vending (DOT Standards 206, 220, 305, 404, 707, 904)

Note OK, No, or N/A. Note dimensions if No	Accessible Route			
	1	2	3	4
Ticketing				
Located on an accessible route (206.2.4)				
Ticketing, fare vending, and collection areas placed to minimize travel distance compared to path used by general public (206.3)				
Counter ≤ 36” high above the ground (904.4.1, 904.4.2)				
Parallel approach: Counter ≥ 36” long (904.4.1)				
Forward approach: Counter ≥ 30” long (904.4.2)				
Automatic Fare Vending and Fare Adjustment Devices				
Fare vending components adjoin or overlap an accessible route (206.3)				
If self-service fare vending provided, ≥ 1 accessible device of each type (220.1)				
If self-service fare adjustment provided, ≥ 1 accessible device (220.1)				
If self-service fare collection provided, ≥ 1 accessible device (220.1)				
Clear floor area in front of accessible fare device ≥ 48” deep by ≥ 60” wide by ≥ 80” high (305.5) (707.2)				
If device in a confined space:				
If forward approach depth ≥ 24”, approach ≥ 36” wide (305.7.1)				
If side approach depth ≥ 15”, approach ≥ 60” wide (305.7.2)				
If coin or card slots or controls necessary for operation including top of touch-screen are provided:				
If horizontal obstruction ≤ 10”, controls mounted between ≥ 15” and ≤ 48” (707.3, 309.3, 308.2, 308.3)				
If horizontal obstruction > 10” to ≤ 24”, controls mounted between ≥ 15” and ≤ 44” (308.2.2)				
At least one tactilely discernable input control provided for each function (707.6.1)				
Key surfaces raised (707.6.1)				
Numeric keys arranged in ascending or descending sequence with “5” key tactilely distinct (707.6.2)				
Function keys contrast visually from background surfaces (707.6.3.1)				
Characters and symbols on key surfaces contrast from key surfaces (707.6.3.1)				
Function key surfaces have tactile symbols as follows:				
Enter or Proceed key: Raised circle				
Clear or Correct key: Raised left arrow				
Cancel key: Raised letter “X”				
Add Value key: Raised plus (“+”) sign				
Decrease Value key: Raised minus (“–“) sign				
Controls and operating mechanisms are operable with one hand and do not require tight grasping, pinching, or twisting of the wrist				
The force required to activate controls is no greater than 5 foot pounds				
Instructions and information to complete all transactions are accessible and independently usable by someone who has vision impairments (707.5)				

Note OK, No, or N/A. Note dimensions if No	Accessible Route			
	1	2	3	4
Speech Output				
Machine speech enabled (707.5)				
Braille instructions for initiating speech mode provided (707.8)				
User can interrupt and repeat speech and control volume (707.5.1)				
Where receipts provided, audible balance information, error messages, and information necessary to complete or verify transaction provided (707.5.2)				
Display Screen				
Screen visible from a point 40” above the floor in front and at center of machine (707.7.1)				
Sans serif font (707.7.2)				
Uppercase “I” ≥ 3/16” (707.7.2)				
Characters contrast with background (707.7.2)				
Fare Gate Components (404.2)				
Landing				
Level landing width of ≥ 42” + door width from hinge side (See Table 404.2.4.1.)				
Level landing ≥ 60” perpendicular to door for width of landing (404.2.4.1)				
Note: If level landing < 42” wide by < 60” deep, see doorway diagrams in 404.2.4				
Gate				
Width (404.2.3) Measured from door face to stop with door open at 90°				
In recess > 24” deep, door ≥ 36” wide				
All other doors ≥ 32” wide				
Kick Plate (404.2.10)				
Gate surface on push side between the finish floor and a height of ≥ 10” has smooth surface on extending full width of gate				
Kick plate surface free of changes in depth at joints of ≥ 1/16”				
Operable parts of hardware between ≥ 34” and ≤ 48” above floor (404.2.7)				
Operation				
Opening force ≤ 5 foot pounds for interior hinged gate (404.2.9)				

14 Platforms (DOT Standards 403, 810)

Fill out survey sheet for each platform assessed. Identify each platform below:

Platform 1:_____ Platform 3: _____

Platform 2:_____ Platform 4: _____

Indicate OK, No, or N/A. Note dimensions if No	1	2	3	4
Clearances				
Clear width at least 36” wide, except:				
Clear width may be 32” wide to < 36” wide for distance of ≤ 24” provided that narrower segments are separated by segments of at least 48”(403.5.1)				
At intervals of ≤ 200’, route clearance ≥ 60” wide for distance of ≥ 60” (passing space) (403.5.3)				
Slope (810.5.1)				
Parallel to the track the slope is ≤ 1:48 (2.1%) or ≤ the slope of the track, whichever is greater				
Perpendicular to track the slope is ≤ 1:48 (2.1%)				
Detectable Warning				
Platform boarding edges, not protected by screens or guards, have a detectable warning along the full length of the public use area of the platform (810.5.2, 705.2)				
The detectable warning contrasts visually with adjoining surfaces, either light-on-dark or dark-on-light (705.1.3)				
The detectable warning is 24” wide (705.2)				
The detectable warning consists of raised truncated domes with:				
Base diameter ≥ 0.9” to ≤ 1.4”, top diameter 50% to 65% of base diameter (705.1.1)				
Height of 0.2” (705.1.1)				
Center-to-center spacing ≥ 1.6” to ≤ 2.4”, base-to-base spacing ≥ 0.65” (705.1.2)				
Platform Signs				
At least one tactile sign on each platform or boarding area identifying the station (810.6.2)				
Signs, to maximum extent practicable, in uniform locations within system (810.6.2)				
Mounting height ≥ 48” from ground to base of lowest tactile character and ≤ 60” to base of highest tactile character (703.4.1)				
Clear floor space ≥ 18” by ≥ 18” centered on the tactile characters				
Characters				
Characters raised ≥ 1/32” (703.2)				
Upper case sans serif				
Characters ≥ 5/8” to ≤ 2” high				
≥ 3/8” separation from borders and decorative elements				
Accompanied by Grade 2 Braille				
Braille characters (703.3) below text; if multi-lined, below entire text				
Braille characters are separated from tactile characters and raised borders ≥ 3/8”				
Braille dots domed or rounded shape				
Exception: Platform signs are not required to comply with above requirements where audible signs are remotely transmitted to hand-held receivers or are user- or proximity actuated.				

Indicate OK, No, or N/A. Note dimensions if No	1	2	3	4
Station Name Signs				
Name signs located at frequent intervals and clearly visible to sitting and standing passengers from within the vehicle on both sides when not obstructed by another vehicle (810.6.3)				
Station name signs comply with 703.5 sign requirements below (810.6.3)				
Route and Destination Signs				
Lists of stations, routes, and destinations served by the station and located in boarding areas, on platforms, or on mezzanines comply with 703.5 sign requirements below (810.6.2). Requirement does not apply to maps.				
Visual Characters (703.5)				
Visual characters ≥ 40” above finish floor or ground (703.5.6)				
For characters ≥ 40” and ≤ 70” above the ground, height of uppercase letter “I” ≥ 5/8” (703.5.5)				
For characters > 70” and ≤ 120” above the ground, character height of uppercase letter “I” ≥ 2” (703.5.5)				
For signs > 120” above the ground, character height of uppercase letter “I” ≥ 3” (703.5.5), except where sign space is limited (810.6.2)				
Contrast between characters and background: Either light characters on dark background or dark characters on light background (703.5.1)				
Non-glare Finish (703.5.1)				
Characters in conventional form: Characters not Italic, oblique, script, highly decorative, or other unusual forms (703.5.3)				
Width of uppercase “O” is between ≥ 55% and ≤ 110% of the height of uppercase “I” (703.5.4)				
Width of uppercase “I” ≥ 10% to ≤ 30% of the height (703.5.7)				
Closest characters spaced between ≥ 10% and ≤ 35% of the character height (703.5.8)				
Baselines of separate lines of characters within message spaced between135% and 170% of character height (703.5.9)				
Coordination with Vehicle Floor				
Rapid Rail				
Platform edge within 3” horizontal of vehicle door and ± 5/8” vertical of vehicle floor under all normal operating conditions (§ 38.53(d))				
Light Rail				
Platform edge within 3” horizontal of vehicle door and 5/8” vertical of vehicle floor under all normal operating conditions (§ 38.73(d))				
Platform must be ≥ 8 inches above top of rail except where vehicles are boarded from sidewalk or street level				
Note: If station is located on a pedestrian mall, city street, or other area where level boarding is infeasible, lifts, ramps, bridge plates or mini-high platforms are permissible (810.5, 810.5.3 as modified by Part 37 Appendix A). Consult with FTA in these situations.				
Commuter Rail				
For platforms serving a track not also used for existing freight service, platform edge within 3” horizontal of vehicle door and 5/8” vertical of vehicle floor under all normal operating conditions (§ 38.93(d)). See Part 37 Appendix D discussion of maximum gaps for level boarding and gap mitigation.				
For platforms serving a track that is also used for freight service, the analysis described in § 37.42(d) must be performed, and alternatives to level boarding must be approved by FTA and/or FRA as applicable				

15 Mini-high Platforms

Identify each mini-high platform. Record mini-high ramps in the ramps section.

Note: Per § 37.42(c), mini-highs are allowable in new construction or altered platforms serving commuter, intercity or high-speed rail only where track is shared with freight service and only if analysis accepted by FTA and/or FRA (as applicable) indicates that level boarding, car-borne lifts, or bridge plates are not feasible.

Mini-high Platform 1: _____ Mini-high Platform 3: _____

Mini-high Platform 2: _____ Mini-high Platform 4: _____

Note OK, No, or N/A. Note dimensions if No	1	2	3	4
Light Rail				
Station is located on a pedestrian mall, city street, or other area where level boarding is infeasible (810.5, 810.5.3 as modified by Part 37 Appendix A). Mini-highs acceptable only at such stations, not other stations on the same line where level boarding is possible.				
Commuter Rail (applicable only for platforms adjacent to existing freight service)				
Level boarding not structurally or operationally practicable and approval for use of mini-highs is obtained from FTA or FRA (§ 37.42(d), 36 CFR 1192.93(d))				
Space between platform edge and mini-high and other obstructions (stairwells, elevator shafts, seats, etc.) ≥ 6 feet, or if full clearance not feasible, barriers must prevent pedestrian traffic through narrower area.				
Detectable Warning				
Platform edges, not protected by screens or guards, have a detectable warning along the full length of the public use area of the platform (810.5.2, 705.2)				
Detectable warning conforms to 705.2 (See detail in the platforms section 14 of this checklist)				

16 Public Address Systems (DOT Standard 810)

	Note OK, No, or N/A
If a public address system provides audible messages, the same or equivalent information is provided in a visual format (810.7)	

17 Telephones (DOT Standards 217, 704)

Note OK, No, or N/A	1	2	3	4
If public phone provided on floor, level, or exterior site, at least one accessible phone per floor, level, and exterior site provided (217.2)				
If two or more banks of phones are provided, at least one per bank is accessible (217.2)				
Accessible phone has clear floor space and counter depth ≤ 10” for parallel approach and ≤ 20” for front approach (704.2.1)				
Highest operable part ≤ 48” (704.2.2)				
Volume control is provided on all public phones (217.3)				
TTYs				
If public phone provided on floor, at least one TTY is provided (217.4.2)				
Where at least one public phone serves an entrance, at least one TTY is provided to serve the entrance (217.4.7)				
If four or more public phones are provided on exterior site, at least one TTY is provided on site (217.4.4)				
If an interior bank of public telephones has three or more phones, at least one phone provides shelf and electrical outlet for portable TTY (217.5)				
If a bank of public telephones has four or more phones and is located ≥ 200’ from a TTY, at least one TTY must be provided (217.4.1)				
Signs				
Where signs provide directions to phones, they also provide directions to TTYs (216.9.2)				
At banks of phones which do not have a TTY, directions to nearest public TTY provided (216.9.2)				
Text telephone identified by the international TTY symbol (216.9.1)				

18 Areas of Rescue Assistance (DOT Standard 207)

An area of rescue assistance (area of refuge) is required if any of the following conditions exist:

< 50 % of the exterior walls are open to the outside (207.1, IBC 2003) ☐ Yes ☐ No

The facility has no automatic sprinkler system (207.1, IBC 2003 – 903.3.1.1) ☐ Yes ☐ No

The emergency evacuation route is not accessible (207.1, IBC 2003) ☐ Yes ☐ No

Elevators or lifts on the emergency evacuation route do not have standby power (207.2) ☐ Yes ☐ No

Describe each area of rescue assistance:

Area of Refuge 1: _____

Area of Refuge 2: _____

Note OK, No, or N/A. Note dimensions if No	Area of Refuge 1	Area of Refuge 2
Each area of rescue assistance provides at least two accessible areas, each being ≥ 30” by ≥ 48” (IBC 2003 1007.6.1)		
The area of rescue assistance does not encroach on any required exit width (IBC 2003 1007.6.1)		
Each stairway adjacent to an area of rescue assistance has ≥ 48” clear width between the handrails (IBC 2003 1007.8.2)		
A method of two-way communication, with both visual and audible signals, provided between each area of rescue assistance and the primary entry (IBC 2003 1007.6.3)		
Area of rescue assistance identified by a visual sign that includes the words “Area of Refuge” and the international symbol of accessibility (illuminated when exit sign illumination is required) (IBC 2003 1007.6.5)		
Signs displayed at all inaccessible exits and where necessary to identify the direction to areas of rescue assistance (IBC 2003 1007.7)		
Instructions provided for use of the area posted near two-way communication system (IBC 2003 1007.6.4)		

Chapter 4 – Vehicle Acquisition (Draft Published)

Chapter 5 – Equivalent Facilitation (Draft Published)

Chapter 6 – Fixed Route Service

6.1 Introduction

This chapter explains the U.S. Department of Transportation (DOT) Americans with Disabilities Act (ADA) regulations related to fixed route service. Fixed route service encompasses a variety of transit services and modes, including bus (local, express, commuter, and bus rapid transit (BRT)) and rail (light rail, rapid rail, and commuter rail).[7] These services are distinct from demand responsive services because they operate on prescribed routes according to a fixed schedule. Individuals wishing to ride a fixed route service may board at a stop or station and then disembark at another stop or station along the route. Chapter 7 covers requirements for demand responsive service and Chapters 8 and 9, respectively, cover requirements for complementary paratransit service and ADA paratransit eligibility.

6.1.1 Accessible Fixed Route Transportation Overview

The following subparts of the Part 37 requirements cover accessible fixed route transportation:

- Subpart A (General), fully covered in Chapter 2, including § 37.5, which prohibits discrimination against an individual with a disability in connection with the provision of transportation service
- Subpart C (Transportation Facilities), covered in Chapter 3, which requires all new facilities to be accessible and requires alterations of existing facilities to be accessible to the maximum extent feasible
- Subpart D (Acquisition of Accessible Vehicles), covered in Chapter 4, which contains requirements for acquiring accessible new and remanufactured vehicles[8]
- Subpart G (Provision of Service), the primary subject of this chapter, including requirements for:
    - Maintenance of accessible features – § 37.161
    - Keeping vehicle lifts in operative condition – § 37.163
    - Lift and securement use – § 37.165
    - Other service requirements – § 37.167
    - Training requirements – § 37.173

Several Subpart G requirements applicable to more than one transit mode are covered in Chapter 2. The discussions on service animals and portable oxygen, for example, are found in Chapter 2, as these requirements apply to more than fixed route. Where applicable, this chapter discusses issues related to Subpart G requirements that are specific to fixed route, such as stop announcements.

This Circular does not alter, amend, supersede, or otherwise affect the DOT ADA regulations themselves or replace or reduce the need for detailed information in the regulations. Suggestions of good practices are included throughout the Circular; FTA recognizes that there are many different ways agencies can implement the regulatory requirements and ensure the delivery of compliant service.

[7] This Circular does not cover intercity rail, also a fixed route service.

[8] Subpart G also covers the acquisition of inaccessible used vehicles when, after demonstrating good faith efforts to obtain accessible vehicles, transit agencies are unable to do so. (See Chapter 4.)

6.2 Nondiscrimination

Section 37.5 (Nondiscrimination) is discussed in detail in Chapter 2. The main elements include:

- Prohibition Against Discrimination – § 37.5(a)
- Right to Use General Public Transportation Services – § 37.5(b)
- Prohibition Against Requiring Use of Priority Seating – § 37.5(c)
- Prohibition Against Imposition of Special Charges – § 37.5(d)
- Prohibition Against Requiring Use of Attendants – § 37.5(e)
- Refusing Service – § 37.5(h)

6.3 Maintaining Accessible Features

6.3.1 Maintaining Features in Operative Condition and Making Prompt Repairs

Requirement

"Public and private entities providing transportation services shall maintain in operative condition those features of facilities and vehicles that are required to make the vehicles and facilities readily accessible to and usable by individuals with disabilities. These features include, but are not limited to, lifts and other means of access to vehicles, securement devices, elevators, signage and systems to facilitate communications with persons with impaired vision or hearing" (§ 37.161(a)).

"Accessibility features shall be repaired promptly if they are damaged or out of order. When an accessibility feature is out of order, the entity shall take reasonable steps to accommodate individuals with disabilities who would otherwise use the feature" (§ 37.161(b)).

Discussion

It is not enough to simply include accessibility features in facilities and on vehicles; they must be maintained in working condition. When accessibility features are damaged or out of order, transit agencies must repair them promptly. The regulations do not state a time limit for making particular repairs, given the variety of circumstances involved. However, repairing accessible features must be made a high priority. When a substitute vehicle is not available, common practices to expedite repairs include assigning maintenance staff to assist with vehicle pullouts so that minor repairs can be made quickly and having a readily available supply of components (e.g., securement straps and lap belts) to replace equipment found to be missing, damaged, or out of order at vehicle pullouts.

Accommodating Riders Who Rely on Working Accessibility Features

Even with the best preventive maintenance, accessibility features do sometimes break down unexpectedly or need to be taken out of service for repairs. When a feature is not working, even temporarily, transit agencies must take reasonable steps to accommodate individuals with disabilities who would otherwise use the feature until it has been repaired. While the regulations do not prescribe a particular method for accommodating individuals when an elevator, for example, is out of service, the method must be reasonable and effective. See the next section for suggested practices.

Ensuring Availability and Usability of Accessibility Features

An important part of maintaining accessibility features so that they are accessible to and usable by individuals with disabilities is making sure they are free from obstructions. For example, this could include removing illegally parked vehicles from accessible spaces or station parking access aisles or

removing bicycles obstructing accessible routes. It could also include promptly removing snow and ice from accessible travel paths. Where transit agencies do not have direct control over areas in which accessibility features are located, FTA encourages coordination with other public entities or private property owners to enforce parking bans and other actions that keep accessible features unobstructed.

6.3.2 Outages for Maintenance and Repair

Requirement

"This section does not prohibit isolated or temporary interruptions in service or access due to maintenance or repairs" (§ 37.161(c)).

Discussion

When planning maintenance activities that will result in temporary unavailability of an accessibility feature, a good practice is to schedule the maintenance during non-service hours or the lowest demand times. FTA recommends that transit agencies include provisions in maintenance contracts limiting such activities to non-service or low-demand times. FTA also suggests that agencies consider the effect the maintenance will have on systemwide accessibility. For example, agencies should avoid taking multiple elevators out of service simultaneously at busy rail station hubs, if possible.

Strategies to Accommodate Riders During Elevator Outages

Accommodations are often needed when a station elevator is out of service due to mechanical failures or for scheduled maintenance, in order to prevent riders from being stranded and to allow them to continue to use the system. When elevators are out of service, a good practice is to announce the outage at other stations (both visual and audio) to alert riders and offer accessible shuttle bus service around the temporarily inaccessible station. The vehicles that agencies use need not be full-sized buses used for fixed route service, but may be any accessible vehicles. In fact, it may be more efficient and convenient for agencies to use paratransit vehicles. The frequency of the substitute bus service should reasonably approximate the rail service that bus service is replacing.

Riders who know in advance about current elevator outages may be able to plan an alternative itinerary that would allow them to avoid the inconvenience of using the substitute bus service. Accordingly, a good practice is to provide elevator outage information on agency websites, through proper signage and recorded announcements at facilities, as well as in notices on vehicles (for planned or longer term outages), press releases to local media, and e-mails or text messages to disability notification lists. Another good practice is to provide extra staffing at affected locations to guide any riders needing assistance and information.

6.3.3 Keeping Bus Lifts/Ramps in Operative Condition

Requirement

"[A public entity] shall establish a system of regular and frequent maintenance checks of lifts sufficient to determine if they are operative" (§ 37.163(b)).

"The entity shall ensure that vehicle operators report to the entity, by the most immediate means available, any failure of a lift to operate in service" (§ 37.163(c)).

"Except as provided in paragraph (e) of this section, when a lift is discovered to be inoperative, the entity shall take the vehicle out of service before the beginning of the vehicle's next service day and ensure that the lift is repaired before the vehicle returns to service" (§ 37.163(d)).

"If there is no spare vehicle available to take the place of a vehicle with an inoperable lift, such that taking the vehicle out of service will reduce the transportation service the entity is able to provide, the public entity may keep the vehicle in service with an inoperable lift for no more than five days (if the entity serves an area of 50,000 or less population) or three days (if the entity serves an area of over 50,000 population) from the day on which the lift is discovered to be inoperative" (§ 37.163(e)).

Discussion

As covered in Chapter 2, § 37.163 requires transit agencies to keep bus lifts (and ramps) in operable condition. Agencies must establish a program of regular and frequent maintenance checks of lifts/ramps sufficient to determine if they are operative. When drivers discover that lifts or ramps are not working, they must inform appropriate staff (e.g., dispatchers) as soon as possible. Based on this information, supervisors can decide the best course of action.

As also discussed in the Appendix D section on Keeping Vehicle Lifts in Operative Condition, transit agencies must remove vehicles (primarily fixed route buses) with inoperable lifts from service as soon as is practicable, but in any case before the beginning of the vehicle's next service day. They cannot return vehicles with inoperable lifts to service until the lifts are operable. Agencies may choose to remove vehicles with inoperable lifts earlier than the end of the service day.

Transit agencies that do not have sufficient accessible spare vehicles available may return vehicles with inoperable lifts to service for limited periods as follows:

- Vehicles with inoperable lifts may be returned to service for up to three days if the transit agency's service area has a population of more than 50,000.
- Vehicles with inoperable lifts may be returned to service for up to five days if the transit agency's service area has a population of 50,000 or less.

Transit agencies cannot continue to use vehicles with inoperable lifts after these specified timeframes, even when there are no spares. Agencies must remove these vehicles from service until the lifts are repaired. Agencies can address lift operability through various preventive measures and response strategies as discussed in Chapter 2.

6.3.4 Providing Alternative Transportation When Bus Lifts are Inoperable

Requirement

"In any case in which a vehicle is operating on a fixed route with an inoperative lift, and the headway to the next accessible vehicle on the route exceeds 30 minutes, the entity shall promptly provide alternative transportation to individuals with disabilities who are unable to use the vehicle because its lift does not work" (§ 37.163(f)).

Discussion

When transit agencies discover an inoperable lift while a bus is in service or must keep a bus with an inoperable lift in service, two conditions may apply for drivers when encountering riders who wish to use the lift:

- If the length of time between consecutive accessible vehicles on a route ("headway") is 30 minutes or less, bus drivers may ask riders to wait for the next bus.
- When the headway to the next accessible vehicle on the route exceeds 30 minutes, transit agencies must promptly provide alternative transportation to individuals with disabilities who are unable to use the vehicle because its lift does not work. Agencies must provide the alternative transportation to waiting riders within 30 minutes.

Transit agencies can use a variety of means to meet the alternative transportation requirement, including dispatching a similar accessible vehicle with a working lift or ramp or dispatching a different accessible vehicle (e.g., paratransit van). Some agencies have other accessible vehicles in their fleets such as ramp-equipped vans or SUVs. In certain instances, agencies can dispatch supervisors driving such vehicles to provide accessible trips. Agencies should be prepared to dispatch alternative accessible transportation as soon as a bus driver notifies dispatch of the need.

One advantage to ramp-equipped buses is that the ramps are typically easy to deploy manually if the automatic mechanism is out of order. Transit agencies may adopt policies directing the driver to manually deploy the ramp for the waiting rider instead of calling for alternative transportation. This solution is typically more efficient and expedient for both the transit agency and the rider.

If lifts fail to operate when trying to board riders who wish to use a lift, good practices are to:

- Inform the rider that the driver is contacting dispatch to obtain further information
- Contact dispatch to determine whether a scheduled accessible bus will arrive within 30 minutes and, if not, what alternative transportation solution is planned
- Communicate the alternative transportation plan to the waiting rider

Another good practice is to record each such occurrence, the communication protocol followed, and the resolution (i.e., what time the next vehicle picked up the rider).

Transit agencies may not instruct waiting riders to wait for a vehicle scheduled to arrive more than 30 minutes later. Further, it is not appropriate for drivers to tell waiting riders that they do not know when the next bus may arrive.

Even when drivers know the lift is not operating, they should stop, inform the waiting rider that they have notified their supervisors that a rider using a wheelchair is waiting, and inform the waiting rider that another bus will be there in less than 30 minutes or another vehicle is en route.

The requirement to provide alternative transportation does not apply if the only reason that a bus cannot accommodate a rider who needs to use the lift is that the particular bus is full. "Full" can mean:

- The waiting rider needs to use a securement location, but all securement areas are already occupied by riders who use wheelchairs, or
- The bus is at capacity, with no space to accommodate any additional riders

However, when there is no space on the bus and the agency is not obligated to provide alternative transportation, it is nevertheless a good practice for drivers to explain the situation to waiting riders.

6.4 Lifts/Ramps and Securements

6.4.1 Accommodating Riders Who Use Wheelchairs

Requirement

"Except as provided in this section, individuals using wheelchairs shall be transported in the entity's vehicles or other conveyances.

(1) With respect to wheelchair/occupant combinations that are larger or heavier than those to which the design standards for vehicles and equipment of 49 CFR Part 38 refer, the entity must carry the wheelchair and occupant if the lift and vehicle can accommodate the wheelchair and occupant. The entity may decline to carry a wheelchair/occupant if the combined weight exceeds that of the lift specifications or if carriage of the wheelchair is demonstrated to be inconsistent with legitimate safety requirements.

(2) The entity is not required to permit wheelchairs to ride in places other than designated securement locations in the vehicle, where such locations exist" (§ 37.165(b)).

Discussion

Transit agencies must allow riders who use wheelchairs to board and ride accessible vehicles. Section 37.3 defines as wheelchair as:

> A mobility aid belonging to any class of three- or more-wheeled devices, usable indoors, designed or modified for and used by individuals with mobility impairments, whether operated manually or powered.

See Chapter 2 for a more detailed discussion of boarding riders who use wheelchairs on all types of transit including fixed route, which covers:

- Legitimate safety requirements
- Maintaining an inventory of design specifications for lifts, ramps, and securement areas
- Accommodating riders who use other mobility devices
- Securement areas and securement systems
- Requiring riders who use wheelchairs to ride in designated securement areas

6.4.2 Use of Securement Systems

Requirement

"(1) For vehicles complying with Part 38 of this title, the entity shall use the securement system to secure wheelchairs as provided in that Part.

(2) For other vehicles transporting individuals who use wheelchairs, the entity shall provide and use a securement system to ensure that the wheelchair remains within the securement area.

(3) The entity may require that an individual permit his or her wheelchair to be secured" (§ 37.165(c)).

"The entity may not deny transportation to a wheelchair or its user on the ground that the device cannot be secured or restrained satisfactorily by the vehicle's securement system" (§ 37.165(d)).

Discussion

Transit agencies are required to make securement areas available for riders using wheelchairs. (See Chapter 2 for guidance on the use of securement areas.)

6.4.3 Requesting Riders to Transfer to a Seat

Requirement

"The entity may recommend to a user of a wheelchair that the individual transfer to a vehicle seat. The entity may not require the individual to transfer" (§ 37.165(e)).

Discussion

See Chapter 2 for guidance on requesting riders to transfer to a vehicle seat.

6.4.4 Required Assistance

Requirement

"Where necessary or upon request, the entity's personnel shall assist individuals with disabilities with the use of securement systems, ramps and lifts. If it is necessary for the personnel to leave their seats to provide this assistance, they shall do so" (§ 37.165(f)).

Discussion

This requirement includes deploying and stowing lifts and ramps, securing riders' wheelchairs, and assisting with lap and shoulder belts. It may also include assisting riders who use manual wheelchairs on and off lift platforms, or up and down ramps. Drivers must provide this assistance even if it is otherwise not customary for them to leave their seats.

Appendix D states, "On a vehicle which uses a ramp for entry, the driver may have to assist in pushing a manual wheelchair up the ramp (particularly where the ramp slope is relatively steep)." Drivers need to assist an individual, assuming the level of assistance is reasonable and does not constitute a direct threat to the health or safety of the driver.

Drivers are not required to assume the controls of power wheelchairs to assist riders with boarding or alighting. Providing assistance with a power wheelchair falls under the category of attendant-type services, which are not required under DOT regulations. Moreover, it would be unreasonable to expect a driver to know how to operate each rider's powered mobility device. (See FTA response to Complaint 10-0172.

Drivers are not required to provide other attendant-type services such as carrying a rider's packages.

Boarding and Alighting Direction (Forward or Backward)

Vehicle lifts are required to accommodate passengers who board while facing either toward or away from the vehicle. As such, neither the bus driver nor the transit agency may specify that riders must face in one direction or the other when boarding or alighting. Some agencies recommend that passengers back onto the lift because they believe that better weight distribution will result, causing less strain and wear on the lift components. However, the wide variety of wheelchair designs and configurations encompassed by the wheelchair definition, particularly among power wheelchairs, makes such generalizations regarding boarding direction and weight distribution impossible. As explained in the Appendix D section on Lift and Securement Use, "Except where the only way of successfully maneuvering a device onto a vehicle or into its securement area or an overriding safety concern (i.e., a direct threat) requires one way of doing this or another, the transit provider should respect the passenger's preference." For example, power wheelchairs are usually not equipped with rearview mirrors, and some individuals who use them are unable to rotate their heads sufficiently to see behind them.

6.4.5 Standees on Lifts/Ramps

Requirement

"The entity shall permit individuals with disabilities who do not use wheelchairs, including standees, to use a vehicle's lift or ramp to enter the vehicle" (§ 37.165(g)).[9]

[9] The reference to a specific lift model is not included in this citation.

Discussion

This lift-use requirement applies to riders who use canes, crutches, walkers, or other assistive devices. It also includes riders with disabilities who do not use any type of assistive device. The Part 38 vehicle design standards require handrails on lifts to facilitate use of lifts by standees.

If riders ask to use lifts or ramps, drivers must honor such requests. They may not ask riders to disclose their disabilities before being allowed to board as standees. The Appendix D section on Lift and Securement Use also states that these individuals must be permitted to use the lift "on request."

6.4.6 Deployment of Lifts/Ramps

Requirement

"The entity shall not refuse to permit a passenger who uses a lift to disembark from a vehicle at any designated stop, unless the lift cannot be deployed, the lift will be damaged if it is deployed, or temporary conditions at the stop, not under the control of the entity, preclude the safe use of the stop by all passengers" (§ 37.167(g)).

Discussion

Bus drivers must position buses in order to allow riders to use lifts or ramps. When approaching a bus stop, drivers must ensure that deployment of the lift or ramp is not obstructed by signposts, street furniture, security bollards, or parked vehicles, that sufficient clearance is available to enable riders to use the lift or ramp, and that riders are able to reach the lift or ramp without stepping off a curb.

Both lifts and ramps need a relatively level area to deploy, whether the rider is boarding or alighting. Lifts are more sensitive to the cross slope of the surface where they are being deployed. If the cross slope is too steep, a lift's sensors may not detect that it has reached the ground and possibly may not release the front safety flap that prevents a wheelchair from rolling on or off the lift. It is preferable to deploy a ramp onto a sidewalk, as this creates a less steep slope for riders to navigate—whether using a wheelchair, another mobility device, or traveling without a mobility device.

When a driver is unable to deploy the lift or ramp at a stop, the preferred solution is to move the bus slightly so that the driver can deploy the lift or ramp where there is sufficient clear space for the rider to enter or exit the vehicle.

Where feasible, transit agencies should consider relocating stops that present such deployment challenges, particularly stops that are unsafe for all riders.

Accessible Boarding Locations

Accessible boarding locations and accessible pathways to them are essential elements of accessible fixed route service. Providing accessible bus stops and pathways is both beneficial to all users and can also affect ADA paratransit eligibility. Chapter 3 discusses the requirements for accessible boarding for fixed route service and includes strategies for working with other agencies to achieve improved accessibility at transit facilities other agencies control (e.g., bus stops) as well as sidewalks and pathways.

Additional Boarding Assistance

FTA notes that while some riders may not require lifts or ramps to board or alight buses, they may still have difficulty in stepping onto or off buses. In these situations, bus drivers should use the kneeling feature available on most buses. Use of kneelers, combined with pulling as close to the curb as possible (when there is a sidewalk), allows certain riders greater ability to use fixed route buses. For a rider who

uses a manual wheelchair, drivers must assist the rider up and down the ramp if the slope of the ramp is too steep. This requirement does not apply for riders who use power wheelchairs. (See Chapter 2.)

6.5 Stop Announcements and Route Identification

6.5.1 Stop Announcements

Requirement

"On fixed route systems, the entity shall announce stops as follows:

(1) The entity shall announce at least at transfer points with other fixed routes, other major intersections and destination points, and intervals along a route sufficient to permit individuals with visual impairments or other disabilities to be oriented to their location.

(2) The entity shall announce any stop on request of an individual with a disability" (§ 37.167(b)).

Discussion

On bus and rail fixed route systems, transit agencies must announce stops at least at transfer points with other fixed routes, other major intersections and destination points, and intervals along a route sufficient to permit individuals with visual impairments or other disabilities to be oriented to their location. Agencies must also announce any stop on request of an individual with a disability.

For most commuter rail and rapid rail systems, a common practice is to announce all station stops, usually over public address systems. Practices vary for light rail systems. Transit agencies that have automated announcement systems on their light rail vehicles usually announce all station stops.

There is no requirement to visually display stop information inside fixed route vehicles. However, transit agencies are required to provide rail station signs that are clearly visible and within the sight lines of standing and sitting riders from within the vehicle on both sides when not obstructed by another vehicle. (See Chapter 3.)

Transfer Points

Transfer points include other fixed routes that transit agencies serve (same or other mode) as well as routes that other public and private entities serve, including private intercity bus and air services. Announcing required stops at transfer points is beneficial to all riders, not just those with visual impairments.

If two bus routes or rail lines overlap and share a set of common stops or stations, transit agencies are not required to announce all stops along the intersecting route or line where transfers are possible. However, they must make the following types of transfer announcements:

- Transit agencies must, at a minimum, announce the ability to transfer at the stops or stations where the routes or lines merge or diverge. In the example illustrated in Figure 6-1, when two bus routes (#11 and #22) both travel along the same road segment for one mile before the two routes diverge, agencies must announce (on both routes) the transfer point to the other route at the first stop that routes #11 and #22 share and at the final stop that routes #11 and #22 share (but not necessarily for all stops in between).

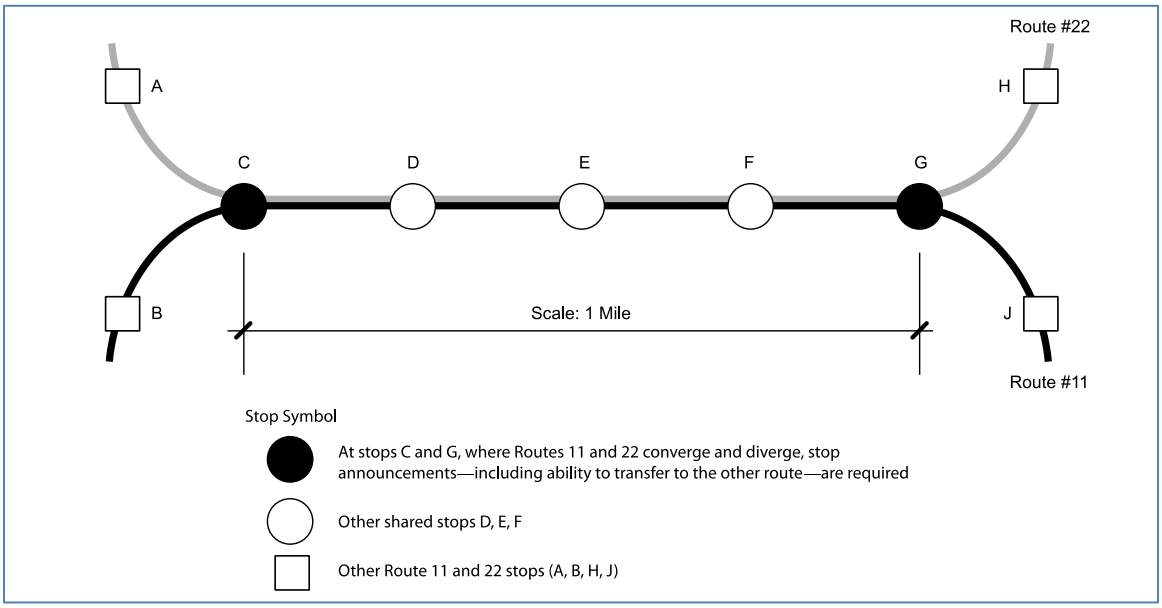


Figure 6-1 – Stop Announcements for Combined Bus Routes (1-mile section)

- For particularly long routes or lines, transit agencies must also announce the availability of transfers at other intermediate stops or stations so that riders boarding after the initial convergence of these routes or lines and alighting before the final common stop know that they can transfer. Announcements of transfer points might occur at stops where announcements are required for other reasons. In the example illustrated in Figure 6-2, if two bus routes (#33 and #44) both travel along the same road segment for five miles before the two routes diverge, agencies might announce (on both routes) transfer points to the other route at intermediate stops (between the converging and diverging stops) that are also major intersections, major destination points (e.g., a hospital), or transfer points to crossing bus routes (e.g., Route #55).

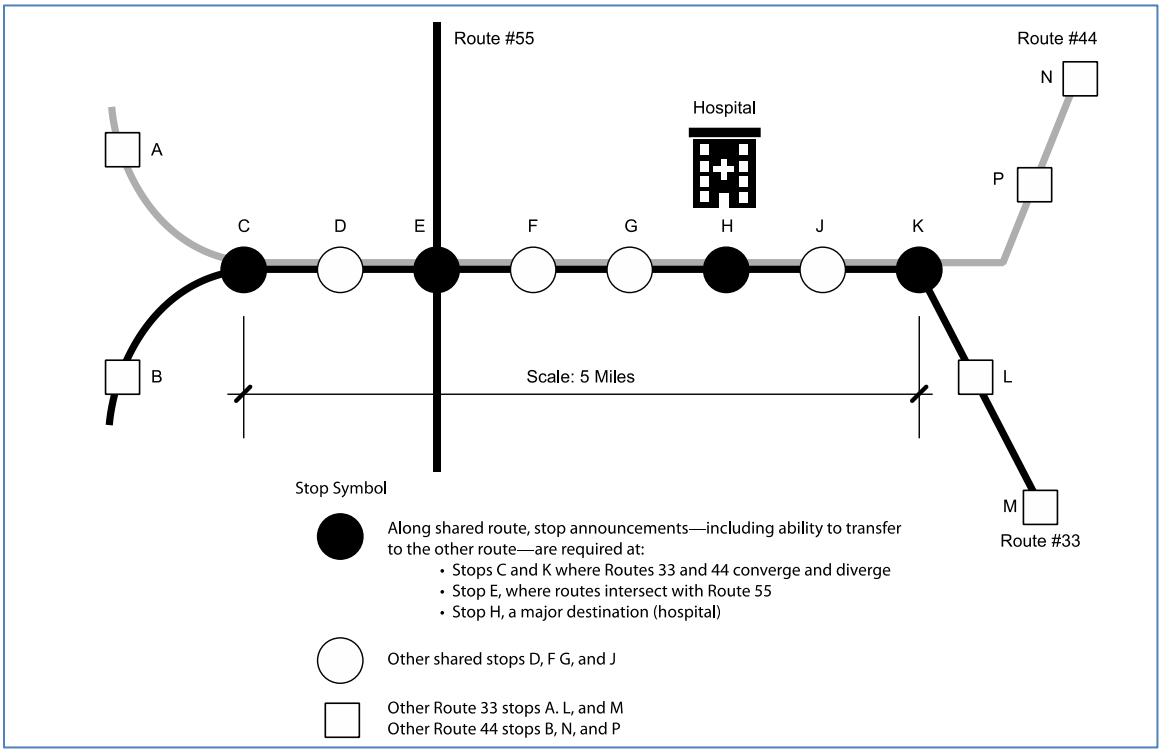


Figure 6-2 – Stop Announcements for Combined Bus Routes (5-mile section)

Major Intersections and Major Destination Points

Transit agencies must also announce stops at major intersections or destination points with appropriate orienting information (e.g., include the destination name and the intersection location). As discussed in the Appendix D section on Other Service Requirements, the selection of major intersections or destinations is deliberately left to the local planning process.

A good practice is to include the following types of locations for stop announcements, as applicable:

- Time points and cross streets published in schedules and on route maps
- Public facilities such as government offices, libraries, and schools
- Medical facilities
- Retail districts
- Cultural and entertainment venues
- Other popular destinations

Sufficient Intervals

In order to orient a visually impaired rider to his or her location, transit agencies must announce stops at sufficient intervals along the route. The regulations do not define the intervals, and agencies may tailor intervals to local conditions using metrics such as distance (e.g., at least every half mile) or time (e.g., at least every 90 seconds). Regardless of the method chosen, a good practice is to consider the implications for riders who would have to backtrack to reach the stop they wished to use because the stop announcement did not take place.

At the Rider's Request

Transit agencies must also announce any stop or station a rider with a disability may request. For agencies using automated stop announcement systems (see below), if the system does not automatically announce a requested stop, then bus drivers or rail operators must do so. To ensure that rail operators announce a specific station, agencies should encourage riders to approach an agency employee (operator on light rail, operator on rapid rail, conductor on commuter rail) and request the station announcement.

Stop Announcement Considerations

Considerations for stop announcements include developing stop lists, announcing all stops (particularly for rail stations), the use of public address systems, and the use of automated stop announcement systems.

Developing and Maintaining Stop Lists

Many transit agencies develop their own lists of stops to announce. When doing so, a good practice is to solicit public input on a draft set of stop lists and then modify the lists based on the obtained input. FTA recommends consulting with groups that represent or work with individuals with visual and cognitive disabilities when developing the lists. Agencies should keep stop announcement lists current for each route and incorporate any changes as soon as possible (e.g., new routing, added or removed stops, temporary construction-related closures, etc.). As with any service-related changes, agencies should communicate this information to their customers. When lists are finalized, a good practice is for transit agencies to provide vehicle operators with lists (printed or electronic) of stops (in both directions of travel) for the routes they operate.

Announcing All Stops

As noted above, transit agencies operating rapid rail and commuter services typically announce all station stops for these services. Some agencies that operate light rail service also announce all station stops. Further, some agencies also announce all stops for fixed route bus service, but usually only agencies using

automated systems do so. This practice eliminates the need to determine what is a "major intersection" or "major destination" or to judge sufficient "intervals along a route." Agencies should be aware that under this policy, because riders would be accustomed to hearing an announcement for each stop, riders would similarly expect bus drivers to announce all stops whenever the automated system is not working. While limiting the announcements to only the stops that meet the criteria set forth in § 37.167(b) would be compliant, such practices might confuse some riders who are listening for the announcement of each stop.

Public Address Systems

All accessible rail vehicles (light rail, rapid rail, and commuter rail) and buses longer than 22 feet must have a public address system for amplifying announcements. Riders must be able to hear announcements from any location within the bus or rail car. To increase audibility, agencies should encourage their personnel to use the public address system when making announcements.

When the public address system or automated announcement system is absent or inoperable, operators must still announce stops consistent with the requirements.

Effective Stop Announcements

Effective stop announcements should be:

- Clear: Riders unfamiliar with the route and neighborhood should be able to understand the name of the stop.
- Audible: Riders should be able to hear the announcement from any location within the bus or train.
- Timely: Upon hearing an announcement, riders should have sufficient time to press the stop request device to enable drivers to stop at a desired location.
- Consistent: The wording should be structured the same way for all stops; for stops served by multiple routes, vehicles on all routes should announce the stop consistently. Agencies might adopt the convention of only announcing cross streets. For example, if traveling on Broadway and intersecting with Market Street, announce: "Market Street." If turning onto Market Street from Broadway, the convention might be to announce: "Market Street at Broadway." For transfer stops, announce routes in numeric order ("Routes 10, 25, 77"), followed by transfers to other modes.
- Familiar: For stop announcements at major destination points, agencies should consider using the popular name for a stop (e.g., "Target") rather than a more general but less familiar name (e.g., "Smith Street Mall"). If the stop at a major destination point is also at an intersection, agencies should announce the intersecting street (consistent with the adopted style) along with the name of the destination.
- Orienting: For transfer points, a good practice is to identify the other routes and modes serving the stop; the length of the announcement should be tailored appropriately.

Automated Stop Announcement Systems

As noted above, many transit agencies are now using automated systems to announce stops. Automated systems offer several benefits:

- When correctly programmed, automated systems provide clear, accurate, comprehensive, and timely announcements.
- Automated systems can store announcement lists in each vehicle for all routes (and route variations).

As with any technology, an automated stop announcement system may not function or not be programmed correctly. Any of the following may lead to incorrect and/or poor performance:

- Stop list is out of date
- Positioning signal is blocked, omitting geographic information
- Positioning technology does not properly account for the direction or speed of the vehicle, leading to stop announcements that are too early or too late
- Positioning technology uses incorrect coordinates to identify bus stop locations

Monitoring Stop Announcements for Compliance

To ensure compliance with the stop announcement requirements, transit agencies should monitor drivers' performance as well as the effectiveness of the announcement equipment. Agencies may employ the following people to conduct field observations:

- Road supervisors or managers
- Agency employees commuting by fixed route
- Volunteer riders who record and submit their riding experiences ("secret" or "ghost" riders)
- Contracted secret riders

When road supervisors or managers perform in-service observations, they should be as inconspicuous as possible. Observers should not wear uniforms or other identifying items. For transit agencies with multiple garages, a good practice is to assign road supervisors to observe employees from other garages or to work with other agencies. For example, in Washington and Wisconsin, state transit associations arrange to have supervisors from other member agencies act as secret riders.

Stop Announcement Data Collection

Attachment 6-1 presents a sample data collection form for recording stop announcement performance. Regardless of the specific form used, transit agencies should capture the following information for each observation:

- Date
- Route number and direction
- Vehicle number
- Time and stop when boarding the bus
- Time and stop when alighting the bus

The data collection form may include a list of all required stop announcement locations. To facilitate data collection, a good practice is to print the stop names on data forms. For each announcement, observers should record:

- Whether the announcement was made
- How the announcement was made (by the driver or by the automated system)
- Whether the announcement was audible
- Whether the announcements were timely (i.e., early enough for riders to press a stop request indicator button)

The observer should also note other relevant issues, including:

- Did the driver use the public address system to announce stops?
- Did the driver (or automated system) announce stops not on the stop list?

- Did a rider ask the driver to announce a particular stop and did the driver announce that stop properly?
- Are there certain locations or stops that should be announced but are not? Such announcements can include places along long intervals without any announcements, as well as route segments with several turns.

Observers should sit in the middle or toward the rear of the vehicle to confirm that announcements are audible from these locations.

For any given set of observations, observers do not need to ride the full route when part of a larger set of observations; 10–20 minutes on a vehicle observing a single driver is usually sufficient.

6.5.2 Route Identification

Requirement

"Where vehicles or other conveyances for more than one route serve the same stop, the entity shall provide a means by which an individual with a visual impairment or other disability can identify the proper vehicle to enter or be identified to the vehicle operator as a person seeking a ride on a particular route" (§ 37.167(c)).

Discussion

FTA notes that the techniques commonly used to achieve route identification have changed since DOT first issued the ADA regulations. The discussion in the Appendix D section on Other Service Requirements identifies techniques such as colored mitts or numbered cards that waiting riders would use to inform drivers which route they desired to use. Today, most buses and many rail cars are equipped with external speakers for announcing route information. At bus or rail stations, many transit agencies use the station's public address system to identify arriving vehicles. Agencies using public address systems may also choose to make such announcements manually or through automated systems.

Note that the regulations require route identification measures only at stops or stations served by more than one route or line. This requirement also applies to rail stations that serve trains of the same route, but traveling in opposite directions. Announcements are not required for a single line stop or station, but many transit agencies—particularly those that have automated announcement systems—identify the routes at all stations or stops, eliminating the need to determine which stops require route identification.

Methods of Announcing Routes

Depending on available technology, the following are four ways in which transit agencies can make the required route identification announcements:

1. Bus drivers or rail vehicle personnel can manually announce the route by opening the door and speaking to waiting riders at the stop or station.
2. Bus drivers or rail vehicle personnel can manually announce the route by using external public address systems if vehicles are so equipped. While Subpart B of Part 38 (Buses, Vans and Systems) does not require external speakers on buses, many transit agencies have acquired buses equipped with external speakers.

   Subpart C of Part 38 requires rapid rail cars serving more than one line to have external public address systems. However, external speakers are not required where station announcement systems provide information on arriving trains. (See §§ 38.61(a)(1)—(2).)
3. Transit agencies can equip their bus and rail vehicles with automated route identification systems. (See below.)

4. As noted in (2) above, transit agencies may identify routes from boarding areas rather than from arriving vehicles using automated systems or manually (using public address systems or not).

Operators should announce routes, even if waiting riders do not appear to have a visual impairment (e.g., someone not using a cane or without a service animal).

A good practice for transit agencies using vehicles with external speakers is to test speaker volume and fidelity in settings where announcements typically take place (e.g., transfer centers, commercial districts, and residential areas). Calibrating external speakers to field conditions helps to ensure that riders will be able to clearly hear announcements. See the discussion above on making effective announcements.

Automated Route Identification Systems

Automated systems for route identification are typically paired with automated stop announcement systems. (See above.) When correctly programmed, these systems provide clear, accurate, comprehensive, and timely announcements. Such systems can be programmed for use on multiple routes and route variations.

As with any technology, automated announcement systems may fail, be incorrect, or be improperly programmed either through the software or by drivers entering the incorrect information on the vehicle. In these cases, operators must manually announce and identify routes.

A good practice is for drivers to test the announcement system at the beginning of the work shift. If the announcement system or the external public address system is not working properly, the driver is responsible for making the announcements unaided by a public address system.

Monitoring Route Identifications for Compliance

To ensure compliance with the route identification requirements, transit agencies should monitor drivers' performance as well as the effectiveness of the announcement equipment. Agencies can employ the following people to conduct field observations:

- Road supervisors or managers
- Transit agency employees commuting by fixed route
- Volunteer riders who record and submit their riding experiences ("secret" or "ghost" riders)
- Contracted secret riders

Road supervisors or managers who perform in-service observations should be as inconspicuous as possible. For transit agencies with multiple garages, a good practice is to assign road supervisors to observe employees from other garages or from other agencies, as discussed above. Observers should not wear uniforms or other identifying items.

Route Identification Data Collection

Attachment 6-2 presents a sample data collection form for recording route identification performance. Regardless of the specific form used, transit agencies should capture the date and location of each observation. Observers should stand at stops or stations that multiple routes or lines serve, such as major transfer centers or downtown locations. As each bus or train arrives, observers should record:

- Vehicle number
- Route number or line name
- Time of arrival
- Did an announcement of the route or line take place?
- Did the driver, other transit employee, or an automated system make the announcement?
- What information did the announcement include?

The number of routes and lines that serve each stop or station observation site and the operating schedule will determine how much data each observer can record.

Announcements at Stops and Platforms

As noted above, transit agencies may choose to make route identification announcements using audio and visual devices that are located at the stops or platforms, rather than from the vehicles. This is common at rail facilities that have public address systems and visual displays that provide information about rail vehicles waiting at particular platforms or approaching the station. Large bus facilities—particularly those that serve as major transfer points—also feature route identification information to waiting riders through public address systems and visual displays in addition to (or in place of) route identification announcements made from individual buses.

If a transit agency chooses to make route identification announcements that originate from a facility rather than from vehicles, a good practice is to ensure that riders can hear and see these announcements at all stops and platforms, as well as from any waiting areas. It is also a good practice to make these announcements with sufficient advance notice so that riders may travel from waiting areas to their vehicles in time to board the vehicle.

6.6 Accessible Information About Transportation Services

Requirement

"The entity shall make available to individuals with disabilities adequate information concerning transportation services. This obligation includes making adequate communications capacity available, through accessible formats and technology, to enable users to obtain information and schedule service" (§ 37.167(f)).

Discussion

For fixed route services, the obligation to provide adequate information covers schedules, routes, and fares as well as information about service rules and temporary changes. At rail stations and other passenger facilities, essential information also includes signage indicating accessible routes and accessible entrances, as discussed in Chapter 3.

The DOT Standards for accessible facilities (discussed in Chapter 3) require that, where public address systems convey audio information to the public, transit agencies must provide the same or equivalent information in a visual format. There is no reverse requirement, i.e., not all information provided visually must necessarily be provided in an audio format. Whenever possible, FTA encourages transit agencies to employ information systems such as those that report the next bus/train arrival and to provide this information in both audio and visual formats. Some agencies accomplish this by making limited audio announcements such as "the next train is approaching" and/or "the next train is arriving."

Accessible Formats

Transit agencies must make written information available in accessible formats upon request. Accessible formats include large print, braille, audiotape, and electronic files usable by individuals with text-to-speech technology. This information must be in formats that individuals can use, but not necessarily in specific formats an individual may request. For example, if someone requests schedule information on audiotape but can use electronic files with the same information (e.g., text files that can be rendered as speech, braille, or large print), an agency can provide the information in electronic files. In addition, a

rider with a visual disability may need route and schedule information for bus service and request that information in audio format. The agency may ask the rider which routes he or she will be using and create audio files for only those routes rather than creating audio files for the entire set of bus routes. To meet the § 37.167(f) requirement, FTA encourages agencies to work with individuals who request information to determine the most appropriate alternative formats. A good practice is to maintain a mailing list (postal or electronic) of individuals who need information in accessible formats and to communicate changes in schedules or policies via mail.

Accessible Websites

Because agency websites are commonly a primary source of information for riders, transit agencies should ensure that their websites are accessible to persons with disabilities. Although DOT has not yet issued standards governing website accessibility, agencies may wish to use as a model the well-established standards set forth in Section 508 of the Rehabilitation Act. These standards address the accessibility of publicly available electronic information by Federal agencies, all public agencies that receive funding under the Assistive Technology Act of 1998 (which includes all state governments), and businesses and agencies that supply electronic and information technology goods and services to the Federal government.

Accessible Alternatives to Voice Telephone Communications

Transit agencies must offer accessible alternatives to voice telephone communications. This could include using (and having appropriate personnel trained to use) the national "711" relay service or other relay services available through states or telecommunications companies. It can also include using dedicated equipment such as telecommunications devices for the deaf (TDDs). Where telephone communications are a critical part of using transit services, FTA encourages agencies to obtain equipment that makes direct communication possible in addition to having relay services available. Good practices are to list TDD numbers and relay numbers (if used) on schedules, information brochures, and websites.

Personnel who are responsible for using TDDs must be properly trained to do so, including having familiarity with the particular jargon and shorthand that such device users typically employ. At least one trained staff person should be available to make and receive TDD calls during the hours in which telephone lines are open.

6.7 Priority Seating and the Securement Area

Requirement

"(1) When an individual with a disability enters a vehicle, and because of a disability, the individual needs to sit in a seat or occupy a wheelchair securement location, the entity shall ask the following persons to move in order to allow the individual with a disability to occupy the seat or securement location:

> (i) Individuals, except other individuals with a disability or elderly persons, sitting in a location designated as priority seating for elderly and handicapped persons (or other seat as necessary);
>
> (ii) Individuals sitting in or a fold-down or other movable seat in a wheelchair securement location.

(2) This requirement applies to light rail, rapid rail, and commuter rail systems only to the extent practicable.

(3) The entity is not required to enforce the request that other passengers move from priority seating areas or wheelchair securement locations.

(4) In all signage designating priority seating areas for elderly persons and persons with disabilities, or designating wheelchair securement areas, the entity shall include language informing persons sitting in these locations that they should comply with requests by transit provider personnel to vacate their seats to make room for an individual with a disability. This requirement applies to all fixed route vehicles when they are acquired by the entity or to new or replacement signage in the entity's existing fixed route vehicles" (§ 37.167(j)).

Discussion

It is not enough to have priority seating for individuals with disabilities and securement areas for riders who use wheelchairs if these individuals cannot gain access to these seats and securement areas. The regulations encourage giving these individuals priority over riders who are not elderly and riders without disabilities.

To encourage riders to comply with a driver's request, the regulations require the signage that designates priority seating areas or wheelchair securement areas to also include language informing people sitting in these locations that they should comply with requests by transit provider personnel to vacate their seats to make room for an individual with a disability.

The regulations distinguish between individuals sitting in priority seating and those occupying the fold-down seats over the securement area, in terms of which individuals a driver needs to ask to move. For the fold-down seats, § 37.167(j) does not include an exception for "other individuals with a disability or elderly persons." This means that drivers should ask ambulatory individuals with disabilities and seniors to move from the securement area if a wheelchair user needs to use the space. See FTA Response to Complaint No. 11-0076.

Note that the regulations require a driver (or other transit personnel) to ask an individual to move but do not require an agency to enforce that request. However, agencies may establish their own policies requiring riders to vacate priority seats and wheelchair securement locations upon request. If an agency chooses to establish such policies, a good practice is to inform all riders and to post a summary of these policies adjacent to the priority seats and wheelchair securement areas.

Priority Seating Signs on Buses and Vans

Priority seating sign requirements for buses and vans are contained in § 38.27. (See § 38.55 for rapid rail vehicles, § 38.75 for light rail vehicles, and § 38.105 for commuter rail vehicles, respectively). Each bus and van must contain sign(s) indicating that seats in front of the vehicle are priority seats for individuals with disabilities, and that other passengers should make such seats available to those who wish to use them. The exact language on the signs may vary depending on local preference and policies but must capture these elements in Part 38.

The regulations also require at least one set of forward-facing seats to be so designated. On many buses and vans, aisle-facing seats are designated and signed as priority seats, which is acceptable provided the first forward-facing seats are also designated and signed in accordance with this requirement.

Placement Policies for Strollers and Other Items

Transit agencies may also develop policies regarding the placement of strollers, luggage, and other items on vehicles. Because parents and caretakers, for example, commonly place strollers adjacent to fold-up seat/bench locations, a good practice is for agencies to clearly explain their policies regarding who has priority. For example, "the placement of large items such as strollers is permitted in fold-up seat locations only if riders who use wheelchairs or other mobility devices do not need to use those areas."

Applicability to Rail

On rail systems, because rail operators or other personnel are not always present to carry out requests for others to vacate priority-seating locations, the requirement to move applies only to the extent practicable. When transit agency personnel are present in rail cars (e.g., collecting fares, monitoring service, providing security, or for other reasons), they should ask other riders to make priority seats available to passengers with disabilities who need such seating.

Additional Considerations

Transit agencies may develop policies that cover the order in which wheelchair users are boarded along with other passengers. If capacity is available for riders who need wheelchair securement areas, vehicle operators must try to keep those seats and/or securement areas open for their use, regardless of whether riders who need priority seats and/or securement areas board first or last. Transit agencies may establish a policy that allows riders who use wheelchairs or other mobility aids to board first at a given stop or station. Such a policy may make it more efficient for such riders to maneuver to securement areas. However, if agencies establish a policy that others board before deploying a lift or ramp, vehicle operators should instruct other riders to keep securement areas free. This does not mean that riders with disabilities must receive priority above other riders. For example, if riders with disabilities are waiting at a bus stop and a bus at full capacity arrives at the stop, drivers do not need to (and should not) compel other riders to get off the bus in order to accommodate waiting riders. Finally, agencies may not establish any priorities such as giving lower boarding priority to riders who use mobility aids because they would occupy more space on the vehicle.

6.8 Adequate Vehicle Boarding and Disembarking Time

Requirement

"The entity shall ensure that adequate time is provided to allow individuals with disabilities to complete boarding or disembarking from the vehicle" (§ 37.167(i)).

Discussion

Vehicle operators must pay attention to riders who need extra time. This applies to riders who use wheelchairs as well as others with ambulatory or sensory disabilities who may need extra time to get to a seat. On buses, drivers should also allow time for riders with disabilities to be safely seated before moving the vehicle.

On rail vehicles, in situations when train personnel do not have visual contact with riders inside cars, agencies should instruct personnel to judge the amount of time that riders need to get to a seat or to situate their mobility device before proceeding. Agencies should also train employees to provide sufficient time at station stops to permit riders with disabilities to leave a seat or securement area and completely clear vehicle doorways.

6.9 Boarding Commuter Rail Riders Who Use Mobility Aids

As discussed in Chapter 3, level boarding to all accessible rail cars is required in each train that serves new and altered commuter rail stations. Level boarding means that between the platform and rail car doors, horizontal gaps cannot exceed 10 inches (13 inches for a curved track) and vertical gaps cannot

exceed 5.5 inches. However, if the horizontal gap is greater than 3 inches and/or the vertical gap is greater than 5/8 inch, transit agencies must also provide a bridge plate or ramp to span the gap. Agencies may store bridge plates (if used) either on the rail car or on the platform.

Transit agency personnel must be available to deploy a lift or bridge plate at any designated accessible entrance. Rail personnel using wayside lifts or bridge plates should align such devices with car doors to allow riders using mobility aids to enter and exit. They should also align lifts or bridge plates to minimize slopes in both the direction of travel and the cross slope. Agencies should provide initial and refresher training on the use of lifts and bridge plates.

Transit agencies must also have lifts or bridge plates available at stations where the regulations permit mini-high platforms if the gap between the rail car entrance and the mini-high exceeds 3 inches horizontal and/or 5/8 inch vertical.

In older trains, not all cars may be accessible. A good practice is for transit agencies to standardize the location of the accessible car(s) on all trains (e.g., the first car of eastbound and southbound vehicles). Agencies should then direct riders who need to board an accessible car to the appropriate location on the platform (with signage and audio announcements).

Attachment 6-1
Sample On-Board Fixed Route Stop Announcements Data Collection Form

Transit agencies must announce stops on fixed route systems, at least at transfer points with other fixed routes, other major intersections and destination points, and intervals along a route sufficient to permit individuals with visual impairments or other disabilities to be oriented to their location. (See § 37.167(b).)

The attached form is for use in monitoring compliance with this requirement. When monitoring stop announcements on fixed route vehicles, observers should be as inconspicuous as possible and behave as a regular rider.

For each announcement, observers should record:

- Whether the announcement was made
- How the announcement was made (by the driver or by the automated system)
- Whether the announcement was audible
- Whether the announcements were timely (i.e., early enough for riders to press a stop request indicator button)

The observer should also note other relevant issues:

- Did the driver use the public address system to announce stops?
- Did the driver (or automated system) announce stops not on the stop list?
- Did a rider ask the driver to announce a particular stop and did the driver announce that stop properly?
- Are there certain locations or stops that should be announced but are not? Such announcements can include places along long intervals without any announcements, as well as route segments with several turns.

Observers should sit in the middle or toward the rear of the vehicle to confirm that announcements are audible from these locations.

For any given set of observations, observers do not need to ride the full route; 10–20 minutes on a vehicle observing a single driver is usually sufficient, when part of a larger set of observations.

On-Board Fixed Route Stop Announcements Data Collection Form		
Date		**Bus No.**
Route No.	**Direction**	**Destination**
Boarded at:		**Disembarked at:**
Time (a.m./p.m.)		**Time (a.m./p.m.)**

Location: Include all stops called out by driver, in addition to all scheduled time points and transfer points
Stop type: Indicate major intersection, transfer, major destination, turn, etc.

Location	Stop Type	On-board Announcement Made? Yes/No	Announcement Method: Voice/PA/ Automated	Audible? Yes/No	Timely? Yes/No

Total Locations	Made	Not Made	Voice	PA	Automated	Audible	Not audible	Timely	Untimely

Notes:

Name: _____

Attachment 6-2
Sample Route Identification Data Collection Form

At stops or stations served by more than one route, transit agencies must provide a means by which an individual with a visual impairment or other disability can identify the proper vehicle to enter or be identified to the vehicle operator as a person seeking a ride on a particular route. (See § 37.167(c).)

The attached two-page form is for use in monitoring compliance with this requirement. When monitoring route identification practices, observers should be as inconspicuous as possible while collecting data.

Observers should stand at stops or stations that multiple routes or lines serve, such as major transfer centers or downtown locations. As each bus or train arrives, observers should record:

- Vehicle number
- Route number or line name
- Time of arrival
- Did an announcement of the route or line take place?
- Did the driver, other transit employee, or an automated system make the announcement?
- What information did the announcement include?

The number of routes and lines that serve each stop or station observation site and the operating schedule will determine how much data each observer can record.

Route Identification Data Collection Form			
Stop/Station/Location		**Date**	**Page No.** **Total Pages:**
1	Vehicle No.	Route/Line No./Name	
	Time (a.m./p.m.)	Route Announced? Y/N	
	Text of Announcement		
2	Vehicle No.	Route/Line No./Name	
	Time (a.m./p.m.)	Route Announced? Y/N	
	Text of Announcement		
3	Vehicle No.	Route/Line No./Name	
	Time (a.m./p.m.)	Route Announced? Y/N	
	Text of Announcement		
4	Vehicle No.	Route/Line No./Name	
	Time (a.m./p.m.)	Route Announced? Y/N	
	Text of Announcement		
5	Vehicle No.	Route/Line No./Name	
	Time (a.m./p.m.)	Route Announced? Y/N	
	Text of Announcement		
6	Vehicle No.	Route/Line No./Name	
	Time (a.m./p.m.)	Route Announced? Y/N	
	Text of Announcement		
7	Vehicle No.	Route/Line No./Name	
	Time (a.m./p.m.)	Route Announced? Y/N	
	Text of Announcement		
8	Vehicle No.	Route/Line No./Name	
	Time (a.m./p.m.)	Route Announced? Y/N	
	Text of Announcement		
9	Vehicle No.	Route/Line No./Name	
	Time (a.m./p.m.)	Route Announced? Y/N	
	Text of Announcement		
10	Vehicle No.	Route/Line No./Name	
	Time (a.m./p.m.)	Route Announced? Y/N	
	Text of Announcement		
Notes/observations (lift/ramp use, assistance provided, etc.)			

Name: _____

Route Identification Data Collection Form			
Stop/Station/Location		**Date**	**Page No.** **Total Pages:**
11	Vehicle No.	Route/Line No./Name	
	Time (a.m./p.m.)	Route Announced? Y/N	
	Text of Announcement		
12	Vehicle No.	Route/Line No./Name	
	Time (a.m./p.m.)	Route Announced? Y/N	
	Text of Announcement		
13	Vehicle No.	Route/Line No./Name	
	Time (a.m./p.m.)	Route Announced? Y/N	
	Text of Announcement		
14	Vehicle No.	Route/Line No./Name	
	Time (a.m./p.m.)	Route Announced? Y/N	
	Text of Announcement		
15	Vehicle No.	Route/Line No./Name	
	Time (a.m./p.m.)	Route Announced? Y/N	
	Text of Announcement		
16	Vehicle No.	Route/Line No./Name	
	Time (a.m./p.m.)	Route Announced? Y/N	
	Text of Announcement		
17	Vehicle No.	Route/Line No./Name	
	Time (a.m./p.m.)	Route Announced? Y/N	
	Text of Announcement		
18	Vehicle No.	Route/Line No./Name	
	Time (a.m./p.m.)	Route Announced? Y/N	
	Text of Announcement		
19	Vehicle No.	Route/Line No./Name	
	Time (a.m./p.m.)	Route Announced? Y/N	
	Text of Announcement		
20	Vehicle No.	Route/Line No./Name	
	Time (a.m./p.m.)	Route Announced? Y/N	
	Text of Announcement		
Notes/observations (lift/ramp use, assistance provided, etc.)			

Name: _____

Chapter 7 – Demand Responsive Service

7.1 Introduction

This chapter explains the U.S. Department of Transportation (DOT) Americans with Disabilities Act (ADA) regulations that apply to demand responsive transportation services, which are broadly defined as any system that is not fixed route. Section 37.3 provides the following definitions of demand responsive and fixed route system:

> Demand responsive system means any system of transporting individuals, including the provision of designated public transportation service by public entities and the provision of transportation service by private entities, including but not limited to specified public transportation service, which is not a fixed route system.
>
> Fixed route system means a system of transporting individuals (other than by aircraft), including the provision of designated public transportation service by public entities and the provision of transportation service by private entities, including, but not limited to, specified public transportation service, on which a vehicle is operated along a prescribed route according to a fixed schedule.

Demand responsive services encompass a wide variety of service types, including traditional dial-a-ride, taxi subsidy programs, vanpool programs, route deviation services, and point deviation services. Complementary paratransit service, also a type of demand responsive service, is covered separately in Chapters 8 and 9 of this Circular.

The additional topics covered in this chapter and associated regulatory sections are:

- Types of demand responsive services
- Purchase of vehicles, including equivalent service requirements (§ 37.77)
- General nondiscrimination (§ 37.5)
- Provision of service (§§ 37.161–37.167)

This Circular does not alter, amend, supersede, or otherwise affect the DOT ADA regulations themselves or replace or reduce the need for detailed information in the regulations. Suggestions of good practices are included throughout the Circular; FTA recognizes that there are many different ways agencies can implement the regulatory requirements and ensure the delivery of compliant service.

7.2 Characteristics of Demand Responsive Systems

As discussed in the Appendix D section on definitions in Part 37, a key factor in deciding whether a service is demand responsive rather than fixed route is whether riders must request service, typically by making a phone call:

> With fixed route service, no action by the individual is needed to initiate public transportation. If an individual is at a bus stop at the time the bus is scheduled to appear, then that individual will be able to access the transportation system. With demand-responsive service, an additional step must be taken by the individual before he or she can ride the bus, i.e., the individual must make a telephone call.

Other factors, such as the presence or absence of published schedules, or the variation of vehicle intervals in anticipation of differences in usage, are less important in making the distinction between the two types of service. If a service is provided along a given route, and a vehicle will arrive at certain times regardless of whether a passenger actively requests the vehicle, the service in most cases should be regarded as fixed route rather than demand responsive.

Not all interactions between riders and transportation providers make services demand responsive. For example, riders often call ahead when using intercity rail or bus services to purchase tickets or reserve seats. Because such interactions do not alter a service's route or schedule, they do not make the services demand responsive. Similarly, some fixed route services permit "flag stops," where riders can signal drivers and board a bus between designated stops. Because they still operate along fixed routes according to fixed schedules, such services are fixed route and not demand responsive.

7.2.1 Types of Demand Responsive Systems

Many types of services fall under the category of demand responsive services, including:

- Dial-a-ride service
- Taxi subsidy service
- Subscription van service
- Vanpool service
- Route deviation service

This section describes the most common of these services. The descriptions are presented to highlight transit options for consideration locally.

Note that the services classified as demand responsive service for purposes of this circular are distinct from the definition of "demand responsive mode" for the purposes of FTA's National Transit Database.

Dial-a-Ride Service

Perhaps the most common type of demand responsive system, dial-a-ride service operates in a defined area such as a city, county, or transit agency jurisdiction and during advertised days and hours. Pickups and drop-offs typically take place anywhere within the service area (and sometimes at important out-of-area destinations). Riders call to request a pickup time, and service providers develop schedules and routes according to these requests.

General public dial-a-ride services are commonly available in suburban and rural areas that do not have sufficient population density to support fixed route service. Section 5311 and § 5307 funding typically support general public dial-a-ride services.

Some agencies operate dial-a-ride services for seniors, individuals with disabilities, or others, and often operate these services as a supplement to fixed route and complementary paratransit services. Section 5310 funding is often used to support these types of dial-a-ride services.

Taxi Subsidy Service

Taxi subsidy service, often classified as user-side subsidy or provider-side subsidy service, is also a common type of demand responsive transportation. In both variations, transit agencies contract with local taxi companies to provide service. In user-side taxi subsidy programs, agencies sell discounted vouchers (also known as scrip) to riders, who arrange trips directly with taxi providers and use the vouchers as payment for rides. For provider-side subsidy programs, riders may arrange trips through a transit agency; the agency contracts with vendors (taxi companies) for service and subsidizes a portion of the taxi fare

through its direct payment to vendors; the rider pays a fare or agreed-upon amount for each trip. Taxi subsidy service is not considered public transportation for purposes of FTA's grant programs.

Subscription Van Service

Subscription van services provide a defined set of riders with ongoing transportation. This might include reverse commuters working in a common location or social service agency clients traveling to agency programs. Riders either call to request ongoing transportation or the programs or workplaces arrange transportation services with the providers.

FTA notes that even though the same group of riders may follow a similar daily route and schedule, subscription van service is considered demand responsive, not fixed route. The roster of van riders can change over time, leading to changes in routes and schedules.

Vanpool Service

Vanpools transport groups of riders to and from a common location (typically a place of work). A member of the group drives the van in return for reduced or waived participation fees; transit agency drivers or contractor drivers are not used. Typically, agencies that sponsor and administer vanpools coordinate the creation of vanpool rider groups, set the cost of the service, and collect regular payments from riders. Agencies also purchase or lease, insure and maintain the vans.

Route Deviation Service

Route deviation services operate along established routes that typically have designated stops. Between these stops, drivers can "deviate" from an established route to pick up or drop off riders within a defined off-route service area. Figure 7-1 illustrates the route deviation concept.

Transit agencies operating route deviation services typically ask riders to call in advance (e.g., 1–2 hours prior to desired pickup time) to request off-route pickups.

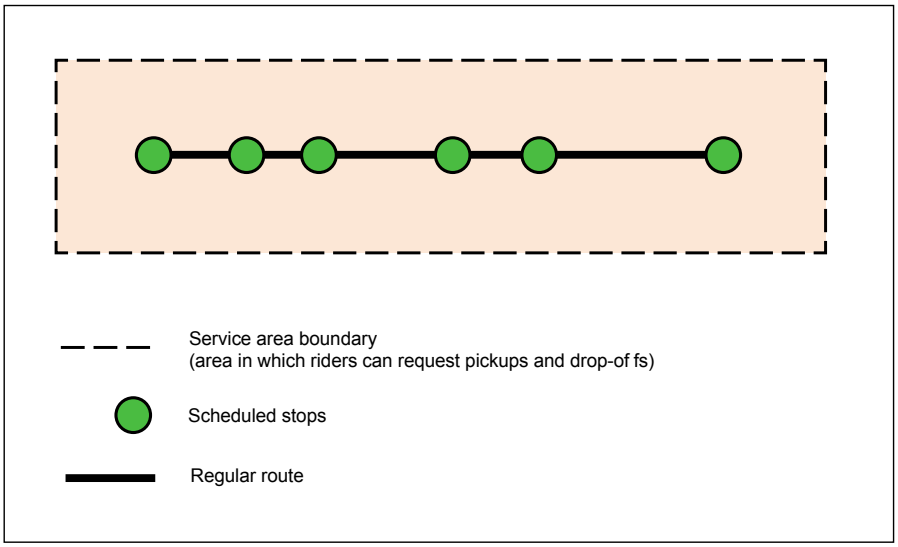


Figure 7-1 – Route Deviation Service[10]

[10] Source: Transit Cooperative Research Program Report 163, Strategy Guide to Enable and Promote the Use of Fixed-Route Transit by People with Disabilities, Transportation Research Board, 2014

7.2.2 Other Types of Service

Transit agencies have developed other types of demand responsive service that may include some elements of user interaction. Some of these services are similar to the common types of services described above with variations. Agencies should evaluate these other services on a case-by-case basis and should consult the Part 37 definitions and the Appendix D discussions referenced in this chapter to determine whether the services are demand responsive or fixed route.

7.3 Acquisition of Vehicles for Demand Responsive Systems

7.3.1 Requirement to Purchase Accessible Vehicles

Requirement

"Except as provided in this section, a public entity operating a demand responsive system for the general public making a solicitation after August 25, 1990, to purchase or lease a new bus or other new vehicle for use on the system, shall ensure that the vehicle is readily accessible to and usable by individuals with disabilities, including individuals who use wheelchairs" (§ 37.77(a)).

Discussion

When purchasing new vehicles for demand responsive service, transit agencies must ensure that the vehicles are readily accessible to and usable by individuals with disabilities, including individuals who use wheelchairs. Agencies operating fully accessible demand responsive service fleets remain subject to the general nondiscrimination requirements in § 37.5. (See Chapter 2.)

Chapter 4 provides guidance on purchasing accessible vehicles that meet the Part 38 requirements (Accessibility Specifications for Transportation Vehicles). Part 38 Subpart B contains the specifications for buses, vans, and systems, which are the vehicles typically used in demand responsive services.

7.3.2 When Transit Agencies May Purchase Inaccessible Vehicles

Requirement

"If the system, when viewed in its entirety, provides a level of service to individuals with disabilities, including individuals who use wheelchairs, equivalent to the level of service it provides to individuals without disabilities, it may purchase new vehicles that are not readily accessible to and usable by individuals with disabilities" (§ 37.77(b)).

Discussion

See the discussion of equivalent service in the next section.

7.3.3 Equivalent Service

Requirement

"For purposes of this section, a demand responsive system, when viewed in its entirety, shall be deemed to provide equivalent service if the service available to individuals with disabilities, including individuals who use wheelchairs, is provided in the most integrated setting appropriate to the needs of the individual

and is equivalent to the service provided other individuals with respect to the following service characteristics:

(1) Response time;

(2) Fares;

(3) Geographic area of service;

(4) Hours and days of service;

(5) Restrictions or priorities based on trip purpose;

(6) Availability of information and reservations capability; and

(7) Any constraints on capacity or service availability" (§ 37.77(c)).

Discussion

Service in the Most Integrated Setting

In general, providing service in the most integrated setting appropriate to the needs of the individual means providing service to individuals with disabilities on the same vehicles and together with all other riders. When the service provided is demand responsive, there may be limited circumstances under which the use of a separate vehicle is necessary, but such instances are extremely rare.

It is important to keep service integration in mind when designing seating plans and preparing specifications for acquiring accessible vehicles. While it is reasonable to acquire a small number of vehicles to meet specific needs, such as transporting a group of riders who use wheelchairs to participate in workshops, transit agencies should not limit their accessible fleet to wheelchair-only vehicles. Instead, transit agencies should acquire vehicles that can accommodate all riders.

Within the concept of service in the most integrated setting, transit agencies may include inaccessible sedans in the overall fleet of vehicles providing demand responsive service. This enables agencies to serve some riders with smaller vehicles that cost less to operate. In such instances, other riders traveling in an agency's fleet of accessible vans and minibuses would travel in an integrated setting.

Service Characteristics

The seven service characteristics in § 37.77(c) for determining equivalency for riders with disabilities, including those who use wheelchairs, are:

- Response time: The elapsed time between a request for service and the provision of service must be the same for riders with and without disabilities, and days and hours to request service must be the same.
- Fares: The fare must be the same for all riders.
- Geographic area of service: Riders with disabilities must be able to request trips in the same area or areas as other riders.
- Hours and days of service: Riders with disabilities must be able to request trips on the same days and during the same hours as all other riders.
- Restrictions or priorities based on trip purpose: For demand responsive service with restrictions or priorities based on trip purpose, the same restrictions or priorities must apply to all riders. Transit agencies may establish policies that restrict or prioritize service based on trip purpose (e.g., medical transportation only), as long as they apply these policies in the same way for all riders regardless of ability.
- Availability of information and reservations capability: Riders with disabilities must have access to the same information and reservation systems as other riders, including information in alternate formats (e.g., large print, braille, audio, or accessible electronic files for riders with vision

disabilities). Agencies must make alternate formats available on request, usable by the individual, and appropriate to the intended use. Similarly, individuals with hearing or speech disabilities must have equal access to trip reservations systems to be able to request service. This might include access through TTYs or relay services or accessible online booking services.

- Any constraints on capacity or service availability: In demand responsive services with service availability or capacity constraints, the constraints must be the same for all riders. Demand responsive services are permitted to have trip denials and provide trips on a first-come, first-served basis. Riders with disabilities should encounter the same frequency of trip denials as riders without disabilities. Similarly, demand responsive services are permitted to have waiting lists or trip caps, as long as riders with disabilities are not wait-listed more often or do not have more restrictive trip cap limitations. Finally, demand responsive services may have poor on-time performance or have excessively long ride times due to limited service capacity, as long as riders with disabilities do not experience lower on-time performance or longer ride times than other riders.

FTA notes that the above equivalency requirements are often confused with the service criteria for complementary paratransit service. Similar service characteristics are used to define the requirements for both types of services (response time, fares, service area, days and hours, trip purposes, and capacity constraints). However, there is an important, fundamental difference in the requirements. A transit agency's complementary paratransit service characteristics are measured against its fixed route service and must be "comparable" to the level of fixed route service. (See Chapter 8.) For demand responsive service, the comparison is between riders with disabilities and riders without disabilities, and the level of service provided must be "equivalent." For example, unlike complementary paratransit service, demand responsive service can have capacity constraints and trip purpose restrictions as long as the constraints and restrictions are equivalent for all riders.

FTA also notes that as long as transit agencies provide equivalent service, they can also provide higher levels of service to individuals with disabilities, such as prioritizing routes and schedules for riders with disabilities or offering them reduced fares. Accordingly, throughout this chapter, references to equivalent service being "the same" imply "the same or better."

Service When Viewed in its Entirety

Determining equivalency also considers the demand responsive service when viewed in its entirety. For example, some transit agencies may use multiple service providers to operate demand responsive services. Each service provider could have a different mix of accessible and non-accessible vehicles. One provider might primarily use sedans (e.g., a taxi service), while another might operate a fleet of accessible vehicles. When determining equivalency, agencies must view the combined services of all service providers. When some service providers use inaccessible vehicles, it is important to ensure that these providers operate with the same policies and practices. For example, a taxi provider might accommodate same-day service requests while another provider using vans might require advance reservations. Providing equivalent service in this regard means riders who need to travel in an accessible vehicle do not have to place reservations earlier than riders who use the taxi service do.

Demand Responsive Service with Fully Accessible Fleets

As noted above, the § 37.5 general nondiscrimination requirements apply to demand responsive service. FTA would consider as discriminatory a fully accessible demand responsive system that, when viewed in its entirety, did not provide equivalent service in the most integrated setting appropriate to the needs of the individual with a disability.

7.3.4 Certification

Requirement

"A public entity receiving FTA funds under 49 U.S.C. 5311 or a public entity in a small urbanized area which receives FTA funds under 49 U.S.C. 5307 from a state administering agency rather than directly from FTA, which determines that its service to individuals with disabilities is equivalent to that provided other persons shall, before any procurement of an inaccessible vehicle, file with the appropriate state program office a certificate that it provides equivalent service meeting the standards of paragraph (c) of this section. Public entities operating demand responsive service receiving funds under any other section of the FT Act shall file the certificate with the appropriate FTA regional office. A public entity which does not receive FTA funds shall make such a certificate and retain it in its files, subject to inspection on request of FTA. All certificates under this paragraph may be made and filed in connection with a particular procurement or in advance of a procurement; however, no certificate shall be valid for more than one year. A copy of the required certificate is found in appendix C to [Part 37]" (§ 37.77(c)).

Discussion

Before acquiring inaccessible vehicles for use in a demand responsive service, transit agencies must first certify that the service using a future fleet that includes inaccessible vehicles will be equivalent for riders with disabilities, including riders who use wheelchairs. Attachment 7-1 provides a sample certification form. Certifications are valid for not more than one year, meaning the entity will have to recertify before acquiring additional inaccessible vehicles through future procurements.

The requirements for filing certifications vary depending on the type of funding received and the agency receiving funding, as discussed below.

Recipients of Federal Public Transportation Funds (Other Than § 5307 or § 5311)

Transit agencies that receive Federal Public Transportation Act funds—other than recipients of § 5311 and § 5307 grants—must file certificates with the appropriate FTA regional office.

Section 5311 and § 5307 Grant Recipients

Transit agencies that receive FTA funds under § 5311, or transit agencies in small urbanized areas that receive FTA funds under § 5307 from a state administering agency rather than directly from FTA, must file certificates with the appropriate state program office.

Section 5310 Grant Recipients

Section 5310 recipients should send certifications to the state administering agency or their designated recipient.

Other Public Entities

Public entities that do not receive FTA funds must keep the required certifications on file, subject to inspection on request.

7.4 Equivalency Considerations for Various Types of Demand Responsive Services

Following are examples of issues related to equivalency that might apply to common types of demand responsive services.

7.4.1 Equivalency for Dial-a-Ride Services

Many dial-a-ride services combine individual transportation and group transportation. Individual transportation services might enable trips for shopping, personal business, or medical appointments. Group trips might serve those traveling to local programs such as senior nutrition programs. Providing services in the most integrated setting is a particularly important issue for group trips when they include social elements. For example, if transporting groups of seniors from a meal center, it would not be in the most integrated setting to transport participants without disabilities home in one vehicle and use a separate accessible vehicle to transport the riders who use wheelchairs.

If multiple service providers with different mixes of accessible and non-accessible vehicles are involved in providing service, it is important to consider whether the providers with accessible vehicles operate all the days and hours and in all parts of the service area as providers that operate mainly non-accessible vehicles.

Differences in fares, if any, cannot be based on whether a rider has a disability. If service providers charge agencies more to provide trips in lift-equipped vans than in sedans or non-lift vans, the agency must take this into account when negotiating its contracts. However, the agency cannot require riders with disabilities who need accessible vehicles to pay a higher fare.

Subrecipients

FTA recipients should confirm that subrecipients file certifications of equivalency when awarding any inaccessible vehicles. Recipients should also consider asking funding applicants who request inaccessible vehicles to document equivalency of services. The documentation should address each area of equivalency, indicating that service will be the same in terms of response time, fares, geographic areas of service, days and hours of service, trip purpose, information and reservations capability, and capacity and service availability.

To be able to accurately certify that service is equivalent, subrecipients that request and receive inaccessible vehicles should review policies and operating procedures to ensure that service is available in the same area, at the same times, with the same response time, and for the same trip purposes for all types of riders. This includes riders with disabilities who use wheelchairs as well as others who may need accessible vehicles. Subrecipients should monitor daily operations to ensure compliance with policies and operating procedures and that the service is equivalent.

Subrecipients that obtain or plan to obtain inaccessible vehicles should also gather and analyze service data to determine if service is the same for all riders. Data should compare the following minimum service characteristics for riders who need accessible vehicles with riders who do not need accessible vehicles:

- Trip denials and missed trips
- On-time performance
- On-board ride times
- Telephone hold times

Using Dial-a-Ride Service to Also Provide Complementary Paratransit Service

Some transit agencies that operate both general public dial-a-ride and fixed route service use the general public dial-a-ride service (i.e., vehicles, drivers, scheduling, and dispatch) to meet all or part of their complementary paratransit service requirements. In these cases, agencies must have a process for determining who is ADA paratransit eligible and ensure that the service provided to such individuals meets the complementary paratransit service requirements. (See Chapter 8.) Agencies should record and track trip requests and completed trips by type of rider—those determined ADA paratransit eligible versus

others not ADA paratransit eligible. Such separate tracking of trips is necessary to ensure compliance with the complementary paratransit requirements even if the general public dial-a-ride portion of the service has capacity constraints.

If the general public dial-a-ride portion of a transit agency's service cannot accommodate all trip requests, agencies must give scheduling priority to ADA paratransit eligible riders to ensure that service for complementary paratransit riders operates without capacity constraints. Agencies should also clearly describe both levels of service (service available to the general public and service for ADA paratransit eligible riders) so that individuals with disabilities who use the service understand the benefits of applying for ADA paratransit eligibility. Finally, while not all individuals with disabilities will be eligible for ADA paratransit service, agencies should not discourage individuals with disabilities who inquire about complementary paratransit service from applying for ADA paratransit eligibility and instead steer them toward the general public service, which may be constrained. Agencies should ensure individuals with disabilities are aware of the existence of ADA paratransit and the process for applying for eligibility if they feel an individual might be eligible. This would enable ADA paratransit eligible riders to request complementary paratransit service, which must be unconstrained, even if the agency's general public service has capacity constraints.

7.4.2 Equivalency for Taxi Subsidy Services

Taxi subsidy programs that transit agencies administer must provide equivalent service to individuals with disabilities—including those who use wheelchairs—that qualify for these services. Taxi subsidy programs that use only non-accessible taxicabs would not meet the regulatory requirements for equivalency. One way to provide equivalent service is to work with participating taxi companies to incorporate accessible vehicles into their taxicab fleets. Another way is to contract with other companies that can provide accessible service, with terms negotiated such that the rider requiring an accessible vehicle is not subject to higher fares and receives equivalent service quality.

Transit agencies operating taxi subsidy programs should carefully monitor response times for riders with disabilities, including those who use wheelchairs, to ensure these riders experience the same response times as other riders. If a cab rider without a disability experiences an average response time of 30 minutes, then riders with disabilities who need accessible vehicles must also experience response times of 30 minutes or less. Achieving the same response times for all riders can be challenging when only a small portion of the total available taxi fleet is accessible. One way to meet this challenge is to establish a central dispatch service and work with operators of accessible taxicabs to prioritize use of the accessible taxicabs for riders with disabilities who need these vehicles. If equivalency within the program is achieved by using a separate company that operates accessible vehicles, agencies are responsible for ensuring that the separate company offers the same response times.

Transit agencies should also confirm that the fare for riding in an accessible taxicab does not exceed the fare for riding in standard taxicabs. This can be an issue if the companies that operate accessible and non-accessible vehicles have different fare structures. In programs with capped subsidies (e.g., up to $10 per trip), riders who need accessible taxicabs through a more costly provider would have to pay more than those receiving similar trips in less costly non-accessible taxicabs. In programs with discount coupons, riders requiring service in more expensive accessible taxicabs would use more coupons on comparable trips. In programs with discount coupons, one remedy is to tie coupons to specific rides and not to dollar values or to provide higher subsidies to riders who require accessible taxicabs.

7.4.3 Equivalency for Vanpool Services

Requirement

"Vanpool systems which are operated by public entities, or in which public entities own or purchase or lease the vehicles, are subject to the requirements of [Part 37] for demand responsive service for the general public operated by public entities. A vanpool system in this category is deemed to be providing equivalent service to individuals with disabilities if a vehicle that an individual with disabilities can use is made available to and used by a vanpool in which such an individual chooses to participate" (§ 37.31).

Discussion

Transit agencies that operate vanpool services should be prepared to accommodate requests from individuals with disabilities, including individuals who use wheelchairs. Accommodating vanpool requests in the same response time is particularly important. For example, if riders without disabilities can join an existing vanpool in one or two days, riders who use wheelchairs who want to join a vanpool must be able to join in the same timeframe. (See Chapter 4 for a discussion on vehicle acquisition planning that considers potential new customers with disabilities.)

Equivalent Costs

Transit agencies cannot charge riders with disabilities higher rates for vanpool participation. To make the contributions/fares the same, agencies might consider subsidizing the cost difference to riders in accessible vanpools or assess a surcharge to all vanpools to offset any higher rider costs of accessible vanpools.

Vanpool Driver Training

Transit agencies should ensure that riders who volunteer to serve as drivers receive proper training in the event that individuals with disabilities join the vanpools. Such training might include how to operate vehicle lifts.

7.4.4 Equivalency Considerations for Route Deviation Services

As discussed above, route deviation services operate along established routes that typically have designated stops. Between these stops, drivers can "deviate" from an established route to pick up or drop off riders within a defined off-route service area.

To be considered demand responsive rather than fixed route, route deviation services must accept deviation requests from all riders. Deviated fixed route services that limit route deviations to only riders with disabilities are not demand responsive services. These are fixed route services for which complementary paratransit is required. (See Chapter 8.)

Some transit agencies operate a mix of route deviation and fixed route services. FTA considers the routes that permit riders to request deviations as demand responsive. Routes that do not allow deviations are fixed route; complementary paratransit is required.

Similarly, some transit agencies allow deviations only at certain times. For example, an agency may operate fixed route service during peak hours and limit deviation requests to off-peak hours when the schedule can accommodate off-route pickups and drop-offs. In such instances, FTA considers the service fixed route during peak periods and demand responsive during the times that deviations are permissible. Agencies must provide complementary paratransit during hours when the service is fixed route.

Discriminatory Practices that Limit the Use of Route Deviation Services

Transit agencies must ensure that their policies and practices do not discriminate against individuals with disabilities. (See Chapter 2.) The following are examples of discriminatory practices in the provision of route deviation services.

- Creating route deviation services "in name only" as a way to avoid providing complementary paratransit service. This would include designating services as route deviation in plans and other documents but not promoting them. To ensure that individuals with disabilities who cannot get to and from designated stops are still able to use the service, transit agencies should clearly explain the availability of route deviations on schedules and in other public information.
- Establishing policies for deviations that would significantly limit the use of the service by individuals with disabilities who are not able to get to and from designated stops and can therefore only use the service by requesting deviations. This would include:
    - Excessive surcharges for deviations
    - Overly restrictive areas within which riders can request deviations
    - Limiting deviations to only certain trip purposes
    - Unreasonable limitations on the number of deviations agencies will accommodate

To avoid discriminating against riders with disabilities who may only be able to use the services by requesting deviations, surcharges for deviations should be reasonable (e.g., no more than twice the base fare). The service area within which deviations are allowed should be reasonable (e.g., up to 3/4 mile). Policies on the number of deviations that agencies will accommodate per run also should not significantly limit the service.

Combining Limited Deviation and Demand Responsive Services to Meet Complementary Paratransit Requirements

Operating route deviation services that have sufficiently liberal policies regarding deviations while not discriminating against riders with disabilities can be a challenge. Route deviation policies without limits can result in so many deviations that the fixed route portion of the service becomes unattractive to other riders. Some transit agencies limit the number of deviations that vehicles also operating along a fixed route can make and then serve other off-route requests with a supplemental demand responsive service.

As noted above, when transit agencies limit deviation requests to riders with disabilities, the service is fixed route; complementary paratransit is required. Agencies may accommodate requests for complementary paratransit service either by deviating vehicles from fixed route service—essentially comingling ADA paratransit eligible riders with fixed route customers on the same vehicle—or by using available supplemental demand responsive (e.g., dial-a-ride) vehicles. Agencies that use this approach should track and analyze the combined services (deviations and dial-a-ride trips) to ensure compliance with all complementary paratransit requirements, including the requirement to not have capacity constraints. Agencies must also have a process for determining ADA paratransit eligibility. (See Chapter 9.) A good practice is to track the service ADA paratransit eligible riders receive separately from other dial-a-ride riders.

7.4.5 Suggestions for Monitoring and Determining Equivalency

Table 7-1 offers suggestions for how to determine equivalency for each of the seven § 37.77 service characteristics when some of an agency's vehicles are not accessible to individuals with disabilities, including individuals who use wheelchairs. Transit agencies can determine the equivalency of basic service characteristics (such as response time, fares, service area, days and hours, and trip purposes) by reviewing policy statements, public information, and other documents that define for providers and the

public how the service is operated and the rules for its use. Agencies should examine operating procedures. This review should consider any differences between the policies and procedures used to serve riders with disabilities versus policies and procedures for serving riders without disabilities. Agencies using multiple providers should consider any variations in policies and procedures between providers, including those with mixed fleets of accessible and non-accessible vehicles.

Transit agencies can evaluate the availability of information and reservations capacity by examining policies and procedures for preparing information in accessible formats. Agencies should also review the accessibility of systems used in trip reservations, such as telephone or online systems. Agencies should monitor how accessible communications are handled to ensure that they are performed as efficiently as other types of communications.

Determining equivalency in the area of service capacity and availability requires more detailed analysis of various service constraints and limitations, such as waiting lists, trip caps, trip denials, on-time performance, and on-board ride times. In each of these areas, transit agencies should compare the experiences of riders with disabilities, particularly those who use wheelchairs and need accessible vehicles, to the experiences of other riders.

Table 7-1 Approaches for Determining Equivalency for Each Service Requirement

Service Requirement	Approaches for Determining Equivalency
The same response time	Review all policies that indicate how far in advance riders must request service and confirm that notification requirements are the same for individuals with disabilities. Consider all procedures for arranging service and confirm that individuals with disabilities receive service in the same amount of time. Monitor and observe the service to ensure adherence to policies and procedures and response time is equivalent in practice.
The same fares	Review all policies related to fares to confirm that individuals with disabilities pay the same fares as riders without disabilities for similar trips. Confirm that riders with disabilities do not have to pay any additional charges. Confirm that there are no additional charges that only riders with disabilities pay. Monitor and observe the service to ensure adherence to policies and fares are equivalent in practice.
The same geographic area of service	Examine the availability of accessible vehicles throughout the service area. This might include how the fleet is assigned and the mix of accessible and non-accessible vehicles in each part of the service area. It might also involve comparing the service areas of different contractors who might have different mixes of accessible and non-accessible vehicles. Monitor and observe service to confirm adherence to policies and that service is provided on an equal basis.
The same hours and days of service	Review all policies related to the days and hours of service to confirm that an adequate number of accessible vehicles is available during all hours of operation. If multiple contractors are providing the service, confirm that contractors used to operate equivalent service with accessible vehicles operate at least as long as all other contractors. Monitor and observe the service to ensure that policies are followed.
The same restrictions or priorities based on trip purpose	Review all policies and operating procedures to confirm that riders with disabilities can request trips for the same trip purposes as all other riders. Note that demand responsive services can have trip purpose restrictions or priorities, but that the same restrictions or priorities must apply to all riders, including riders with disabilities. Monitor and observe the service to ensure that policies and procedures are followed and any trip purpose restrictions or priorities are applied on an equal basis.
The same availability of information and reservations capability	Confirm that all public information and rider information is available in accessible formats so that riders with disabilities have the same information. Accessible formats include large print, braille, audiotape and accessible electronic formats. Transit agencies must make available upon request formats that are usable by the individual and appropriate to the

Service Requirement	Approaches for Determining Equivalency
	intended use. Confirm that accessible communications are available for reserving trips, checking on the status of trips, and for conducting other business required to use the service. If services are requested via telephone, confirm that TTYs and/or relay services are available. If reservations are made online, confirm that the online service is accessible. Train staff in the use of any equipment and monitor/observe actual operations to ensure that accessible communications are handled with the same level of efficiency as other communications.
Constraints on capacity or service availability	Waiting lists – Demand responsive services can have waiting lists, but transit agencies must apply them equally to riders with and without disabilities. If using waiting lists, confirm that riders with disabilities are not waitlisted more frequently than other riders. Consider maintaining information about each rider's disability, particularly whether a rider uses a wheelchair and requires an accessible vehicle. Periodically review waitlists and calculate the percentage of riders by type that are waitlisted (number of riders who require accessible vehicles on waitlist divided by the total number of riders who require accessible vehicles vs. number of riders who do not require accessible vehicles on waitlist divided by the total number of riders who do not require accessible vehicles). Trip caps – Demand responsive services can have trip caps, but transit agencies must apply them equally to riders with and without disabilities. Examine all policies related to trip caps to ensure that riders with disabilities are not subject to more restrictive trip caps. Trip denials – Demand responsive services can have trip denials, but riders with disabilities should not experience a higher percentage of denied trip requests. Consider maintaining information about each rider's disability, particularly whether a rider uses a wheelchair and requires an accessible vehicle. Periodically review trip denials and calculate the percentage of trips requested by riders who require accessible vehicles that were denied (denied trips requested by riders who need accessible vehicles divided by the total trips requested by riders who need accessible vehicles). Compare this to the percentage of trips requested by riders who do not need accessible vehicles that were denied (denied trips requested by riders who do not need accessible vehicles divided by the total trips requested by riders who do not need accessible vehicles). On-time performance – The on-time performance riders with disabilities experience, particularly those who use wheelchairs and require accessible vehicles, should be the same as the on-time performance other riders experience. Consider analyzing on-time performance for riders who need accessible vehicles and compare this to the overall on-time performance for the service. Given operational variances, performance does not have to be identical, but the rate should be similar. Over time, on-time performance for riders with disabilities should be very close to the systemwide average. On-board ride times – On-board ride times that riders with disabilities experience, particularly those who use wheelchairs and require accessible vehicles, should be the same as the on-board ride times other riders experience for similar trips. Begin by analyzing the average on-board ride times for trips taken by riders who need accessible vehicles versus those who do not need accessible vehicles. If the averages differ significantly, consider possible reasons for this. Are riders with disabilities making different types of trips that are longer? Is the difference caused by more trip grouping on accessible vehicles (and therefore longer ride times) than on non-accessible vehicles?

7.5 Nondiscrimination

Section 37.5 (Nondiscrimination), discussed in detail in Chapter 2, also applies to demand responsive service.

7.6 Provision of Service

Transit agencies providing demand responsive services are subject to the Subpart G provision of service requirements (except those that apply only to fixed route services). See Chapter 2 for a complete discussion of these requirements, which fall under:

- Maintenance of Accessible Features – § 37.161
- Keeping Lifts in Operable Condition – § 37.163(b)
- Lift and Securement Use – § 37.165(b)-(g)
- Other Service Requirements – § 37.167(f)-(h)
- Training Requirements – § 37.173

Attachment 7-1
Sample Certification of Equivalent Service

The (name of agency) certifies that its demand responsive service offered to individuals with disabilities, including individuals who use wheelchairs, is equivalent to the level and quality of service offered to individuals without disabilities. Such service, when viewed in its entirety, is provided in the most integrated setting feasible and is equivalent with respect to:

(1) Response time;
(2) Fares;
(3) Geographic service area;
(4) Hours and days of service;
(5) Restrictions on trip purpose;
(6) Availability of information and reservation capability; and
(7) Constraints on capacity or service availability.

In accordance with 49 CFR 37.77, public entities operating demand responsive systems for the general public which receive financial assistance under 49 U.S.C. 5311 or 5307 must file this certification with the appropriate state program office before procuring any inaccessible vehicle. Such public entities not receiving FTA funds shall also file the certification with the appropriate state program office. Such public entities receiving FTA funds under any other section of the FT Act must file the certification with the appropriate FTA regional office. This certification is valid for no longer than one year from its date of filing.

_____
(Name of authorized official)

_____
(Title)

_____
(Signature)

Date: _____

Chapter 8 – Complementary Paratransit Service Addendum (Draft Published)

[Insert at End of Chapter]

8.8 Monitoring to Ensure Compliance

FTA encourages transit agencies to regularly monitor complementary paratransit service provision to ensure compliance with the DOT ADA requirements and to confirm adherence to agency policies and procedures. Monitoring should include both services provided in-house as well as contractor-provided services. This section recommends practices for effective complementary paratransit service monitoring.

8.8.1 Components of an Effective Monitoring Program

An effective complementary paratransit monitoring program includes well-articulated performance standards, policies and procedures, comprehensive data collection, and ongoing analysis of performance.

Policies, Procedures, and Standards

A good practice is to have written policies and procedures as well as formal standards against which actual practice and performance can be measured. Policies should address the service area, days and hours of operation, fares, reservation hours and advance reservation periods, trip purposes, rider assistance, and other aspects of service design. Operating procedures should detail how service is to be provided. Examples of procedures important for ensuring ADA compliance include:

- Telephone scripts for handling trip reservations, trip confirmation, trip status and other calls from riders
- Scheduling and dispatching procedures
- Rider assistance (origin-to-destination) procedures

Standards should define terms and measures, and set goals and minimum levels, for key areas of performance, including:

- Trip denials
- Missed trips and no-shows
- Timely service (pickups and drop-offs)
- On-board ride times
- Telephone performance (busy signals and hold times)

Transit agencies should ensure that policies, procedures and standards address and comply with regulatory requirements as covered throughout this chapter.

Data Collection and Analysis

Transit agencies should collect service data to facilitate compliance monitoring. Agencies should collect data that measures performance according to adopted standards. For example, if agencies have a performance standard for the maximum time a caller can be on hold, telephone data collection should report maximum hold time and not average hold time. The following data are important for monitoring compliance:

- Requested pickup times and appointment times (if applicable)
- Scheduled and negotiated trip times
- Actual trip times at both pickup and drop-off (vehicle arrival and vehicle departure times)
- Telephone calls received, answered, and hold times for all call types (e.g., reservations, ride status, customer service, etc.)
- Type of trip (subscription, non-subscription) and trip disposition (scheduled, denied, cancelled, performed, no-show, missed, etc.)
- Details for cancellations, no-shows, and missed trips (dates and times of calls with riders and communication between dispatchers and drivers)

Regular Service Reports

To compare service data against performance standards, transit agencies should produce reports that cover:

- Trips requested, denied, scheduled, cancelled, rider no-shows, missed, and provided
- Number and percentage of scheduled pickups completed on-time (within the on-time window), early, and late
- Number and percentage of drop-offs on-time (within the applicable window), early, and late
- On-board ride times (number and percentage) sorted into different lengths (e.g., under 30 minutes, under 60 minutes, under 90 minutes, etc.)
- Number and percentage of calls answered within one minute, two minutes, three minutes, etc. for periods of the day (e.g., hourly periods), or average hold times by hour if using an average hold time standard

Examples of many of these reports are available in the complementary paratransit compliance review reports on FTA's webpage. Transit agencies should use reports that identify deficient performance to improve service delivery.

Additional Data Analysis Topics

In addition to regular review and analysis of performance reports, a good practice is to periodically obtain samples of specific customer service interactions covering the reservations process and actual trips, as discussed in this section.

Timing of Trip Requests (Days in Advance)

An analysis of the days prior to travel should chart how many days in advance callers request trips. A high proportion of trip requests on the earliest available reservation date might reveal potential capacity constraints. For example, if a transit agency allows riders to reserve trips from one to seven days in advance, and over half of the (non-subscription) trips are reserved seven days in advance, this can indicate that riders perceive a capacity constraint.

Requested Versus Scheduled Trip Times

Comparing requested times with the actual trip times can help identify trips being scheduled more than one hour from the requested time if such events were recorded as denials.

Percentage of Trips with Recorded Appointment Times

A very low percentage of trips with appointment times might indicate that reservationists are not properly obtaining and recording such critical information. Typically, 30–45 percent of trips have requested drop-off (appointment) times.

Long Trip Travel Time Comparison

The travel times of a sample of complementary paratransit trips with long travel times should be compared to the travel times of comparable fixed-route trips (same origin and destination addresses, same day and time), including estimated walking and transfer time.

Group Trip Analysis

Travel time issues often arise with riders who are part of a subscription group and who board first and disembark last each day. Such an analysis can help determine whether to split up groups of riders to prevent a pattern of excessively long trips from occurring.

Very Early Pickups and Drop-Offs

Substantial numbers of pickups that occur more than 15 minutes before the start of a pickup window and/or drop-offs that occur more than 30 minutes before appointment times are indicators of scheduling issues or incorrect travel time assumptions and/or software settings.

No-shows and Missed Trips

In addition to carefully verifying the accuracy of no-shows contributing to potential service suspensions discussed in Chapter 9, transit agencies should review trips coded as no-shows to ensure they are not missed trips by comparing vehicle arrival and departure times to negotiated/scheduled times and associated on-time windows. This analysis should confirm that vehicles arrived at the correct location within the on-time window and waited the appropriate time before leaving.

Telephone Hold Times and Call Volumes

Identify hours when hold times are long and compare with call volume to determine if long hold times result from incidents or special events or are due to insufficient staffing.

On-time Performance and Travel Times for Riders Travelling in Different Vehicles

When a transit agency's complementary paratransit fleet includes sedans and accessible vehicles, compare service performance for riders in accessible vehicles with sedan riders. Longer travel times and/or lower on-time performance for riders in accessible vehicles can indicate a need for more accessible vehicles.

Subscription Trips (When Service Capacity is Constrained)

Transit agencies experiencing any capacity constraints should track the percent of subscription trips on an hourly basis to ensure that subscription trips do not exceed more than 50 percent of trips in any hour with capacity constraints.

First-hand Observations

As with all transit service, a good practice is to supplement ongoing data collection and analysis with first-hand complementary paratransit service observations. This is particularly important for ensuring that service policies and procedures are being followed, as discussed in this section.

Service Area and Days and Times

Periodically review operations manuals or software displays to confirm that reservationists have accurate information on the complementary paratransit service area and days and times of service. Such reviews are particularly important whenever implementing any fixed route service changes.

Fares

Periodically review complementary paratransit fares included in scheduling software and recorded on trip manifests to confirm fares do not exceed the maximum permitted amounts. Such reviews are particularly important for transit agencies using distance-based fares or variable fares tied to fixed route trips.

Reservations and Trip Handling

Observe the reservations process to ensure that reservationists properly follow trip-handling procedures (scripts) first by properly negotiating requested trip times and then by asking/determining and recording:

- Appointment times (as applicable)
- Information about mobility devices, personal attendants, and companions
- Special pickup instructions
- The need for assistance beyond the curb (for transit agencies that provide such assistance when needed rather than as standard policy)

In addition, observations should confirm that reservationists are confirming and repeating trip information (day/date, addresses, scheduled times, contact numbers).

For instances when reservationists using scheduling software do not place a trip request on a specific run, observations should confirm that reservationists are still confirming the trip with the caller and not telling the caller that the trip is waitlisted.

For instances when trip requests cannot be provided, confirm that such instances are properly recorded as trip denials.

Listen to reservation telephone recordings to confirm that reservationists are treating callers in a respectful and courteous manner.

Scheduling

Observe the scheduling process to confirm that instances of manual rescheduling do not alter negotiated trip times. Should changes in negotiated trip times take place, confirm that employees are calling riders to offer the opportunity to renegotiate the new trip times. Transit agencies should log call details when contacting riders to reschedule trips.

Trip Status Calls

If possible, separately track “Where’s my ride?” calls to identify long secondary telephone hold times that are not covered in standard hold time reports.

Vehicle Operation and Rider Assistance

Directly observe service delivery to ensure compliance with rider assistance policies (origin-to-destination) and other policies. Consider using secret riders to obtain feedback on on-board rider experiences (proper securement, respectful and courteous treatment of riders, etc.).

8.8.2 General Service Provision

Transit agencies should also monitor complementary paratransit operations to ensure compliance with the general service provision requirements. These include vehicle maintenance, lift and securement use,

accommodation of service animals and life support equipment, accessible information and communications, and driver training. (See Chapter 2.)

8.8.3 Rider Comments and Complaints

Tracking, investigating and addressing rider comments and complaints is also an important part of service monitoring. Rider comments can be helpful in identifying possible issues that need more thorough monitoring. Patterns of comments can also indicate systematic issues that may need to be addressed. (See Chapter 12.)

Chapter 9 – ADA Paratransit Eligibility

9.1 Introduction

As described in Chapter 8, public entities that operate fixed route services are required to provide complementary paratransit services.[11] This chapter explains the U.S. Department of Transportation (DOT) Americans with Disabilities Act (ADA) regulations related to eligibility for complementary paratransit services, covering who is eligible and the regulatory requirements that transit agencies must follow when determining eligibility. The topics covered and the associated regulatory sections are:

- Requirement to provide complementary paratransit service to ADA paratransit eligible individuals – § 37.123(a)
- Trip eligibility – § 37.123(b)
- Permanent or temporary eligibility – § 37.123(c)
- Regulatory criteria defining ADA paratransit eligibility – § 37.123(e)
- Attendants and companions – § 37.123(f)
- Eligibility-determination process requirements – § 37.125
    a. Strictly limiting eligibility – § 37.125(a)
    b. Making information available in accessible formats – § 37.125(b)
    c. Making timely determinations – § 37.125(c)
    d. Eligibility documentation – § 37.125(d)-(e) & (i)
    e. Recertification – § 37.125(f)
    f. Appeals process requirements – § 37.125(g)
- No-show suspensions – § 37.125(h)
- Complementary paratransit service for visitors – § 37.127
- Types of service – § 37.129

This Circular does not alter, amend, supersede, or otherwise affect the DOT ADA regulations themselves or replace or reduce the need for detailed information in the regulations. Suggestions of good practices are included throughout the Circular; FTA recognizes that there are many different ways agencies can implement the regulatory requirements and ensure the delivery of compliant service.

9.2 Eligibility Standards

9.2.1 Requirement to Provide Complementary Paratransit Service

Requirement

"[Transit agencies] required by § 37.121…to provide complementary paratransit service shall provide the service to the ADA paratransit eligible individuals described in [§ 37.123(e)]" (§ 37.123(a)).

[11] Under § 37.121(c), commuter bus and commuter rail systems are not subject to the requirement for complementary paratransit service.

Discussion

As a civil rights statute, the ADA emphasizes nondiscriminatory access to fixed route services. Complementary paratransit service is intended to serve as a "safety net" for individuals who, because of their disabilities, are unable to use fixed route services. The criteria for ADA paratransit eligibility—spelled out in § 37.123—reflect this safety net role of complementary paratransit.

The detailed criteria defining who is eligible for complementary paratransit and the requirements for transporting attendants and companions who may be traveling with an eligible passenger are discussed below.

9.2.2 Eligible Individuals

Eligibility for complementary paratransit is directly related to the functional ability of individuals with disabilities to use fixed route transit services. Eligibility is not based on a diagnosis or type of disability. Individuals with the same diagnosis or disability can have very different functional abilities to use fixed route services. Similarly, eligibility is not based on the type of mobility aids that individuals use. Use of a wheelchair, for example, does not imply eligibility since many individuals who use wheelchairs are able to use fixed route services for many or all of their trips. Nor is ADA paratransit eligibility based on such factors as age, income, or whether or not individuals can drive or have access to private automobile transportation.

The regulations identify individuals with disabilities who are ADA paratransit eligible. These individuals may not be able to use fixed route services for some or all of their trips. The discussion in the Appendix D section on ADA Paratransit Eligibility Standards explains these categories of eligibility, described further below.

Eligibility Category 1

Requirement

"Any individual with a disability who is unable, as the result of a physical or mental impairment (including a vision impairment), and without the assistance of another individual (except the operator of a wheelchair lift or other boarding assistance device), to board, ride, or disembark from any vehicle on the system which is readily accessible to and usable by individuals with disabilities [is an ADA paratransit eligible individual] " (§ 37.123(e)(1)).

Discussion

The first category of eligibility includes individuals who, because of their disabilities, cannot independently navigate and use the accessible fixed route services. In determining eligibility under this category, required assistance from vehicle operators may be assumed. (See Chapter 6.)

Ability to Use the Fixed Route System Independently

Beyond the assistance of vehicle operators, eligibility is based on the independent ability of individuals to use the fixed route system. Eligibility is not based on the availability of other individuals, including attendants, family, or friends who may be traveling with the passenger with a disability. See below for a discussion of eligibility for young children.

Current Functional Ability

Eligibility is based on current functional ability. While some individuals may learn to use fixed route services independently after participating in travel training, actual functional ability at the time of application is the basis for determining eligibility. FTA encourages transit agencies to offer travel training, but transit agencies cannot require individuals to participate. If applicants indicate interest in

travel training, a good practice is to confer temporary eligibility and then determine applicants' longer-term eligibility if they successfully complete training. Transit agencies cannot limit or deny eligibility based on a presumption of functional ability with training or on applicants' stated interest in participating in travel training.

Examples of Category 1 Eligibility

Examples of eligibility under this category include:

- Individuals with intellectual or cognitive disabilities who may not be able to navigate the system. These individuals may not be able to understand, remember, or independently undertake the actions necessary to plan and use fixed route transit services. They also may not be oriented to person, place, and time, which are necessary abilities for independent travel by fixed route transit.
- Individuals with intellectual or cognitive disabilities who may have the functional ability to use a single bus route, but who are unable to make complex trips that require transfers between routes.
- Individuals with vision disabilities who may not be able to navigate through complex transit stations.
- Individuals with intellectual, cognitive, or vision disabilities who have received travel training or orientation and mobility instruction to make specific trips, but who are unable to use fixed route service for trips they have not been successfully trained to take.
- Individuals with significant psychiatric disabilities who cannot complete the tasks necessary to ride fixed route service independently. For example, some individuals with severe anxiety disorders may experience overwhelming physical and psychiatric reactions that prevent them from concentrating on and completing the tasks needed to independently use fixed route transit.
- Individuals with physical disabilities who can ride while seated but not while standing on a moving vehicle and who cannot be guaranteed a seat on a bus at all times of the day.
- Individuals with psychiatric or seizure conditions whose medications affect balance, memory, or other functional abilities needed to independently use fixed route transit.
- Individuals with significant intellectual or psychiatric conditions that impair judgment and decisionmaking ability needed to travel safely and independently on fixed route services.

Regarding the last example above, the legislative history clearly indicates that general public safety concerns such as using fixed route transit late at night or in certain high-crime areas are not a basis for conferring eligibility under this category. However, individuals whose judgment, awareness, and decisionmaking are significantly affected by a disability and who would be at unreasonable risk if they attempted to use the fixed route service independently are eligible. This might apply to an individual with an intellectual disability lacking the judgment and awareness to respond appropriately to strangers and thus could be at significant risk when using fixed route service independently.

Other Factors That Can Affect Category 1 Eligibility

To some degree, the size and complexity of the fixed route system and a transit agency's operating policies may affect eligibility under this category. For example, individuals may be able to navigate a rural fixed route system with a limited number of routes or local community bus services, but they may not be able to independently navigate complex transit stations in larger cities. Similarly, individuals with balance issues may be assured of getting a seat when riding buses in rural areas, but may not be guaranteed a seat on crowded urban systems. However, if an urban agency were to adopt an operating policy ensuring all riders with disabilities a seat, such a policy might allow individuals with balance issues to use the agency's fixed route services.

Eligibility Category 2

Requirement

"Any individual with a disability who needs the assistance of a wheelchair lift or other boarding assistance device and is able, with such assistance, to board, ride and disembark from any vehicle which is readily accessible to and usable by individuals with disabilities if the individual wants to travel on a route on the system during the hours of operation of the system at a time, or within a reasonable period of such time, when such a vehicle is not being used to provide designated public transportation on the route [is an ADA paratransit eligible individual].

> (i) An individual is eligible under this paragraph with respect to travel on an otherwise accessible route on which the boarding or disembarking location which the individual would use is one at which boarding or disembarking from the vehicle is precluded as provided in § 37.167(g) of [Part 37].
>
> (ii) An individual using a common wheelchair is eligible under this paragraph if the individual's wheelchair cannot be accommodated on an existing vehicle (e.g., because the vehicle's lift does not meet the standards of Part 38 of this title), even if that vehicle is accessible to other individuals with disabilities and their mobility wheelchairs.
>
> (iii) With respect to rail systems, an individual is eligible under this paragraph if the individual could use an accessible rail system, but—
>
> > There is not yet one accessible car per train on the system; or
> >
> > Key stations have not yet been made accessible" (§ 37.123(e)(2)).

Discussion

Individuals are eligible for complementary paratransit service if accessible vehicles are not being used to provide service on the bus route they wish to use, if their disability prevents them from traveling to or from a boarding or disembarking location, and/or if key stations are not yet accessible. (See Chapter 3.) The determination is specific to the routes, stops, or stations that individuals need to use.

Accessible Bus Service

A bus route is considered accessible under this category when all buses scheduled on the route are accessible. When only some of the runs on a route are accessible (e.g., every other run), the route itself is considered inaccessible, and individuals with disabilities who require accessible fixed route vehicles are eligible for complementary paratransit travel anywhere in that bus corridor.

For fixed route buses to be considered accessible, they must meet or exceed the Part 38 standards. (See Chapter 4.) If buses do not have lifts, ramps, or securement systems that comply with the Part 38 standards, individuals who use wheelchairs who could otherwise travel on accessible vehicles are eligible for complementary paratransit service.

This provision was more relevant immediately following the ADA's enactment, since many of the buses in use at the time were inaccessible. Because virtually all buses used in fixed route service are now accessible, this is no longer a significant factor in ADA paratransit eligibility.

Bus Stop Accessibility

When drivers cannot deploy lifts or ramps at a particular bus stop, Category 2 applies to individuals whose trips involve using that stop. Category 2 also applies to a stop at which drivers can deploy lifts or ramps but individuals cannot use them because the stop itself is inaccessible. (See Chapter 3.) As discussed in the Appendix D section on ADA Paratransit Eligibility Standards,

> If the lift on a vehicle cannot be deployed at a particular stop, an individual is eligible for paratransit under this category with respect to the service to the inaccessible stop. If on otherwise accessible route 1, an individual wants to travel from Point A to Point E, and the lift cannot be deployed at E, the individual is eligible for paratransit for the trip...This is true even though service from Point A to all other points on the line is fully accessible. In this circumstance, the entity should probably think seriously about working with the local government involved to have the stop moved or made accessible.
>
> When we say that a lift cannot be deployed, we mean literally that the mechanism will not work at the location to permit a wheelchair user or other person with a disability to disembark or that the lift will be damaged if it is used there. It is not consistent with the rule for a transit provider to declare a stop off-limits to someone who uses the lift while allowing other passengers to use the stop. However, if temporary conditions not under the operator's control (e.g., construction, an accident, a landslide) make it so hazardous for anyone to disembark that the stop is temporarily out of service for all passengers may the operator refuse to allow a passenger to disembark using the lift.

While the vast majority of fixed route buses are now accessible, most transit systems have some inaccessible bus stops, particularly in cases where someone else owns the stop (e.g., municipalities or other agencies).

Accessible Rail Service

For light rail and rapid rail systems,[12] individuals are eligible under this category if the rail line they need to use does not have at least one accessible car per train or if stations on that line are not accessible. Eligibility based on the inaccessibility of a rail system is unchanged even when fully accessible fixed route bus service is also available in the area. As discussed in the Appendix D section on ADA Paratransit Eligibility Standards, this is required because:

> …People use rail systems for different kinds of trips than bus systems. It would often take much more in the way of time, trouble, and transfers for a person to go on the buses of one or more transit authorities than to have a direct trip provided by the rail operator. Since bus route systems are often designed to feed rail systems rather than duplicate them, it may often be true that "you can't get there from here" relying entirely on bus routes or the paratransit service area that parallels them.

FTA notes that accessibility of rail systems depends not just on having at least one accessible car per train and on having accessible stations, but also depends on the platform-to-car interface. Depending on whether new or retrofitted vehicles are operating in new, existing, or key stations, the platform-to-railcar gap can be as large as 2 inches vertically and as much as 4 inches horizontally; individuals for whom this represents a barrier to the use of the station would be eligible for complementary paratransit when traveling to and from locations within 3/4 mile of rail stations.

[12] Under 49 CFR 37.121(c), requirements for complementary paratransit do not apply to commuter rail systems.

Examples of Category 2 Eligibility

Examples of eligibility under Category 2 include:

- Individuals with physical disabilities who use wheelchairs and are unable to make trips via fixed route because bus routes in the corridors they want to travel are not fully accessible, bus stops they need to use are not accessible, or rail lines or stations they need to use are not accessible
- Individuals with physical disabilities who use other types of mobility devices (e.g., canes, walkers, or crutches) and who cannot make trips by fixed route because of a lack of fixed bus route accessibility or rail system accessibility

As fixed route systems become more accessible, eligibility under this category will become less common.

Eligibility Category 3

Requirement

"Any individual with a disability who has a specific impairment-related condition which prevents such individual from traveling to a boarding location or from a disembarking location on such system [is an ADA paratransit eligible individual].

> (i) Only a specific impairment-related condition which prevents the individual from traveling to a boarding location or from a disembarking location is a basis for eligibility under this paragraph. A condition which makes traveling to boarding location or from a disembarking location more difficult for a person with a specific impairment-related condition than for an individual who does not have the condition, but does not prevent the travel, is not a basis for eligibility under this paragraph.
>
> (ii) Architectural barriers not under the control of the public entity providing fixed route service and environmental barriers (e.g., distance, terrain, weather) do not, standing alone, form a basis for eligibility under this paragraph. The interaction of such barriers with an individual's specific impairment-related condition may form a basis for eligibility under this paragraph, if the effect is to prevent the individual from traveling to a boarding location or from a disembarking location" (§ 37.123(e)(3)).

Discussion

Under this category, individuals are eligible for complementary paratransit only if their disability ("specific impairment-related condition") prevents them from traveling to or from fixed route transit stops and stations. Individuals are not eligible for complementary paratransit if getting to or from fixed route stops and stations is only more difficult or inconvenient. The discussion in the Appendix D section on ADA Paratransit Eligibility Process offers the following guidance on how to appropriately determine if travel to and from stops and stations is "prevented" or simply "difficult":

> Inevitably, some judgment is required to distinguish between situations in which travel is prevented and situations in which it is merely made more difficult. In the Department's view, a case of "prevented travel" can be made not only where travel is literally impossible (e.g., someone cannot find the bus stop, someone cannot push a wheelchair through the foot of snow or up a steep hill) but also where the difficulties are so substantial that a reasonable person with the impairment-related condition in question would be deterred from making the trip.

Figure 9-1 illustrates this concept of a "reasonable person test." At the left end of the spectrum, traveling to or from stops and stations rather than receiving origin-to-destination service may be more difficult or inconvenient and eligibility is not conferred. At the right end of the spectrum, it may be impossible for individuals with disabilities to get to or from stops and stations. At some point along this spectrum,

getting to or from stops and stations becomes an unreasonable effort or risk for individuals with disabilities. It is at this point that ADA paratransit eligibility should be granted.

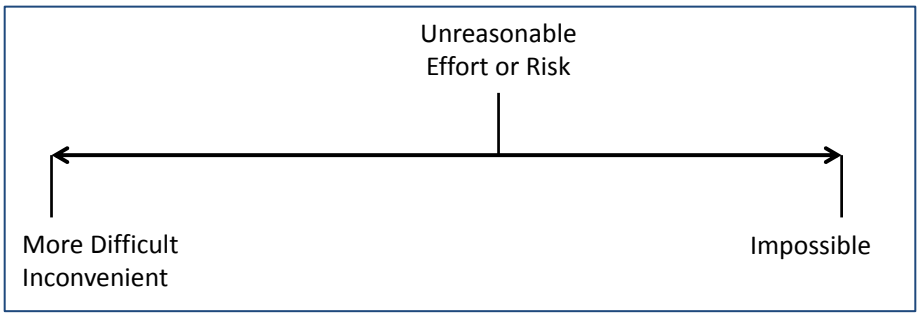


Figure 9-1 – Reasonable Person Test

Here are some examples of unreasonable travel expectations:

- Individuals with an ambulatory disability who use crutches can get to a bus stop four blocks away but doing so requires considerable exertion and leaves them exhausted
- Individuals with a vision disability may be able to cross a busy street where there is constant traffic turning right on the red signal, but in doing so they may be taking an unreasonable risk because they are not able to get an audible cue from the flow of traffic that allows them to know when it is safe to cross
- Individuals with cardiac conditions can walk five blocks to stops and stations, but doing so in very hot weather may put them at unreasonable risk

Under Category 3, the point at which the use of fixed route service becomes unreasonable to attempt varies for different individuals, depending on their particular disabilities or heath conditions and their functional abilities. Those determining eligibility need to identify the conditions under which it is reasonable to ask individuals to use fixed route services and when to provide complementary paratransit. Reviewers become the "reasonable people" making such judgments.

Consideration of Architectural Barriers and Environmental Conditions

Eligibility under this category should consider the effects of architectural and environmental barriers on travel by individuals with disabilities. Even though such factors may not be under transit agencies' control, the existence of these barriers, in combination with a person's disability, can prevent use of fixed route services.

Examples of architectural and environmental barriers that, in combination with disabilities, might confer eligibility for complementary paratransit include:

- A lack of curb ramps or alternative accessible pathways that would prevent individuals who use mobility devices from getting to or from stops and stations without traveling in the street (while others use the sidewalks)
- A lack of sidewalks along busy roadways—where reasonable people do not walk in the street—that would require individuals with disabilities to travel in the street to get to or from stops and stations
- Other barriers in pedestrian pathways to or from stops and stations—For individuals with physical disabilities, this may be broken sidewalks or uneven or unstable surfaces. For individuals with vision disabilities, this may be pathways without detectable edges (e.g., open parking lots), are not a safe distance from quickly moving traffic, or have hazards that are not detectable (e.g., overhanging structures or guy wires).

- Long distances to or from stops and stations that individuals with disabilities cannot travel without an unreasonable level of effort (i.e., distances that would leave them exhausted or would result in significant pain)
- Steep hills that prevent individuals with ambulatory disabilities or those who use manual wheelchairs from getting to or from stops and stations
- Snowy or icy conditions that may prevent individuals with disabilities from getting to or from stops and stations
- Extremes in temperature (i.e., heat or cold) that may prevent individuals with certain disabilities or health conditions from traveling to or from stops and stations
- Complex intersections, busy streets, or wide streets that certain individuals with disabilities may not be able to cross

Wayfinding Considerations

Individuals with certain types of disabilities may also be prevented from getting to or from stops and stations for other reasons, including:

- Individuals with intellectual, cognitive, or vision disabilities who are able to find their way along specific pedestrian routes, but who may not be able to find their way to or from stops and stations along unfamiliar routes
- Individuals with psychiatric disabilities who may be able to travel in certain settings (e.g., local routes within their neighborhood), but who may not be able to travel in unfamiliar areas or settings

Note that these individuals may also have issues navigating the transit system and may have eligibility based on Category 1 considerations.

Important Eligibility Considerations

Important considerations when making determinations of ADA paratransit eligibility follow.

Most Limiting Conditions

Determinations of ADA paratransit eligibility must consider each applicant's ability to travel to any origins and destinations in the complementary paratransit service area under all conditions. Transit agencies cannot base initial determinations of ADA paratransit eligibility upon an applicant's ability to use fixed route service some of the time or under typical conditions. For example, if individuals could reasonably be expected to walk up to three blocks to get to and from bus stops, it would not be appropriate to deny eligibility just because a bus stop was located only two blocks from their home. This decision incorrectly assumes that the individuals will only be traveling to and from their home and does not consider travel distances to all of the destinations they might visit once they disembark at the other end of their trips.

Similarly, it would not be appropriate to deny eligibility to individuals because there was an accessible path of travel to the bus stop nearest their home. Again, such a decision would not have accounted for architectural barriers elsewhere in the service area that would prevent travel to potential destinations. The same concept would also apply to environmental barriers and fixed route system barriers.

Considering the Appropriate Mobility Device or Devices

For all categories of eligibility, determinations are based on how individuals present themselves at the time of application. For example, some individuals may have both a manual wheelchair and a powered wheelchair. They may choose to travel in the community with their manual wheelchair rather than their powered wheelchair for a variety of reasons such as destinations to which they are traveling—or the activities at those destinations—may be more compatible with use of a manual wheelchair. In these cases,

transit agencies should base determinations of functional ability and eligibility on the mobility aid that individuals say they will use when they travel.

If an applicant states that he or she uses both types of mobility aids when traveling, transit agencies should base eligibility on the mobility device the applicant would use for particular trips or simply grant the greater degree of eligibility regardless of which mobility device the applicant uses. It is not appropriate to require individuals to use specific mobility devices or to base eligibility decisions on devices that provide the greatest ability to use fixed route service if those mobility devices are not the devices applicants say they use when traveling.

Mobility Devices that Exceed Maximum Size or Weight

ADA paratransit eligibility is based on individuals' functional ability, not on which mobility devices they use. Denying eligibility solely because an applicant's mobility device exceeds the maximum size or weight standards is not permitted.[13] Transit agencies should grant eligibility according to the regulatory requirements and explain any transit system limitations to applicants whose mobility devices exceed the maximum size and weights.

Eligibility for Young Children

Transit agencies that have systemwide policies requiring all children under a certain age to travel with an adult (for fixed route transit as well as complementary paratransit) can apply these policies to eligibility determinations for children. For example, if an agency's systemwide policy is that an adult must accompany all children under the age of six, then eligibility determinations for children five and under can assume an accompanying adult. In this example, a child's age (not disability) would govern his or her inability to use the fixed route system independently. Transit agencies with such policies would therefore base eligibility determinations for children six and older on independent functional ability.

Some transit agencies have age-related fare policies such as "children under the age of six ride free when accompanied by a fare-paying adult." While such policies provide free rides to children under six, they do not by themselves represent a requirement for adults to accompany younger children.

Complementary Paratransit-to-Fixed-Route Feeder Service

See Section 9.8 for a discussion of complementary paratransit-to-fixed route feeder service.

Residence is Not a Factor in Eligibility Determinations

As discussed in the Appendix D section on ADA Paratransit Eligibility Standards, transit agencies must accept applications from anyone wishing to apply and cannot limit their reviews of applications and determinations of eligibility to individuals residing within their service area. If an otherwise eligible applicant is able to travel to a point within an agency's complementary paratransit service area and wishes to use complementary paratransit within the service area, the agency must grant the applicant eligibility and accommodate the trip request.

9.2.3 Temporary Eligibility

Requirement

"Individuals may be ADA paratransit eligible on the basis of a permanent or temporary disability" (§ 37.123(c)).

[13] See 76 FR 57924, 57929 Sept. 19, 2011.

Discussion

Individuals who experience a temporary loss of functional ability that prevents them from using fixed route service can apply for temporary ADA paratransit eligibility. For example, an individual may need to undergo two months of treatment for a health condition, resulting in severe fatigue that prevents him or her from using fixed route services. This individual would be eligible for complementary paratransit for the duration of the treatment period.

Temporary eligibility may also be appropriate if changes in functional ability are likely in the short term. For example, an individual who has had a stroke may be using a manual wheelchair immediately after the stroke and may not be able to independently self-propel the wheelchair to get to or from bus stops. If the individual were undergoing a year of prescribed therapy, one year of eligibility for all trips would be appropriate, with a review at the end of the year to determine if therapy or a change in mobility devices has improved or reduced the individual's functional ability to use fixed route services.

9.2.4 Types of Eligibility

Transit agencies generally grant unconditional or conditional eligibility and can apply temporary eligibility to either type.

Unconditional Eligibility

Sometimes called "unrestricted eligibility" or "all-trip eligibility," this type of eligibility means that an individual is unable to use fixed route transit services under any circumstances and is thus eligible to make all trips using complementary paratransit. Examples of applicants who should be granted unconditional eligibility include:

- Individuals who cannot travel independently due to severe or profound intellectual disabilities or advanced dementia
- Individuals with physical disabilities who have limited functional ability (e.g., someone who uses a manual wheelchair and who cannot self-propel)
- Individuals who have lost vision late in life and have not learned to travel independently in the community

Conditional Eligibility

Sometimes called "restricted eligibility" or "some-trip eligibility," conditional eligibility applies to individuals who are unable to independently use fixed route transit services under certain circumstances.

Use of conditional eligibility is optional. Transit agencies electing to use conditional eligibility (either on a full or temporary basis) should identify the specific conditions under which each applicant is ADA paratransit eligible. Agencies should also communicate these conditions to the applicant. Factors for determining conditional eligibility typically include:

- The maximum distance that individuals are able to walk to get to or from stops and stations
- Environmental conditions that prevent use of fixed route service (e.g., heat, cold, snow, ice, air quality)
- Architectural and path-of-travel barriers that prevent use of fixed route service (e.g., lack of sidewalks, lack of curb ramps, uneven or unstable surfaces, steep hills, etc.)
- Types of intersections or streets (e.g. complex intersections, busy streets, or wide streets) that individuals cannot cross safely
- Complexity of fixed route trips (e.g., if transfers are required)

- Unfamiliar locations (e.g., destinations to which individuals have not been successfully trained to travel via fixed route)
- Severe fatigue after receiving treatment, including the potential for experiencing severe fatigue at other times
- Other variable effects of individuals' disabilities such as the effects of multiple sclerosis on certain days
- Time of day (for individuals affected by low or bright light or for those who require a seat on the bus in order to travel and a seat cannot be guaranteed during certain times, such as peak hours)
- Inaccessible fixed route vehicles or facilities (i.e., routes, lines, stations, or stops are not accessible)

For transit agencies using conditional eligibility or considering doing so, following are examples of individuals who might be candidates for this type of eligibility:

- Individuals with intellectual disabilities who have learned how to make certain trips on fixed routes but cannot make all trips independently—They would not be eligible for the trips they have learned to take by fixed route, but would be eligible for all other trips.
- Individuals with physical disabilities who can reach a bus stop or rail station within four blocks when the route is accessible—An appropriate condition on eligibility in this instance is "when the distance to or from stops and stations is more than four blocks or when the route to stops and stations is inaccessible."
- Individuals with health conditions who can get to and from stops and stations when the temperature is not too hot (e.g., less than 80°F) or the distance is not too far (e.g., closer than four blocks)—They would be eligible for complementary paratransit when the temperature exceeds 80°F or the stop or station is more than four blocks away.

Temporary Eligibility

As noted above, transit agencies may grant temporary eligibility to individuals whose health condition or disability, or mobility device used is expected to change in the short term. Temporary eligibility can be either unconditional or conditional, depending on the individual's functional ability.

9.2.5 Considerations in Applying Conditional Eligibility

In order to correctly apply conditional eligibility, conditions should be specific and measurable. For example, conditions on eligibility such as "when the distance to or from bus stops is too far" or "when you are unable to safely cross the street" are too vague. Examples of thorough conditions of eligibility include, "when the distance to or from fixed route stops and stations is more than three blocks" or "when you must cross streets wider than two lanes or intersections without traffic lights and pedestrian controls."

When granting conditional eligibility, it is also important to identify barriers that can affect travel. Not doing so would inappropriately limit an individual's eligibility. For example, individuals who use manual wheelchairs would likely be affected by distances to or from stops and stations, lack of sidewalks or curb ramps, steep hills, snowy or icy conditions, inaccessible bus routes and rail lines, and inaccessible stops and stations. If transit agencies attempted to simplify the process by only granting eligibility "when the distance to or from fixed route stops or stations is more than four blocks" and "when the presence of snow or ice prevents travel to or from bus stops or rail stations," this would be an inappropriate limitation of eligibility. It would imply that during non-winter months, as long as the distance to or from stops was no more than four blocks, individuals would never be prevented from using fixed route services. This would not be correct because path-of-travel barriers, steep hills, and bus stop and other system barriers could still prevent travel for some trips.

FTA notes that individuals encountering architectural or environmental barriers that prevent them from reaching a bus stop often can use another path. For example, a wheelchair user can often circumvent a lack of curb ramps by taking another, less direct route than an ambulatory person might take. This may involve more time, trouble, and effort, but the person can still reach the bus stop. If a reasonable alternative path were available, then that individual would not be eligible to use complementary paratransit for that trip.

9.3 Eligibility Determination Process

Requirement

"Each public entity required to provide complementary paratransit service by § 37.121 of [Part 37] shall establish a process for determining ADA paratransit eligibility" (§ 37.125).

Discussion

The following discussion covers the ADA paratransit eligibility process requirements and provides examples of processes agencies have established.

9.3.1 Strictly Limiting Eligibility

Requirement

"The process shall strictly limit ADA paratransit eligibility to individuals specified in § 37.123 of [Part 37]" (§ 37.125 (a)).

Discussion

Transit agencies are required to strictly limit eligibility for complementary paratransit service to individuals who meet the regulatory criteria for eligibility. (See Section 9.2.2.) This limitation supports the requirement in Title II of the ADA for transit agencies to provide services in the most appropriate integrated setting. It also supports the DOT ADA requirement to provide transportation in an integrated way using accessible fixed route services whenever possible and appropriate.

The requirement to strictly limit eligibility for complementary paratransit does not preclude transit agencies from providing paratransit service to other individuals. Many agencies provide various demand responsive services to seniors, participants in human service agency programs, or to the general public. (See Chapter 7.)

A good practice is for agencies providing other such services to clearly distinguish ADA paratransit eligibility from other services, such as general public dial-a-ride service, so that riders understand the level of service to which they are entitled. This enables agencies to easily identify those riders to whom they must provide complementary paratransit service according to the ADA service criteria. Should an agency's comingled demand responsive service become constrained, the agency should adjust the service to ensure that ADA paratransit eligible riders receive the service as required. Furthermore, FTA may require documentation from an agency during an oversight review demonstrating that ADA paratransit eligible riders specifically are not experiencing capacity constraints (e.g., a pattern of late pickups or trip denials). This is another reason it is important to delineate riders in a comingled service.

9.3.2 Types of Eligibility Determination Processes

Transit agencies can design eligibility processes that reflect local needs and circumstances as long as these processes comply with the § 37.125 requirements. It is up to agencies and the communities they serve to design eligibility determination processes that meet the regulatory requirements.

Transit agencies that originally designed their eligibility determination processes as part of their complementary paratransit plans did so with the input of individuals with disabilities. Subsequently, if agencies implement processes, or make significant changes to the process, they should also incorporate a level of public participation that meets the § 37.137(c) requirements.

9.3.3 Sources of Information for Determining Eligibility

Studies suggest that transit agencies use the following three basic sources of information to determine eligibility:[14] [15]

1. Information provided by applicants in the form of paper applications, responses to interview questions, or both
2. Information provided by professionals familiar with applicants. Transit agencies can provide applicants with forms for collecting the information or can accept information applicants may already have received from professionals. Alternatively, agencies can obtain the information by directly contacting professionals that the applicants identify.
3. Assessments of functional abilities. Transit agencies may ask applicants to participate in assessments designed to determine their functional abilities specific to the use of fixed route transit services.

Supplementing Paper Applications

FTA notes that many transit agencies find that appropriate determinations of ADA paratransit eligibility, including the application of conditional and trip eligibility, often require more than a paper application. In-person interviews and/or functional assessments may be necessary to determine whether a particular individual can perform the functional tasks needed to use fixed route service independently. Interviews—whether in person or by phone—allow those making eligibility determinations to solicit additional information from applicants as needed. Properly designed and administered assessments can provide independent and objective measures of specific functions related to fixed route transit use. These can be important in determining the abilities of applicants who have never used fixed route transit and who may not be sure of their abilities to use these services.

Considerations for Information Provided by Professionals

Determinations of ADA paratransit eligibility must be based on an applicant's functional abilities, not medical diagnoses of health conditions or disabilities. While those determining eligibility should not discount a specific diagnosis, disability, or health condition documented by professionals, an applicant's disability does not by itself confer eligibility.

For transit agencies that solicit professional input regarding pertinent functional abilities, a good practice is to seek input from a wide array of professionals, rather than limiting the types of professionals from whom input is acceptable (e.g., only licensed physicians). Orientation and mobility specialists, therapists,

[14] Easter Seals Project ACTION, Determining ADA Paratransit Eligibility: An Approach, Guidance and Training Materials, Washington, D.C., 2003

[15] TCRP Synthesis 30, ADA Paratransit Eligibility Certification Practices, Transportation Research Board, Washington, D.C., 1998

clinical social workers, job coaches, registered nurses, and many other professionals might be able to provide the best information about an applicant's functional abilities relevant to fixed route transit use.

Assessing Ability to Use Fixed Route Transit

Instead of designing processes that screen individuals for eligibility based on inability to use fixed route services, a good practice is to develop processes that assist individuals in identifying their abilities to maximize use of fixed route services and all available transportation options. To this end, some transit agencies refer to the process as a "transportation assessment" rather than an "ADA paratransit assessment" and incorporate other services into their process. For example, some agencies have co-located travel training and eligibility determination functions, which permits them to provide travel training to applicants who indicate an interest. Other agencies have readily available information about accessible fixed route services or other transportation programs and provide this information to applicants when appropriate.

Avoiding Unreasonable Burdens on Applicants

As discussed in the Appendix D section on the ADA Paratransit Eligibility Process, the eligibility process cannot be overly burdensome or bureaucratic. Given the nature of ADA paratransit eligibility, an inherent degree of rigor and complexity in the process is often unavoidable, but transit agencies should minimize the burden on applicants. Examples of burdensome process requirements include:

- Requiring applicants to appear in person for interviews on one day and then participate in functional assessments on a different day
- Requiring applicants to appear in person for interviews and/or functional assessments and then make a second trip to another location to have a photo taken for an ID card
- Requesting extraneous or irrelevant information that has no bearing on ADA paratransit eligibility
- Using complex application forms that require applicants to apply for multiple transportation programs or services (e.g., state transportation programs in addition to complementary paratransit)
- Requiring medical documentation unrelated to functional ability to use the fixed route transit service

Effective practices for minimizing administrative burdens include:

- Performing in-person interviews and any needed functional assessments at the same location on the same day
- Taking photos for ID cards during interviews and assessments and then creating and sending IDs to those determined eligible
- Making it optional to apply for other services agencies may offer
- Limiting requests for medical information to only those issues directly related to functional ability to use fixed route transit services

Process Cannot Impose a Fee

The Appendix D section on ADA Paratransit Eligibility Process also explains that the determination process may not involve "user fees" or application fees. This is based on § 37.5(d), which prohibits agencies from imposing "special charges, not authorized by [Part 37], on individuals with disabilities, including individuals who use wheelchairs, for providing services required by [Part 37] or otherwise necessary to accommodate them."

Transit agencies may not charge eligibility application fees. If they require applicants to travel to an interview or assessment center as part of their process, agencies must offer transportation to and from the center at no charge, including trips on the complementary paratransit service.

In cases where transit agencies require completion of professional verification forms and such professionals charge a fee for doing so, agencies must find alternative ways to obtain this information, reimburse the applicant, or waive the requirement. Alternative approaches might involve contacting professionals directly or accepting other documentation of disability that does not require applicants to pay a fee.

Treatment of Incomplete Applications

Some applicants may start but not complete the process of applying for ADA paratransit eligibility. They may submit application forms that leave out required information or they may submit an application form but fail to schedule or appear for a required interview or functional assessment. In cases when applications are incomplete, transit agencies should return them and explain to applicants that the process cannot continue until they supply the missing information. If applicants submit a completed application but fail to schedule or appear for in-person interviews or assessments, agencies should hold the submitted information for a reasonable period. Agencies should inform applicants of the time within which they need to complete the process. If applicants do not complete the process within that time, agencies can require them to reapply.

Transit agencies should not send letters to applicants denying eligibility due to incomplete applications. Such letters improperly communicate eligibility denials and could discourage applicants from completing the process or reapplying at another time.

When determining whether application forms are complete, transit agencies should distinguish between information needed to make an eligibility determination and other requested information such as emergency contact information. Agencies should process applications as soon as they have the information necessary to make a determination and request the other information later.

Confidentiality

Determination of ADA paratransit eligibility is likely to include collecting personally identifiable information, including information about disabilities and health conditions. Transit agencies are not subject to the Health Insurance Portability and Accountability Act's (HIPAA) privacy and security rules but, according to the Transit Cooperative Research Program (TCRP) Legal Research Digest 46:

> …Some state statutes impose an obligation on a person or entity not to disclose health information without an individual's reauthorization of its disclosure. Even in the absence of a state statute, persons or entities that disclose an individual's health information may be subject to civil claims under state constitutional or statutory provisions or at common law for invasions of privacy and other claims in tort or for breach of contract.[16]

However, transit agencies should keep this information confidential, limit distribution to only those who need access, and keep application files in a secure location. Agencies should inform employees or contractors involved in reviewing applications and making determinations of the need to maintain confidentiality.

Good practices include developing information security and confidentiality policies and plans, informing and training all employees who receive protected information of their responsibilities, and requiring all

[16] Link to document

employees to sign statements acknowledging their responsibilities and agreeing to protect and keep information confidential.

Such practices also apply to the appeal process; transit agencies should require individuals hearing appeals to maintain strict confidentiality. Agencies should require individuals involved in hearing appeals to sign confidentiality policy statements. Another good practice is to require those involved in hearing appeals to return all application information after deciding an appeal.

FTA notes that some transit agencies request social security numbers (SSNs) as part of the application process in order to establish a unique identifier for each applicant. Agencies should not request SSNs. Because collecting and storing SSNs creates additional data security responsibilities, FTA encourages agencies to use other unique identifiers.

Helpful Information and Materials

To ensure that transit agencies determine eligibility accurately and thoroughly, a good practice is to work with individuals with disabilities and disability service organizations to develop a master list of functional tasks and skills. Such lists should identify the various functional tasks involved in using fixed route transit services and the various functional abilities needed to do so (e.g., physical abilities, cognitive abilities, and sensory abilities). Employees and/or contractors involved in making eligibility determinations should use such lists to ensure that they consider all appropriate issues during the determination process. Attachment 9-1 contains a sample task and skills list. A good practice is to refine and customize the sample list with input from individuals with disabilities to reflect local fixed route services and policies.

Technical assistance materials for designing and implementing ADA paratransit eligibility determination processes, including in-person interviews and functional assessments, are also available free of charge to transit agencies.[17]

9.3.4 Providing Accessible Information and Materials

Requirement

"All information about the process, materials necessary to apply for eligibility, and notices and determinations concerning eligibility shall be made available in accessible formats, upon request" (§ 37.125(b)).

Discussion

The accessible format requirement covers brochures or public information describing ADA paratransit eligibility and the application process, the application form, letters of determination, information on the appeal process, as well as other information and materials. Accessible formats provided upon request include large print, electronic formats, audiotape, or braille. In an increasingly electronic world, a good practice is to post information and materials online and in a format easy to use for individuals with vision disabilities who use screen readers.[18]

Information does not always need to be provided in the format an individual requests; it does however need to be in a format that the individual can effectively use. For example, if an individual can access e-mail, the agency may decide to send notices via e-mail instead of audiotape.

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[17] See Easter Seals Project ACTION Resources and Publications website.

[18] To ensure accessibility of online information, transit agencies should follow the requirements of Section 508 of the Rehabilitation Act of 1973. Information about Section 508 requirements can be obtained at www.Section508.gov. Another good source of information about online information accessibility is the World Wide Web Consortium (W3C) Web Accessibility Initiative (WAI), which is at www.w3.org.

Another good practice is to ask applicants if they would like future communications related to the process in an alternative format and ask for information about the format desired. Such a question can be included in application forms or incorporated into in-person interviews.

9.3.5 Making Timely Determinations

Requirement

"If, by a date 21 days following the submission of a complete application, the entity has not made a determination of eligibility, the applicant shall be treated as eligible and provided service until and unless the entity denies the application" (§ 37.125(c)).

Discussion

As is the case throughout the regulations, "days" means calendar days (unless indicated otherwise). Transit agencies can take longer than 21 calendar days to make a decision as long as they permit an applicant to use the complementary paratransit service starting on the 22nd day. FTA encourages agencies to have the capacity to make decisions within 21 days and to establish a process to automatically grant provisional eligibility and provide service beginning on the 22nd day when they cannot make decisions cannot within the regulatory timeframe. Agencies should include information about this right to provisional service in public information describing the ADA paratransit eligibility process, in cover letters accompanying application forms, and/or letters acknowledging the receipt of applications.

The 21-day timeframe begins at "submission of a completed application." For transit agencies that require in-person interviews and functional assessments, applications are considered complete at the conclusion of interviews and assessments, not when applications are received. Similarly, if an agency uses an online process only with no paper application, the submission is complete when required interviews and assessments have concluded. As discussed in the Appendix D section on ADA Paratransit Eligibility Process, the application process is complete "when the applicant has taken all necessary actions."

Transit agencies should schedule any required in-person interviews and/or functional assessments promptly (e.g., within 7–10 calendar days of receipt of an application). FTA considers long wait times an unreasonable administrative burden in violation of § 37.125.

When scheduling interviews and/or assessment appointments, transit agencies are not responsible for delays created by applicants. For example, suppose an agency offers an appointment within seven days, but the applicant indicates he or she will be away and requests an appointment in 17 days. The agency has met its obligation to offer an appointment within a reasonable period by offering an appointment within seven days.

9.3.6 Documentation Requirements

Requirement

"The entity's determination concerning eligibility shall be in writing. If the determination is that the individual is ineligible, the determination shall state the reasons for the finding" (§ 37.125(d)).

"The public entity shall provide documentation to each eligible individual stating that he or she is 'ADA Paratransit Eligible.' The documentation shall include the name of the eligible individual, the name of the transit provider, the telephone number of the entity's paratransit coordinator, an expiration date for eligibility, and any conditions or limitations on the individual's eligibility including the use of a personal care attendant" (§ 37.125(e)).

"In applications for ADA paratransit eligibility, the entity may require the applicant to indicate whether or not he or she travels with a personal care attendant" (§ 37.125(i)).

Discussion

Transit agencies must transmit eligibility determinations to applicants in writing (as well as any appropriate alternative format).

Eligible Applicants

For applicants found eligible, the documentation provided must specifically state that the individuals are "ADA paratransit eligible." The documentation must also include:

- The name of the eligible individual
- The name of the transit agency issuing the documentation
- The telephone number of the transit agency's paratransit coordinator
- An expiration date of the eligibility (if applicable)
- Any limitations or conditions placed on the individual's eligibility
- Whether the applicant travels with a personal care attendant

FTA notes that while § 37.125 specifically calls for the telephone number of the transit agency's paratransit coordinator, transit agencies may provide any appropriate telephone number for verifying the validity of the rider's documentation of eligibility. This allows other transit agencies to provide complementary paratransit service to visitors by verifying their eligibility from their "home" agency.

Identification Cards

Many transit agencies issue identification cards to eligible riders. If the cards contain some but not all of the required information, agencies must also issue letters of determination containing all of the required information.

Ineligible, Conditionally Eligible, or Temporarily Eligible Applicants

When informing applicants that they are ineligible, conditionally eligible, or temporarily eligible, transit agencies must document the reasons for the determination. As explained in the Appendix D section on ADA Paratransit Eligibility Process, "the reasons must specifically relate the evidence in the matter to the eligibility criteria of this rule and of the entity's process. A mere recital that the applicant can use fixed route transit is not sufficient."

For example, an applicant may claim that arthritis affecting the knees prevents him or her from walking to and from bus stops, but information gathered from professionals or through functional assessments did not substantiate this claim. The determination letter must provide specific reasons for the denial, such as the following: "You indicated that you could not use fixed route services because arthritis in your knees prevented you from walking to and from bus stops. However, information from the professional you identified for verification of your disability indicated that you had mild osteoarthritis that did not limit your ability to walk to or from bus stops. The physical therapist who conducted the assessment of your walking ability also reported that you walked the 1/2-mile route at the assessment center without any apparent discomfort or change in gait."

The following is an example of an inappropriate explanation of denial: "The information we obtained indicated that you were not prevented from using fixed route transit service."

Those preparing determination letters should put themselves in the applicant's position and ask, "Am I providing enough details to allow an applicant to adequately prepare for an appeal should they choose to

do so?" If determination letters do not identify which pieces of information were critical in making the decision, then applicants do not know how to challenge the decision.

When denying or limiting eligibility in any way (e.g., conditional or temporary eligibility), the documentation provided should explain an applicant's right to appeal the decision and explain how to request an appeal. (See Section 9.4.)

Sample Determination Letters

Attachment 9-2 provides sample determination letters that illustrate what information to include when making different types of determinations. This attachment includes sample letters for determinations of unconditional eligibility, conditional eligibility, temporary eligibility, and for eligibility denials.

Personal Care Attendants

During the eligibility determination process, transit agencies may ask applicants if they sometimes travel with personal care attendants (PCAs). (See Section 9.5.) In situations where applicants indicate they are currently able to travel without an attendant but subsequently indicate they need such assistance on the vehicle or at their destination, FTA encourages agencies to make it easy for riders to reserve trips with PCAs and not require them to reapply. Some agencies allow all ADA paratransit eligible riders to travel with PCAs upon request.

Even when applicants seeking ADA paratransit eligibility indicate they must always have a PCA, transit agencies cannot require them to always travel with a PCA. This would be inconsistent with § 37.5(e). (See Chapter 2.) Individuals may still be able to use complementary paratransit with required driver assistance and with assistance at both ends of the trip. While such information obtained in the eligibility process may be important for ensuring that riders are never left unattended and are met at both ends of the trip, this information cannot be used to require the use of attendants.

9.3.7 Recertification

Requirement

"The entity may require recertification of the eligibility of ADA paratransit eligible individuals at reasonable intervals" (§ 37.125(f)).

Discussion

Many factors might change over time that could affect the ability of individuals with disabilities to use fixed route transit services. These could include changes in the physical environment, changes in the accessibility of the fixed route system, or changes in riders' functional abilities.

Transit agencies should establish the duration of eligibility and recertification policies with the participation of individuals with disabilities.

The Appendix D section on the ADA Paratransit Eligibility Process provides guidance on reasonable intervals for recertification, noting that requiring recertification too frequently (e.g., more than once per year) would be overly burdensome to riders and more costly to transit agencies. On the other hand, granting eligibility for very long periods might not capture changes in conditions. Many transit agencies require recertification every three-to-five years as a balance between the need to determine current abilities and conditions and the cost of managing the recertification process.

Regardless of the recertification policies adopted, eligible individuals have the right to reapply at any time. For example, individuals initially granted conditional eligibility might feel that their functional abilities have changed and the conditions established no longer reflect their abilities. They can request

reconsideration of their eligibility by submitting new documentation or reapplying at any time during their current term of eligibility. Determinations made during existing terms of eligibility, whether based on additional documentation or new applications, are considered new decisions and, as such, are appealable. (See Section 9.4.)

Similarly, transit agencies may request that eligible individuals reapply if documentation shows a significant change in their functional abilities. For example, an individual may initially apply while using a manual wheelchair. At some point during the term of eligibility, the individual might obtain a power wheelchair that could overcome a previous inability to get to and from transit stops and stations. In this case, it would be acceptable for the agency to ask the individual to reapply so that eligibility could be appropriately adjusted. It would not be acceptable to ask or require an individual to reapply for eligibility based on casual anecdotal observations by people not trained in making eligibility determinations, such as drivers and/or other riders.

A good practice is to remind riders of the need to reapply before the end of their term of eligibility. Many transit agencies send riders a notice 60–90 days before their current eligibility expires and include the materials needed to reapply. Doing this helps to avoid lapses in eligibility and facilitates a smooth recertification process.

Simplified Recertification for Certain Riders

Some transit agencies use a simplified recertification process for certain riders such as those whose functional abilities are not likely to change over time even with different mobility aids. Such simplified recertification forms ask riders to update their contact information and note any changes in their travel abilities or needs. Appropriate use of simplified recertification forms and processes may reduce eligibility determination costs.

9.4 Appeal Process

Requirement

"The entity shall establish an administrative appeal process through which individuals who are denied eligibility can obtain review of the denial.

> (1) The entity may require that an appeal be filed within 60 days of the denial of an individual's application
>
> (2) The process shall include an opportunity to be heard and to present information and arguments, separation of functions (i.e., a decision by a person not involved with the initial decision to deny eligibility), and written notification of the decision, and the reasons for it
>
> (3) The entity is not required to provide paratransit service to the individual pending the determination on appeal. However, if the entity has not made a decision within 30 days of the completion of the appeal process, the entity shall provide paratransit service from that time until and unless a decision to deny the appeal is issued" (§ 37.125(g)).

Discussion

Transit agencies must establish an administrative process through which individuals can appeal eligibility decisions that limit or deny eligibility, including those determined conditionally eligible or only eligible on a temporary basis. The right to appeal also extends to decisions resulting from individuals choosing to reapply during their eligibility term.

9.4.1 Notification of Rights to Appeal and Accepting Appeals

Transit agencies should include notice of the right to appeal and how to request an appeal in letters that communicate decisions that deny or limit eligibility in any way. Agencies may require requests for an appeal to be in writing. A good practice is to enclose an appeal request form with initial determination letters. (See Attachment 9-3 for a sample appeal request form.)

Transit agencies must accept appeal requests received within 60 days of the initial determinations. Transit agencies may choose to establish policies that provide a longer period to request appeals but are not required to accept requests for appeals after 60 days.

Transit agencies should arrange in-person appeal hearings without unreasonable delays (e.g., within 30 days of the request).

9.4.2 Right to be Heard in Person

Appellants can choose not to appear in person and to send written information for consideration instead. However, a transit agency cannot require written appeals because the process must give individuals the opportunity to present information and arguments in person.

In support of this right to be heard in person, FTA encourages transit agencies to provide free transportation to and from appeal hearings. Some appellants may be discouraged or prevented from exercising their right to attend an appeal hearing if they have no transportation or if they have to incur a significant expense to travel to and from appeal hearings.

9.4.3 Separation of Functions

A separation of functions means that, to the extent practicable, those deciding appeals should not be involved with the initial determination including working in the same office as, supervising, or working for the original decisionmaker.

One way to check for separation of function (and authority) is to examine a transit agency's organizational chart. There should not be a vertical line or lines connecting those involved in initial determinations and those deciding appeals. If individuals from the agency are involved in appeals, they should work in a different office or department from those making the initial decision. In smaller transit agencies where it is not feasible to fully separate functions, the Appendix D discussion of ADA Paratransit Eligibility Process states, "the second decisionmaker should at least be 'bubbled' with respect to the original decision (i.e., not have participated in the original decision or discussed it with the original decisionmaker)."

9.4.4 Timely Decisions

A transit agency is not required to provide complementary paratransit service to the appellant pending the determination on appeal. However, if the agency has not made a decision within 30 days of the completion of the appeal process, the agency must provide complementary paratransit service from that time until and unless it issues a decision to deny the appeal. Some agencies elect to continue to provide complementary paratransit service to current riders whose eligibility was denied or limited during recertification to avoid service interruptions if the appeal overturns the initial decision.

Written Decisions

Transit agencies must provide appellants with written appeal decisions (in accessible formats as appropriate) and, if upholding an initial eligibility determination, the letter must describe the specific reasons for the decision, similar to the level of detail provided in the initial determination letter.

9.4.5 Selecting Individuals to Hear Appeals

In selecting individuals to hear and decide appeals, FTA recommends that transit agencies consider the following general guidelines and suggestions:

- Select individuals for their ability to maintain objectivity in reviewing appeals; they should not be selected to "represent" one side or particular point of view (e.g., the transit agency or the disability community).
- Ideally, individuals who hear and decide appeals should bring a high level of knowledge about the functional abilities of individuals with disabilities similar to those of appellants. A good practice is to develop a roster of specialists to call upon depending on an appellant's disability. For example, call on orientation and mobility specialists on to hear appeals from individuals with vision disabilities. Call on psychiatrists, mental health professionals, or social workers to hear appeals from individuals with psychiatric or cognitive disabilities. Physical or occupational therapists would be qualified to hear appeals from individuals with physical disabilities.
- Those who hear appeals should have a thorough understanding of the function and intent of complementary paratransit and the regulatory criteria for ADA paratransit eligibility and should be trained as necessary to ensure they fully understand the regulations.
- Individuals involved in appeals should also have a good knowledge of fixed route transit and complementary paratransit policies. This will allow them to more accurately determine if appellants can perform all of the tasks required to use fixed route services and to understand the differences between use of fixed route transit and complementary paratransit.

Additional Good Appeal Practices

To help minimize the need for appeals, FTA encourages transit agencies to double-check any determinations that deny or limit eligibility. A second reviewer might review each file to ensure that the decision appears appropriate before communicating the decision to the applicant.

Similarly, transit agencies might consider double-checking applicants' files and the initial decisions when applicants request appeals. If internal reviews identify errors in initial determinations, transit agencies can quickly reverse the initial decisions and obviate the burden and cost of formal appeals. If internal review supports the initial determinations, transit agencies should schedule the appeal hearing promptly. Agencies that elect to implement such informal reviews should complete such reviews quickly. These reviews would not be part of the rider's appeal, since they were undertaken without additional information from the appellant, without an opportunity for the appellant to be heard in person, and might not meet the requirement for separation of function.

Transit agencies should also ensure that procedures are in place to ensure confidentiality during the appeal process.

9.5 Personal Attendants and Companions

Requirement

"Individuals accompanying an ADA paratransit eligible individual shall be provided service as follows:

(1) One other individual accompanying the ADA paratransit eligible individual shall be provided service—

(i) If the ADA paratransit eligible individual is traveling with a personal care attendant, the entity shall provide service to one other individual in addition to the attendant who is accompanying the eligible individual;

(ii) A family member or friend is regarded as a person accompanying the eligible individual, and not as a personal care attendant, unless the family member or friend registered is acting in the capacity of a personal care attendant;

(2) Additional individuals accompanying the ADA paratransit eligible individual shall be provided service, provided that space is available for them on the paratransit vehicle carrying the ADA paratransit eligible individual and that transportation of the additional individuals will not result in a denial of service to ADA paratransit eligible individuals;

(3) In order to be considered as 'accompanying' the eligible individual for purposes of this paragraph (f), the other individual(s) shall have the same origin and destination as the eligible individual" (§ 37.123(f)).

Discussion

Personal Care Attendants (PCAs) are people that individuals with disabilities designate or hire to assist with one or more daily life activities such as providing personal care, performing manual tasks, providing assistance with mobility or communication, or providing assistance with life support or other equipment. PCA assistance is not always needed during a complementary paratransit trip but may be needed at the destination.

PCAs may or may not be family members or friends. In some instances, PCAs may be other individuals with a disability.[19] For example, an individual with a physical disability may assist someone with a vision disability or may accompany an individual with an intellectual disability who cannot travel independently.

Complementary paratransit riders also have the right to be accompanied by at least one companion. Transit agencies should accommodate additional companions if space is available. Such companions can be a spouse, a child, a coworker, a friend, or anyone else traveling with riders. One way that companions differ from PCAs is that riders making reservations do not identify companions as individuals providing needed assistance.

PCAs and companions must board and disembark at the same locations as eligible individuals. Transit agencies are not required to transport attendants and companions to or from other locations.

To ensure space availability for all riders, transit agencies can require those making trip reservations to indicate that they will be traveling with a PCA or companion.

As noted in Chapter 8, PCAs pay no fare. Transit agencies may charge companions the same fare charged to eligible riders.

[19] State agency requirements governing attendant services that may be more restrictive (i.e., limited to certain paid or licensed individuals) are not relevant for complementary paratransit purposes. Transit agencies may not require attendants to be paid or deemed "attendants" by state agencies to qualify as attendants under the ADA.

9.6 Service for Visitors

Requirement

"Each public entity required to provide complementary paratransit service under § 37.121 of [Part 37] shall make the service available to visitors as provided in this section" (§ 37.127(a)).

"For purposes of this section, a visitor is an individual with disabilities who does not reside in the jurisdiction(s) served by the public entity or other entities with which the public entity provides coordinated complementary paratransit service within a region" (§ 37.127(b)).

Discussion

Transit agencies are required to provide complementary paratransit service to individuals with disabilities visiting their area. Visitors are defined as individuals who reside outside an agency's jurisdiction. In cases where multiple transit agencies have developed a coordinated regional paratransit service, visitors are defined as those residing outside of the regional jurisdiction.

As explained in the Appendix D section on Complementary Paratransit for Visitors, transit agencies must "provide service to visitors from out of town on the same basis as it is provided to local residents…[i.e.,] under all the same conditions, service criteria, etc., without distinction."

9.6.1 Visitors with Eligibility from Another Transit Agency

Requirement

"Each public entity shall treat as eligible for its complementary paratransit service all visitors who present documentation that they are ADA paratransit eligible, under the criteria of § 37.125 of [Part 37], in the jurisdiction in which they reside" (§ 37.127(c)).

Discussion

Individuals that other transit agencies have determined ADA paratransit eligible can present documentation of eligibility received from these other agencies. As discussed in the same Appendix D section on Complementary Paratransit for Visitors, host transit agencies "will give 'full faith and credit' to the ID card or other documentation from the other [transit agency]." Agencies must accept this documentation directly from the individual and not require that the documentation be provided directly from the individual's home transit agency.

9.6.2 Visitors without Eligibility from Another Transit Agency

Requirement

"With respect to visitors with disabilities who do not present such documentation, the public entity may require the documentation of the individual's place of residence and, if the individual's disability is not apparent, of his or her disability. The entity shall provide paratransit service to individuals with disabilities who qualify as visitors under paragraph (b) of this section. The entity shall accept a certification by such individuals that they are unable to use fixed route transit" (§ 37.127(d)).

Discussion

Individuals with disabilities may not have documentation of ADA paratransit eligibility from another transit agency because they reside in areas that have no public transit or have not applied for eligibility in their home area. Transit agencies can request such individuals to provide proof of residence to verify that

they qualify as a visitor. For visitors whose disabilities are apparent, transit agencies cannot require additional documentation. For visitors whose disability is not apparent (e.g., cognitive disability, cardiac condition, etc.), transit agencies can require documentation of disability and should accept basic forms of documentation.

FTA notes that granting visitor eligibility should be a fairly simple and quick process. Individuals should be able to contact the host agency to learn what is required and then be able to easily meet the requirements. Upon receipt of any required documentation, transit agencies should be able to quickly enter necessary information into any databases or systems to permit visitors to place trip requests. FTA envisions this as a process that can often be completed the same day or no more than one day later to begin accepting trip requests.

9.6.3 Duration of Visitor Eligibility

Requirement

"A public entity shall make the service to a visitor required by this section available for any combination of 21 days during any 365-day period beginning with the visitor's first use of the service during such 365-day period. In no case shall the public entity require a visitor to apply for or receive eligibility certification from the public entity before receiving the service required by this section" (§ 37.127(e)).

Discussion

Transit agencies are required to provide visitors with complementary paratransit service for any combination of 21 days during a 365-day period beginning with the visitor's first use of the service. Agencies can require visitors requesting additional service to apply through the local eligibility process.

Transit agencies may not require visitors to apply for ADA paratransit eligibility. Should visitors choose to apply, agencies must process their applications. A good practice is to ask visitors when they first call if they expect to use the service for more than 21 days in the next 365-day period and to offer application materials if they answer in the affirmative.

9.7 No-show Suspensions

Requirement

"The entity may establish an administrative process to suspend, for a reasonable period of time, the provision of complementary paratransit service to ADA eligible individuals who establish a pattern or practice of missing scheduled trips.

> (1) Trips missed by the individual for reasons beyond his or her control (including, but not limited to, trips which are missed due to operator error) shall not be a basis for determining that such a pattern or practice exists.
>
> (2) Before suspending service, the entity shall take the following steps:
>
> > (i) Notify the individual in writing that the entity proposes to suspend service, citing with specificity the basis of the proposed suspension and setting forth the proposed sanction.
> >
> > (ii) Provide the individual an opportunity to be heard and to present information and arguments;
> >
> > (iii) Provide the individual with written notification of the decision and the reasons for it.

(3) The appeals process of paragraph (g) of this section is available to an individual on whom sanctions have been imposed under this paragraph. The sanction is stayed pending the outcome of the appeal" (§ 37.125(h)).

Discussion

As discussed in the Appendix D section on ADA Paratransit Eligibility Process, a "pattern or practice" is defined as "intentional, repeated or regular actions, not isolated, accidental, or singular incidents." Furthermore, "only actions within the control of the individual count as part of a pattern or practice. Missed trips due to operator error are not attributable to the individual passenger for this purpose." If riders do not take trips because a vehicle waited at a wrong address or arrived late, transit agencies cannot count such errors as rider no-shows. Similarly, if riders cancel trips due to sudden illness or family emergencies or whose medical appointments run longer than expected, agencies cannot include such events in the process of determining that a pattern or practice exists.

While the regulations only address proposed service suspensions due to a pattern or practice of missing scheduled trips, FTA has allowed transit agencies to also count late cancellations that are the operational equivalent to no-shows, i.e., cancelling a trip less than one-to-two hours prior to the pickup time negotiated with the rider.

Because riders have an independent right to each trip, transit agencies that assess riders with no-shows for the outgoing portion of a round trip should not automatically assume that the return trip is not needed. Absent indications from riders or other reliable sources that they will not need return trips, the return trips and subsequent trips should remain on schedules. In these instances, a good practice is to attempt to contact riders to inquire about return trips to avoid the cost of sending vehicles unnecessarily.

9.7.1 Establishing That a Pattern or Practice Exists

Service suspension policies should define how transit agencies define "a pattern or practice." In addition to considering the number of no-shows (or late cancellations) from individual riders, agencies should also consider the frequency of no-shows compared to all trips scheduled. To help define what constitutes an abuse of the service, transit agencies should establish thresholds for suspensions that represent multiples of the systemwide average. For example, if the systemwide average for no-shows is 5 percent of all scheduled trips, the threshold for potential suspensions should be greater than 10–15 percent.

In addition to establishing a frequency threshold, transit agencies are encouraged to also establish thresholds for the minimum number of no-shows within a given interval, below which they would not impose suspensions. For example, while one no-show out of two scheduled trips in one month yields a frequency of 50 percent, one no-show in one month is a very low rate.

A sample no-show policy that offers an example of how to address both the absolute number and frequency of no-shows is provided as Attachment 9-4.

Because transit agencies cannot use no-shows beyond a rider's control as a basis for determining a pattern or practice of missing scheduled trips, a good practice is to include statements to this effect in all public information describing no-show policies.

9.7.2 Notifying Riders of Proposed Suspensions

Notifications of proposed suspensions should include the date, time, and location of each no-show or late cancellation. Notifications must offer riders an opportunity to dispute no-shows or explain no-shows beyond their control. Notification letters must also state that riders can formally appeal proposed suspensions and include instructions on the appeal process and how to request an appeal. FTA notes that riders can appeal the basis for proposed suspensions even if they elect not to dispute any of the listed no-

shows. (See Section 9.4.) For example, riders can challenge a suspension on the basis that they have not amassed a sufficient number of no-shows to constitute a pattern or practice of missing scheduled trips even though the number of no-shows met the agency's established threshold.

A good practice is to regularly notify riders of specific no-show charges to allow them to dispute and/or explain no-shows beyond their control. For riders that have accumulated several no-shows and may be facing service suspensions, another good practice is to notify riders with warning letters. Instead of waiting until a rider has reached the point where suspension of service is imminent, the agency should send warning letters as the point of suspension approaches.

Effective no-show suspension warning letters list the no-shows recorded, note that additional no-shows could result in a suspension, and encourage riders to call if they feel any of the no-shows were recorded in error or were outside the rider's control. Providing this notification after only a few no-shows makes it easier for riders to recall the actual circumstances surrounding the no-shows.

A good practice is to review recorded no-shows before proposing suspensions, including reviewing a vehicle's location and arrival and departure times for each trip, removing any incorrectly recorded no-shows. For example, for transit agencies that use 30-minute pickup windows and require drivers to wait for at least five minutes before departing without a rider (see Chapter 8), they should verify that drivers did not:

- Arrive before the 30-minute window and depart before waiting at least five minutes within the 30-minute pickup window without picking up the rider (a missed trip)
- Arrive within the 30-minute window and depart before waiting at least five minutes without making contact with the rider (a missed trip)
- Arrive after the 30-minute window without picking up the rider (a missed trip)

Transit agencies should also verify trip addresses to ensure that trip booking errors did not occur and verify that vehicles were at the correct location.

9.7.3 Appeals of No-Show Suspensions

Riders have the right to appeal no-show suspensions regardless of whether they have disputed any individual no-show charges. The requirements that apply to appeals of eligibility decisions detailed in § 37.125(g) also apply to no-show suspension appeals. Riders facing suspensions have the opportunity to be heard in person and the suspension is stayed during the appeal. (See Section 9.4.)

9.7.4 Duration of Suspensions

Imposed suspensions must be for reasonable periods. FTA considers one week for the first offense a reasonable duration. Subsequent offenses may justify longer suspensions, but FTA considers suspensions longer than 30 days to be excessive under any circumstances.

9.7.5 Prohibition Against Financial Penalties

Transit agencies may not impose financial penalties in their no-show policies, including charging fares for trips scheduled but not taken or requiring payment of a fine in order to regain complementary paratransit service. The regulations only permit the establishment of an administrative process to suspend, for a reasonable amount of time, the provision of complementary paratransit service to eligible individuals who establish a pattern or practice of missing scheduled trips. In some cases, however, agencies and riders facing suspensions have mutually agreed on payments for missed trips in lieu of suspensions. Where such arrangements are made voluntarily, FTA has elected not to intervene.

Good Practices for Minimizing No-Shows

FTA also encourages transit agencies to develop operating procedures that minimize no-shows. These include:

- Establishing a brief period (e.g. five minutes) within on-time pickup windows during which drivers will wait for riders before departing.
- Having drivers ring the doorbell at a pickup location (if applicable) or having dispatchers place a "call-out" for riders who may have difficulty knowing when vehicles have arrived either because of their disabilities or because they cannot see waiting vehicles.
- Ensuring all drivers provide the same level of rider assistance. If some drivers go to a rider's door and others only wait at the curb or if policies for assistance beyond the curb are not consistently implemented, this can create rider expectations that result in no-shows.
- Repeating and verifying key information during trip booking. This includes day and date, addresses, special pickup instructions (e.g., "side door"), and scheduled pickup times and vehicle arrival windows ("ready windows").
- Making it easy for riders to cancel trips they no longer need. For example, transit agencies might provide a 24-hour trip cancellation phone number for riders to leave messages when the office is closed.
- Contacting riders who have repeat no-shows before a pattern or practice develops to determine if they understand how to use the service or may need assistance using the service.
- Establishing a process to adjust subscription schedules for riders whose subscription trips are affected. No-shows often occur from a failure to adjust subscription schedules when temporary changes occur. For example, a rider who has subscription services may go on vacation and inform the agency of the vacation, but the subscription schedule may remain unchanged.
- Maintaining close communications with agencies that may provide lists of riders who receive subscription service. No-shows sometimes occur if these lists are not updated or if agencies do not accurately communicate which riders are to be scheduled each day.

Additional suggestions for minimizing no-shows and implementing effective no-show policies are available in published reports.[20]

9.8 Types of Service

9.8.1 Origin-to-Destination Service

Requirement

"Except as provided in this section, complementary paratransit service for ADA paratransit eligible persons shall be origin-to-destination service" (§ 37.129(a)).

Discussion

By definition, complementary paratransit service is an origin-to-destination service featuring a level of driver assistance that enables all complementary paratransit riders to travel from their origins to their destinations. DOT has published disability law guidance that elaborates on the meaning of origin-to-

[20] TCRP Synthesis 60, Practices in No-Show and Late Cancellation Policies for ADA Paratransit, Transportation Research Board, Washington, D.C., 2005

destination service. The following paragraphs summarize this guidance and suggest some potential policies and practices to comply with the requirements.

Base Level of Service

Transit agencies, through the public participation process, may set a "base level" of service, which may be defined as door-to-door or curb-to-curb service. Door-to-door service means assisting all riders beyond the curb. Setting the base level of service as curb-to-curb means agencies will pick up and drop off riders at the curb. Where the local planning process establishes curb-to-curb service as the basic complementary paratransit service mode, however, agencies must still make provisions to ensure that the service available to each passenger actually gets the passenger from his or her point of origin to his or her destination point. To meet this origin-to-destination requirement, agencies may need to provide service to some individuals, or at some locations, in a way that goes beyond curb-to-curb service.

Rider Assistance Practices and Policies

If transit agencies elect to provide assistance beyond the curb only on an as-needed basis, they may ask riders to inform them in advance if they will need additional assistance. A good practice is to include such information in a rider's file for future trips. Such information is typically obtained during the eligibility-determination process. (See Section 9.2.2.) Riders may not know ahead of time what barriers exist at drop-off points. In cases when riders do not provide advance notification or ask for assistance when requesting a trip, agencies should make their best efforts to provide the needed assistance.

Transit agencies are allowed to set policies to ensure safety for drivers and other riders. For example, many agencies limit drivers to assisting riders up or down one step (or none if riders are using a powered wheelchair). Agencies may set a policy in which drivers must be able to maintain "effective continuing control" of the vehicle. This sometimes includes maintaining visual contact with the vehicle or not going more than a certain distance (e.g., X feet) from the vehicle. Agencies may also create a policy that prohibits drivers from entering a private residence or traveling beyond the lobby of a public building such as a hospital or traveling past the first exterior door of a building.

Once transit agencies establish policies for origin-to-destination service, they must ensure that all staff understand these policies and receive appropriate training to properly carry out these policies. (See Chapter 2.)

Ensuring Origin-to-Destination Service When Transfers are Required

If different service providers (or contractors) operate a transit agency's complementary paratransit service with service divided into specific geographical areas, the transit agency is responsible for ensuring that riders are able to travel from any point within its service area to any other point in its service area in a manner comparable with its fixed route service. The number of service "zones" involved is not a consideration.

Transit agencies may meet this obligation by providing the trip in one vehicle or, alternatively, may decide to establish transfer points within their complementary paratransit service area for efficiency or convenience. If a transit agency requires riders to transfer between two vehicles to complete the complementary paratransit trip within that agency's jurisdiction, the agency must take into account the requirement under § 37.5(e), which prohibits agencies from requiring an attendant to accompany an individual with disabilities. (See Chapter 2.) This requirement applies to a situation in which a rider is unable to independently navigate between two service provider vehicles (i.e., cannot be left unattended.) For such riders, agencies must ensure that the driver of the first vehicle waits with the rider for the second vehicle to arrive and so on.

9.8.2 Feeder Service

Requirement

"Complementary paratransit service for ADA paratransit eligible persons described in § 37.123(e)(2) of [Part 37] may also be provided by on-call bus service or paratransit feeder service to an accessible fixed route, where such service enables the individual to use the fixed route bus system for his or her trip" (§ 37.129(b)).

"Complementary paratransit service for ADA eligible persons described in § 37.123(e)(3) of [Part 37] also may be provided by paratransit feeder service to and/or from an accessible fixed route" (§ 37.129(c)).

Discussion

For individuals who are eligible under Category 3 (where the only barrier to using fixed route services is the inability to reach a boarding point (see Section 9.2.2)), §§ 37.129(b)–(c) permit transit agencies to use "feeder service" to and from the fixed route services.

Feeder service is a service-delivery option, not a type of eligibility. For individuals who can navigate the fixed route system and can use feeder service, a conditional eligibility determination would be appropriate. The conditions placed on an individual's eligibility should identify the specific barriers that prevent use of fixed route service. When these conditions are present, transit agencies can then consider whether feeder service to access fixed route service is an appropriate option for particular trips.

A good practice is for transit agencies to evaluate individual riders and trip requests to determine when feeder service is appropriate. Important considerations in evaluating riders and trips include:

- Riders' functional abilities: Riders must have the functional ability to independently complete the fixed route portion of the trip.
- The total length of the trip: Providing feeder service for very short trips can result in total travel times that could become a capacity constraint. (See Chapter 8.) Feeder trips are typically not considered for trips shorter than 5–7 miles.
- Proximity of the fixed route alighting stop to the destination: To avoid having to provide complementary paratransit connections at both ends, one end of the trip should be near the fixed route stop and accessible for riders. Typically, feeder service is only arranged if riders are able to get to the fixed route independently at one end (commonly the destination). "Double feeder" is typically not realistic except for very long trips (over 15–20 miles).
- The headways of the fixed route service: Attempting feeder service with a route that runs infrequently could lead to an excessive travel time if the connection is not made on time.
- Amenities at the transfer point: If riders may have to wait at the station or stop, it is important that the facility have a bench and/or shelter. Access to a telephone (or staff who can make a call) may also be important if there is a connection issue and the complementary paratransit dispatch center needs to be contacted.
- Special scheduling of feeder trips: To avoid excessively long travel times, a good practice is to consider shorter on-time windows for feeder trips. For example, the drop-off window might be shortened to 5–10 minutes rather than 30 minutes so riders do not have long wait times at stations or stops for the fixed route service. Some transit agencies have schedulers manually adjust the schedules for feeder trips to shorten the travel times.

Attachment 9-1
Assessing Abilities to Use Fixed Route Transit Services

Example/Draft Task List (to be Discussed and Refined with Local Input)

Following is a draft list of tasks to be considered when developing a master task list with local input. Tasks must be performed independently, with the exception of transit personnel providing assistance with boarding, alighting, and operation of lifts, ramps and securement systems.

With a reasonable level of effort or risk, can the applicant independently and consistently:

- Get and remember transit system information
- Walk/wheel to and from transit stop/station
    - Throughout area – up to 3/4 mile
    - Over various surfaces
    - Over various terrain
    - Up/down curbs
    - Up/down curb cuts
    - Cross streets of various widths and with various controls
    - Find way in familiar and unfamiliar settings
- Enter and exit transit stations
    - Flights of stairs
    - Elevators and escalators
    - Navigating complex stations
- Wait at a stop/station for transit vehicle with and without benches/shelters
- Locate and recognize bus/train to take Single route and multiple routes with transfers
- Board and exit vehicle
    - Inaccessible vehicles
    - Accessible vehicles (lift, ramp)
- Pay fare
- Get to seat/securement area
- Ride in seated or standing position
- Recognize destination
- Signal for stop
- Perform above tasks in various weather and environmental conditions
    - Snow, ice, rain, heat, humidity, cold, smog
    - Bright light, low light, background noise
- Handle unexpected situations
- Remain safe when traveling alone

Example/Draft Functional Skills Lists (to be Discussed and Refined with Local Input)

Physical Functional Skills

Physical functional abilities needed to perform tasks required to use fixed route transit system:

- Walking speed
- Endurance
- Coordination
- Strength
- Balance
- Gait
- Range of motion
- Dexterity

Cognitive Functional Skills List

Cognitive functional abilities needed to perform tasks required to use fixed route transit system:

- Orientation to person, place and time
- Judgment and safety skills
- Problem solving
- Coping skills
- Short and long-term memory
- Concentration (attention to task)
- Ability to seek and act on directions
- Ability to process information
- Ability to communicate needs
- Consistency
- Behavioral skills

Sensory Functional Skills List

Sensory functional abilities needed to perform tasks required to use fixed route transit system:

- Orientation to place
- Directional wayfinding
- Ability to detect changes on surfaces
- Ability to detect environmental cues (hearing)
- Proficiency in using mobility aids

Attachment 9-2A
Sample Unconditional ADA Paratransit Eligibility Letter

[On Transit Agency Letterhead]

Date

Name
[Mailing Address]

Dear [Applicant Name]:

We have completed our review of your recent request for [name of complementary paratransit service], [transit agency name's] ADA paratransit service. Based on the information provided, we have determined that you are UNCONDITIONALLY ELIGIBLE for [name of complementary paratransit service] service. This means that you can use [name of complementary paratransit service] for any trips you need to make.

We have noted in your rider file that you sometimes travel with a personal care attendant (PCA). A PCA is someone designated or employed specifically to help you meet your personal needs, and is different from a guest or a companion. Your PCA may accompany you at no additional charge.

Your eligibility for [name of complementary paratransit service] is valid through [EXPIRATION DATE], after which you will need to request a continuation of your eligibility. We will notify you in advance of this expiration date to remind you to reapply, and will send you a recertification request form.

Enclosed is a copy of [insert name of a rider's guide], which explains the [name of complementary paratransit service] service and how to use it. The rider's guide includes helpful tips for using the service, so please be sure to read it. If you have any questions about the service, please call our Customer Service office at (phone number).

In addition to using [name of complementary paratransit service], this letter of eligibility also entitles you to use similar ADA paratransit services at other transit systems across the country as a visitor for up to 21 days per year. Simply provide the transit agency in the city you plan to visit with a copy of this letter to obtain approval to travel as a visitor.

If you have any questions about this determination of eligibility, please call our ADA Paratransit Eligibility office at (phone number).

Sincerely,

(ADA Paratransit Eligibility Manager)

Attachment: Rider's Guide

Attachment 9-2B
Sample Conditional ADA Paratransit Eligibility Letter

[On Transit Agency Letterhead]

Date

Name
[Mailing Address]

Dear [Applicant Name]:

We have completed our review of your recent request for [name of complementary paratransit service], the ADA paratransit service provided by the (transit agency's name). Based on the information provided, we have determined that you are CONDITIONALLY ELIGIBLE for [name of complementary paratransit service] service. This means we determined that you are able to use fixed route bus [and rail] service(s) under certain conditions and are eligible to use [name of complementary paratransit service] service when you are not able to use fixed route buses [and trains]. Please review the attached pages, which describe the conditions under which you can use the [name of complementary paratransit service] service as well as the basis for our determination.

We have noted in your rider file that you sometimes travel with a personal care attendant (PCA). A PCA is someone designated or employed specifically to help you meet your personal needs, and is different from a guest or a companion. Your PCA may accompany you at no additional charge.

Your eligibility for [name of complementary paratransit service] is valid through [EXPIRATION DATE], after which you will need to request a continuation of your eligibility. We will notify you in advance of this expiration date to remind you to reapply, and will send you a copy of a recertification request form.

Enclosed is a Rider's Guide that explains the [name of complementary paratransit service] service and how to use it. The Rider's Guide includes helpful tips for using the service, so please be sure to read it. If you have any questions about the service, please call our Customer Service Office at (phone number).

In addition to using [name of complementary paratransit service], this letter of eligibility also entitles you to use similar ADA paratransit services at other transit agencies across the country for up to 21 days of visitor service per year. Simply provide a copy of this letter to receive approval to travel as a visitor.

If you have any questions about this determination of eligibility, please call the (Transit Agency Name) ADA Paratransit Eligibility Office at (phone number). If you do not agree with the eligibility you have been granted, you have the right to appeal this determination. Requests for appeals must be submitted in writing. Copies of the Appeal Policy, as well as an Appeal Request Form, are attached.

Sincerely,

(ADA Paratransit Eligibility Manager)

Attachments:

Rider's Guide
Conditions of eligibility
Basis for the determination
Appeal policy and Appeal request form

Conditions of Eligibility (Sample)

Example A

The following might be appropriate for an applicant who uses a manual wheelchair

We determined that, because of your disability, you are not able to use the fixed route bus [and rail] service(s) under the following conditions. When these conditions exist, you are therefore eligible for [name of complementary paratransit service] service.

- You must travel more than 4 blocks to get to a bus stop [or train station], or from a bus stop [or train station] to your destination
- Sidewalks do not exist or are inaccessible (absence of curb ramps, broken pavement, or steep cross-slopes), which prevents you from getting to or from bus stops [or train stations]
- [Train stations that have stairs but no elevators prevent you from entering or exiting these stations]
- Steep hills prevent you from getting to or from bus stops [or train stations]
- The presence of snow or ice prevents you from getting to or from bus stops [or train stations]
- Conditions at bus stops you wish to use prevent bus drivers from deploying lifts or ramps at these stops

Example B

The following might be appropriate for an applicant with an intellectual disability who has completed travel training to make one trip on the fixed route bus system

You successfully completed travel training to use the fixed route bus service for some trips. Therefore, you are not eligible to use [name of complementary paratransit service] service for:

- Your trips from 50 Elm Street to 10 Main Street, or returning from 10 Main Street to 50 Elm Street (your trips to and from work)

Please continue to ride the fixed route bus for the above trips. For other trips for which you have not learned how to make by fixed route bus, you are eligible to use the [name of complementary paratransit service]

Basis for the Determination (Sample)

Example A

Potentially appropriate with Example A above

You indicated in your application (and interview), that you are able to travel up to 4 blocks to get to and from bus stops [or train stations]. You also indicated that you are able to get to and from bus stops [and train stations] as long as the route features level, accessible sidewalks and curb ramps. You also indicated that when there is an accumulation of snow you are not able to get to or from bus stops [or train stations].

During your in-person assessment, you were able to travel along the outdoor route at the Transportation Assessment Center for the first three blocks at a steady pace and completed these three blocks in 10 minutes. Your pace slowed during the fourth block along the route and this fourth block took 4 minutes to complete. We also contacted [name of professional contacted to verify disability and functional abilities], who also indicated that you could go 4 blocks to get to or from bus stops and [train stations].

Example B

Potentially appropriate with Example B above

You indicated in your application (and interview) that you had successfully completed travel training provided by the Center for Independent Living (CIL) and learned to take the bus from your home at 50 Elm Street to and from work at 10 Main Street. You said that you are currently using fixed route buses to make these trips to and from work. With your permission, we contacted the CIL and they confirmed that you completed travel training for these trips and that you are currently making these trips independently using fixed route buses.

Your score on the FACTS test (115 out of 146 points), which you took at the Transportation Assessment Center, also confirmed that you are able to learn to make some trips by fixed route buses with instruction.

Attachment 9-2C
Sample Temporary ADA Paratransit Eligibility Letter

[On Transit Agency Letterhead]

Date

Name
[Mailing Address]

Dear [Applicant Name]:

We have completed our review of your recent request for [name of complementary paratransit service], [Transit Agency's] ADA paratransit service). Based on the information provided, we have determined that you are eligible for [name of complementary paratransit service] service on a TEMPORARY basis.

Your eligibility for [name of complementary paratransit service] is valid for [XX] months, through [EXPIRATION DATE]. Should you need [name of complementary paratransit service] service beyond this date, you will need to request a continuation of your eligibility.

We are granting you temporary eligibility because [indicate reasons for temporary eligibility, such as: "this was the period of time you indicated your current condition would prevent you from using the fixed route transit service," or; "the information provided by you and (professional contacted) indicated that there could be a change in your ability to use the fixed route service after [XX] months as a result of treatment you are receiving," or "your application materials indicated that you have the ability to use fixed route transit when provided instruction to use the service. Attached is information about our free travel training service. We recommend that you contact [contact person] to enroll in the service. We will determine your ongoing eligibility for [name of complementary paratransit service] after you have participated in the travel training program."]

We have noted in your rider file that you sometimes travel with a personal care attendant (PCA). A PCA is someone designated or employed specifically to help you meet your personal needs, and is different from a guest or a companion. Your PCA may accompany you at no additional charge.

Enclosed is a Rider's Guide that explains the [name of complementary paratransit service] service and how to use it. The Rider's Guide includes helpful tips for using the service, so please be sure to read it. If you have any questions about the service, please call our Customer Service office at (phone number).

In addition to using [name of complementary paratransit service], this letter of eligibility also entitles you to use similar ADA paratransit services at other transit systems across the country as a visitor for up to 21 days per year. Simply provide the transit agency in the city you plan to visit with a copy of this letter to obtain approval to travel as a visitor.

If you have any questions about this determination of eligibility, please call the (Transit Agency Name) ADA Paratransit Eligibility office at (phone number). If you do not agree with this eligibility determination, you have the right to appeal this decision. We require that you request an appeal in writing. Copies of our appeal policy, as well as an appeal request form, are attached.

Sincerely,

(ADA Paratransit Eligibility Manager)

Attachments:

Rider's Guide
Appeal policy and Appeal request form

Attachment 9-2D
Sample Denial of ADA Paratransit Eligibility Letter

[On Transit Agency Letterhead]

Date

Name
[Mailing Address]

Dear [Applicant Name]:

We have completed our review of your recent request for [name of complementary paratransit service], [Transit Agency's] ADA paratransit service. Based on the information provided, we have determined that you are able to use fixed route buses [and trains] and are not prevented by a disability from using the regular fixed route transit service. You are therefore NOT ELIGIBLE for [name of complementary paratransit service] service.

The basis for our decision is explained on the attached page, Basis for the Determination. If you do not agree with this eligibility determination, you have the right to appeal this decision. We require that you request an appeal in writing. Copies of our appeal policy, as well as an appeal request form, are attached.

Attached is information about [Transit Agency's] fixed route bus [and train] service(s). Also attached is information about our free Travel Training program, which is designed to assist people with using buses and trains. Please contact us if we can assist you with using our bus [or train] service. For information about bus and train schedules, or for assistance planning trips by bus or train, call our Customer Service office at (phone number).

If you have any questions about this eligibility determination, please call the (Transit Agency) ADA Paratransit Eligibility office at (phone number).

Sincerely,

(ADA Paratransit Eligibility Manager)

Attachments:

Rider's Guide
Basis for the determination
Fixed route bus [and train] information
Travel training program information
Appeal policy and Appeal request form

Basis for the Determination (Sample)

You did not indicate in your application (or interview), that you are prevented by a disability from using fixed route buses and trains. You indicated you could obtain, use and remember bus schedule information, find your way to and from bus stops and train stations, walk up to 12 blocks, and cross streets and intersections. You also indicated that you sometimes don't travel when it is too hot or cold, or when it is snowing, but that while these weather conditions make travel outside more difficult and uncomfortable, they do not prevent you from traveling outside. You indicated that your main problem was that buses and trains do not go to all the places you need to travel and that sometimes you would need to take several buses to get where you need to go.

With your permission, we contacted [name of professional who provided information], who confirmed that you have high blood pressure and hypertension and that you were taking medications for these health conditions, which were not serious enough to prevent you from using fixed route buses and trains.

You participated in the outdoor walk at the Transportation Assessment Center and were able to complete the 1/2-mile route in 16 minutes with no difficulty.

While using fixed route public transit may be less convenient than [name of complementary paratransit service] service, ADA paratransit eligibility is limited to people whose disabilities prevent them from using fixed route buses and trains.

Attachment 9-3
Sample ADA Paratransit Eligibility Determination Appeal Request

Please complete this form if you would like to appeal our determination regarding your eligibility for the (Paratransit Service Name) service. Once completed, please return it to the address listed below. Completed forms must be postmarked within 60 days of the date of your eligibility determination letter.

Name: _____

Street address: _____

City: _____ State _____ Zip _____

Telephone number with area code: (_____) - _____

Select one of the following:

____ I choose to submit additional information for the Appeal Panel to consider, but do not want to appeal in person. (If you choose this option, please send all additional information you would like the Appeal Panel to consider along with this form. Please consider the information on the page attached to your letter of determination titled "Basis for the Determination" when preparing additional information.)

____ I choose to appeal in person. (If you choose this option, we will contact you to schedule a mutually agreeable day and time for the appeal hearing. You may bring additional information to the hearing and can attend with others who are able to provide information on your behalf.)

Applicant signature: _____

Date: _____

Return completed form to:

[Office]
[Transit Agency Name]
[Address]

Attachment 9-4
Sample No-show Policy

[Transit Agency Instructions]

A transit agency's no-show policy should include, at a minimum:

- General policy statement
- Definition of no-shows
- Description of minimum driver wait times within pickup windows
- Definition of late cancellations and how to cancel trips (optional)
- Examples of no-shows (and late cancelations) beyond a rider's control and how riders should communicate such instances
- Statement that no-shows due to transit agency errors do not count
- Statement that subsequent trips after a no-show will not be automatically cancelled, and that passengers need to cancel any trips they do not intend to take
- The transit agency's process to notify riders of recorded no-shows (or late cancellations)
- What constitutes a pattern and practice of excessive no-shows
- Time periods of potential service suspensions
- Instructions for appealing proposed suspensions

Transit agencies may choose to also include other elements such as incentives for low no-show rates, how to avoid no-shows, or assistance to riders who may be having difficulty using the service.

Transit agencies that include late cancellations in their no-show policy should consider distinguishing between no-shows and late cancellations and explain how to cancel trips within a late cancellation window.

Transit agencies should develop their no-show policies with input from complementary paratransit riders and other people with disabilities.

See Chapter 9 (ADA Paratransit Eligibility) for a more detailed discussion of the regulatory requirements related to § 37.125(h).

General Policy Statement on No-shows (Sample)

[Transit Agency][21] understands that because [Complementary Paratransit Service Name] requires trips to be scheduled in advance, riders may sometimes miss scheduled rides or forget to cancel rides they no longer need. [Transit Agency Name] also understands that riders may sometimes miss scheduled trips or be unable to cancel trips in a timely way for reasons that are beyond their control. However, repeatedly missing scheduled trips [or failing to cancel trips in a timely way] can lead to suspension of service. The following defines [Transit Agency's] No-show policy.

Definitions: No-show, Pickup Window, and Late Cancellation (Sample)

No-show

A no-show occurs when a rider fails to appear to board the vehicle for a scheduled trip. This presumes the vehicle arrives at the scheduled pickup location and the driver waits at least [five] minutes within the pickup window.

Pickup Window

The pickup window is defined as [from 15 minutes before the scheduled pickup time to 15 minutes after the scheduled pickup time]. Riders should be ready to board a vehicle that arrives within the pickup window. The driver will wait for a maximum of [five] minutes within the pickup window for the rider to appear.

Late Cancellation (Optional)[22]

A late cancellation is defined as either: a cancellation made less than [one hour][23] before the scheduled pickup time or as a cancellation made at the door or a refusal to board a vehicle that has arrived within the pickup window.

Definition: No-shows Due to Error or to Circumstances Beyond a Rider's Control (Sample)

[Transit Agency] does not count as no-shows [or late cancellations] any trips due to our error, such as:

- Trips placed on the schedule in error
- Pickups scheduled at the wrong pickup location
- Drivers arriving and departing before the pickup window begins
- Drivers arriving late (after the end of the pickup window)
- Drivers arriving within the pickup window, but departing without waiting the required [five minutes]
- Long hold times at the [Complementary Paratransit Service] operations center that prevent callers from canceling trips by telephone in a timely manner

[Transit Agency] does not count as no-shows [or late cancellations] situations beyond a rider's control, such as:

- Medical emergency
- Family emergency

[21] Information in brackets is subject to local agency input.

[22] For transit agencies that choose to count late cancellations as well as no-shows.

[23] As a policy matter, FTA permits transit agencies to consider late cancellations as no-shows for trips cancelled less than one or two hours before the pickup time provided to the passenger at the time the trip was reserved, and only under the same circumstances (i.e., not due to circumstances beyond the rider's control).

- Sudden illness or change in condition
- Appointment that runs unexpectedly late without sufficient notice

Riders should contact the [Complementary Paratransit Service Name] operations center when experiencing no-shows [or late cancellations] due to circumstances beyond their control.

Policy for Handling Subsequent Trips Following No-shows (Sample)

When a rider is a no-show for one trip, all subsequent trips on that day remain on the schedule unless the rider specifically cancels the trips. To avoid multiple no-shows on the same day, riders are strongly encouraged to cancel any subsequent trips they no longer need that day.

Suspension Policies for a Pattern or Practice of Excessive No-shows and Late Cancellations (Sample)

[Transit Agency] reviews all recorded no-shows [and late cancellations] to ensure accuracy before recording them in a rider's account.

Each verified no-show [or late cancellation] consistent with the above definitions counts as [one] penalty point. Riders will be subject to suspension after they:

- Accumulate [x] penalty points in one calendar month
- Have booked at least [y] trips that month, and
- Have "no-showed" or "late cancelled" at least [10] percent of those trips

[Transit Agency] will notify riders by telephone after they have accumulated [two] penalty points and would be subject to suspension should they accumulate [one] additional penalty point that month consistent with the criteria listed in this section of the policy above.

All suspension notices include a copy of this policy, information on disputing no-shows [or late cancellations], and how to appeal suspensions.

Suspensions begin on [Mondays]. The [first violation in a calendar year triggers a warning letter but no suspension]. Subsequent violations result in the following suspensions:

- Second violation: [w-day] suspension
- Third violation: [x-day] suspension
- Fourth violation: [y-day] suspension
- Fifth and subsequent violations: [z-day] suspension

Policy for Disputing No-shows or Late Cancellations (Sample)

Riders wishing to dispute specific no-shows [or late cancellations] must do so within [x] business days of receiving suspension letters. Riders should contact the [Complementary Paratransit Service Name] operations center.

Policy for Appealing Proposed Suspensions (Sample)

Riders wishing to appeal suspensions under this policy have the right to file an appeal, which must be in writing by letter or via email. Riders must submit written appeal requests within [x] business days of receiving suspension letters. Riders who miss the appeal request deadline will be suspended from [Complementary Paratransit Service Name] on the date listed on the suspension notice.

All suspension appeals follow [Transit Agency's] appeal policy.

Chapter 10 – Passenger Vessels

10.1 Introduction

This chapter covers passenger vessel service requirements in the U.S. Department of Transportation (DOT) Americans with Disabilities Act (ADA) regulations, including ensuring nondiscrimination in passenger vessel operations.

Regulations covered in this chapter are from Part 39 and include:

- General (Subpart A)
- Nondiscrimination and access to services (Subpart B)
- Information for passengers (Subpart C)
- Accessibility of landside facilities (Subpart D)
- Assistance and services to passengers with disabilities (Subpart F)
- Complaints and enforcement procedures (Subpart G)

The Subpart E guidelines for accessibility of vessels are currently reserved. The U.S. Architectural and Transportation Barriers Access Board (Access Board), which is charged with establishing accessibility guidelines for the construction and alteration of passenger vessels covered by the ADA, is developing these guidelines, which have not yet been issued. Further information is available at the Access Board's website.[24]

This Circular does not alter, amend, supersede or otherwise affect the DOT ADA regulations themselves or replace or reduce the need for detailed information in the regulations. Suggestions of good practices are included throughout the Circular; FTA recognizes that there are many different ways agencies can implement the regulatory requirements and ensure the delivery of ADA compliant service.

10.1.1 Marine Environments

Compared to land-based transit modes, passenger vessel operators (PVOs) face unique challenges in complying with access requirements because of the marine context in which passenger vessels operate. The boarding facilities and vessels operate in dynamic marine environments that require site-specific approaches to ensure the safety of all passengers, including those with disabilities, under variable access conditions.

For example, in a salt water tidal context such as New York Harbor or Puget Sound in Washington, an accessible path of travel may differ from one site to another based on different tidal ranges or wind and weather exposure conditions. Passenger vessel operations in a river or lake may need to adapt boarding approaches to a different set of environmental conditions, such as seasonal changes in water levels.

Passenger vessels are also subject to regulatory requirements from multiple agencies on the Federal and local level. These may include Coast Guard licenses and inspection procedures for vessels and crew. New or altered passenger vessel facilities are subject to ADA requirements in addition to Army Corps of Engineers and local environmental permitting requirements for constructing terminals, piers, and landings.

[24] Access Board website link.

10.1.2 Applicability

Requirement

"Except as provided in paragraph (b)...of this section, [Part 39] applies to you if you are the owner or operator of any passenger vessel, and you are:

(1) A public entity that provides designated public transportation; or

(2) A private entity primarily engaged in the business of transporting people whose operations affect commerce and that provides specified public transportation" (§ 39.5(a));

"If you are the PVO of a foreign-flag passenger vessel, [Part 39] applies to you only if your vessel picks up passengers at a port in the United States, its territories, possessions, or commonwealths" (§ 39.5(b)).

Discussion

This Circular applies to public entities operating passenger vessels directly and to public or private entities providing services under contract to public entities. Specifically, this Circular applies to any PVOs that receive FTA financial assistance[25] to provide public transportation. Such financial assistance may be used for terminal construction, terminal maintenance, vessel purchase, vessel maintenance, or vessel lease.

Public PVOs

Examples of public PVOs include Washington State Ferries, New York City's Staten Island Ferry, the Casco Bay Lines (Maine), and the San Francisco Bay Ferries. Other public PVOs include parks agencies that operate ferry services to and from park facilities such as the Boston Harbor Islands National Park. Parks agencies that receive FTA funding for vessels or terminals are subject to the requirements covered in this Circular.

Private PVOs Operating Under Contract to Public Entities

Private entities operating under contract to public entities are "standing in the shoes" of public entities and are therefore subject to the DOT ADA regulations. (See Chapter 1.) There are variations of such public/private passenger arrangements, including:

- PVOs operating privately owned vessels under contract or franchise agreement to provide scheduled passenger services, using one or more public terminal facilities constructed with FTA grant assistance. One such example is New York Waterways, which leases terminal space through service franchise agreements with the City of New York and Monmouth County (New Jersey) to provide a year-round public commuter ferry service.
- PVOs contracted to operate and maintain publicly owned vessels acquired with FTA grant assistance and using public or private terminal facilities. One such example is Boston Harbor Cruises, which contracts with the Massachusetts Bay Transportation Authority (MBTA) to provide year-round commuter ferry service on MBTA-owned vessels.
- PVOs operating non-commuter services using vessels or terminal facilities acquired or constructed with FTA grant assistance. One such example is Boston Harbor Cruises, which operates a combined scheduled ferry service and private excursion service under contract with the City of Salem (Massachusetts).

[25] Prior to the effective date of MAP-21, DOT made funds available for improvements to vessels and terminal facilities on a discretionary basis. MAP-21 authorized the Section 5307 Urbanized Area Formula Grant program to support the Discretionary Passenger Ferry Grant program.

10.1.3 Services Not Covered in this Circular

Private entities that offer passenger ferry services without Federal financial assistance are not covered in this Circular.

In addition, PVOs providing excursion services such as harbor tours, whale watches, dinner cruises, or charters are not covered in this Circular. Nor does this Circular apply to passenger vessel operators of U.S. or foreign-flag cruise ships. Accordingly, references in the remainder of this chapter to PVOs are for public entities or their contractors.

10.2 Nondiscrimination and Access to Services

Requirement

"As a PVO, you must not do any of the following things, either directly or through a contractual, licensing, or other arrangement:

> (1) You must not discriminate against any qualified individual with a disability, by reason of such disability, with respect to the individual's use of a vessel;
>
> (2) You must not require a qualified individual with a disability to accept special services that the individual does not request;
>
> (3) You must not exclude a qualified individual with a disability from or deny the person the benefit of any vessel transportation or related services that are available to other persons, except when specifically permitted by another section of [Part 39]; and
>
> (4) You must not take any action against an individual (e.g., refusing to provide transportation) because the individual asserts, on his or her own behalf or through or on behalf of others, rights protected by [Part 39] or the ADA" (§ 39.21(a)).

Discussion

The prohibition against discriminating against passengers on the basis of disability means that having a disability should in no way diminish an individual's right to fully participate in and benefit from public or private transportation services. It also means that individuals cannot be excluded from participating in or be denied the benefits of the provided transportation services solely because of a disability.

This general nondiscrimination requirement represents the foundation for the rest of the regulatory requirements. In the absence of a specific provision covering a particular policy or operating issue, the general nondiscrimination requirements would apply.

In addition, PVOs cannot:

- Limit the number of passengers with a disability on a vessel
- Require medical certificates from passengers with a disability
- Require advance notice of travel from passengers with a disability

10.2.1 Reasonable Modifications

Requirement

"(1) As a PVO that is a private entity, you must make reasonable modifications in policies, practices, or procedures when such modifications are necessary to afford such goods, services, facilities, privileges, advantages, or accommodations to individuals with disabilities, unless you can demonstrate that making

such modifications would fundamentally alter the nature of such goods, services, facilities, privileges, advantages, or accommodations.

(2) As a PVO that is a public entity, you must make reasonable modifications in policies, practices, or procedures when necessary to avoid discrimination on the basis of disability, unless you can demonstrate that making the modifications would fundamentally alter the nature of the services, programs, or activities you offer" (§ 39.21(b)).

Discussion

PVOs must make reasonable modifications in policies, practices, or procedures when necessary to avoid discrimination on the basis of disability, unless they can demonstrate that making the modifications would fundamentally alter the nature of the services, programs, or activities they offer. An example of a reasonable modification would be for emergency evacuation plans.

For example, in collaboration with local public safety officials, PVOs must have an evacuation plan for fires or emergencies at ferry terminals. For ferry terminals in a tidal coastal setting, the path of travel from terminal to vessel varies and could employ: (1) multiple types of power-drive mechanical boarding systems including transfer bridges and ramp elevators, (2) non-mechanical ramps and transfer bridges, or (3) a combination of mechanical and non-mechanical ramps and transfer bridges to provide access for different tide conditions.

During an emergency and loss of shoreside power for access systems including mechanical devices, mechanical transfer systems may be shut off. PVOs are obligated to modify their evacuation policies, if necessary, to provide alternative means for passengers with disabilities or impairments to be safely evacuated from a vessel to shore (or alternatively from shore to vessel) by having alternative evacuation equipment and procedures in place. For example, the transfer points should include one or a combination of the following: manual operating systems for the electrical transfer bridges or ramps, an alternative non-mechanical path of travel ramp system, and/or manually operated gangways. With such alternative equipment in place, a PVO's policy modifications would need to include training programs for personnel to assist all passengers, including those with disabilities or impairments, in the event of mechanical failure of the boarding devices. In addition, PVOs should also modify their plans to take into account the needs of passengers with visual, hearing, and other disabilities, so that evacuation information is available to all in the event of an emergency.

10.3 Accessible Information for Passengers

10.3.1 Auxiliary Aids and Services

Requirement

"If you are a PVO that is a public entity, you must furnish appropriate auxiliary aids and services where necessary to afford an individual with a disability an equal opportunity to participate in, and enjoy the benefits of, a service, program or activity. In determining what type of auxiliary aid or service is necessary, you must give primary consideration to the requests of individuals with disabilities" (§ 39.51(a)).

"If you are a PVO that is a private entity, you must furnish appropriate auxiliary aids or services where necessary to ensure effective communication with individuals with disabilities" (§ 39.51(b)).

"If a provision of a particular auxiliary aid or service would result in a fundamental alteration in the nature of the goods, services, facilities, privileges, advantages, or accommodations being offered or in an

undue burden, you shall provide an alternative auxiliary aid or service, if one exists, that would not result in a fundamental alteration or undue burden but would nevertheless ensure that, to the maximum extent possible, individuals with disabilities receive the goods, services, facilities, privileges, advantages, or accommodations you offer" (§ 39.51(c)).

"As a PVO, it is your responsibility, not that of a passenger with a disability, to provide needed auxiliary aids and services" (§ 39.51(d)).

Discussion

PVOs providing designated public transportation are subject to the same requirements as all public transportation providers with respect to providing information in accessible formats. (See § 37.167(f) and Chapter 2.)

In January 2011, DOT provided additional guidance on auxiliary aids and services. Although it is the responsibility of the PVO and not that of a passenger with a disability to provide needed auxiliary aids and services, DOT emphasized the importance of consulting passengers with disabilities to determine what type of auxiliary aid or service will ensure effective communication.

To facilitate arrangements, passengers are encouraged to notify the PVO as soon as possible, if they require a particular auxiliary aid or service (e.g., a document in braille or large print, use of a sign language interpreter, or a TTY). Because locating a sign language interpreter to provide services to a passenger on some types of voyages can be time-consuming and difficult for PVOs, it is particularly important for passengers to make requests for this service as soon as possible.

10.3.2 Vessel-specific Information

Requirement

"As a PVO, you must provide the following information to individuals who self-identify as having a disability (including those who are deaf or hard of hearing or who are blind or visually impaired) or who request disability-related information, or persons making inquiries on the behalf of such persons. The information you provide must, to the maximum extent feasible, be specific to the vessel a person is seeking to travel on or use."

"The availability of accessible facilities on the vessel including, but not limited to, means of boarding the vessel, toilet rooms, staterooms, decks, dining, and recreational facilities" (§ 39.53(a)).

"Any limitations of the usability of the vessel or portions of the vessel by people with mobility impairments" (§ 39.53(b));

"Any limitations on the accessibility of boarding and disembarking at ports at which the vessel will call (e.g., because of the use of inaccessible lighters or tenders as the means of coming to or from the vessel)" (§ 39.53(c));

"Any limitations on the accessibility of services or tours ancillary to the transportation provided by the vessel concerning which the PVO makes arrangements available to passengers" (§ 39.53(d));

"Any limitations on the ability of a passenger to take a service animal off the vessel at foreign ports at which the vessel will call (e.g., because of quarantine regulations) and provisions for the care of an animal acceptable to the PVO that the passenger must meet when the passenger disembarks at a port at which the animal must remain aboard the vessel" (§ 39.53(e)).

"The services, including auxiliary aids and services, available to individuals who are deaf or hard of hearing or blind or visually impaired" (§ 39.53(f)).

"Any limitations on the ability of the vessel to accommodate passengers with a disability" (§ 39.53(g)).

"Any limitations on the accessibility of boarding and disembarking at ports at which the vessel will call and services or tours ancillary to the transportation provided by the vessel concerning which the PVO makes arrangements available to passengers" (§ 39.53(h)).

Discussion

PVOs must provide information about accessibility features of their vessels to individuals with a disability or to people making inquiries on the behalf of such individuals. The information PVOs provide must, to the maximum extent feasible, be specific to the vessel a person is seeking to travel on or use and should include the following:

- Accessible facilities on the vessel, including means of boarding the vessel, toilet rooms, decks, and food services
- Any limitations of the usability of the vessel or portions of the vessel by people with mobility impairments
- Any limitations on the accessibility of boarding and disembarking at terminals
- Auxiliary aids and services available to individuals who are deaf or hard of hearing or who are blind or visually impaired
- Any limitations of the vessel to accommodate passengers with a disability

An example of how the Woods Hole, Martha's Vineyard, and Nantucket Steamship Authority provides vessel specific information for their vehicle and passenger ferries is included in the accessibility section of its website and is included as Attachment 10-1.

10.3.3 Accommodating Individuals with Hearing or Vision Impairments

Requirement

"This section applies to information and reservation services made available to persons in the United States.

If, as a PVO, you provide telephone reservation or information service to the public, you must make this service available to individuals who are deaf or hard-of-hearing and who use a text telephone (TTY) or a TTY relay service (TRS).

> (1) You must make service to TTY/TRS users available during the same hours as telephone service for the general public.
>
> (2) Your response time to TTY/TRS calls must be equivalent to your response time for your telephone service to the general public.
>
> (3) You must meet this requirement by [date one year from the effective date of [Part 39]]" (§ 39.55(a)).

"If, as a PVO, you provide written (i.e., hard copy) information to the public, you must ensure that this information is able to be communicated effectively, on request, to persons with vision impairments. You must provide this information in the same language(s) in which you make it available to the general public" (§ 39.55(b)).

Discussion

Providing information in multiple formats gives users the option to suit their own personal communications needs. To better meet passenger needs, many PVOs are providing information about service and accessibility on their websites. As mobile personal communication devices with Internet

connections have become increasingly available, individuals with vision or hearing impairments can benefit from well-organized websites that provide information about ADA accessibility, including information on making arrangements in advance of travel, relevant phone numbers and wayfinding guidance when approaching terminals and vessels. For example, the Steamship Authority website referenced above and the Washington State Ferries website both provide information about accessibility for their terminals and vessels.

10.3.4 Posting Copies of Part 39 Requirements

Requirement

"As a PVO, you must keep a current copy of [Part 39] on each vessel and each U.S. port or terminal you serve and make it available to passengers on request. If you are an entity that does not receive Federal financial assistance, you are not required to make this copy available in languages other than English. You must make it available in accessible formats on request, subject to the provisions of § 39.51(c)" (§ 39.57).

10.4 Accessibility of Landside Facilities

Ferry terminal facilities vary widely, depending on factors such as the purpose and capacity of the ferry service and vessel, coastal conditions, and the types of vessels each terminal may handle. Examples of different types of facilities include:

- Terminals for high-capacity passenger-only ferries such as the Staten Island Ferry in New York
- Medium-capacity passenger-only commuter ferries such as the San Francisco Bay and Golden Gate Bridge Ferries
- Small-capacity passenger-only ferries such as those managed by the MBTA in Boston
- High-capacity passenger and vehicle ferries such as Washington State Ferries
- Small-capacity passenger and vehicle ferries such as the Maine State Ferry System

Terminals that serve vehicles and passengers are often more complex than passenger-only terminals. In addition, all terminals in tidal locations with tides of five feet or higher have more complex ramp or transfer bridge boarding systems compared to those with tide ranges of five feet or less. Terminals in river locations may need to provide varying access to accommodate seasonal changes in river levels.

10.4.1 New Facilities

Requirement

"As a PVO, you must comply with the following requirements with respect to all terminal and other landside facilities you own, lease, or control in the United States (including its territories, possessions, and commonwealths):

With respect to new facilities, you must do the following:

> (1) You must ensure that terminal facilities are readily accessible to and usable by individuals with disabilities, including individuals who use wheeled mobility assistive devices. You are deemed to comply with this obligation if the facilities meet the requirements of 49 CFR 37.9, and the standards referenced in that section.

(2) You must ensure that there is an accessible route between the terminal or other passenger waiting area and the boarding ramp or device used for the vessel. An accessible route is one meeting the requirements of the standards referenced in 49 CFR 37.9" (§ 39.61(a)).

Discussion

When constructing new terminals and other landside facilities, public or private PVOs must meet specific accessibility requirements. These requirements are based on the Standards for Accessible Transportation Facilities covered in § 37.9 and discussed in Chapter 3.

In addition to incorporating accessibility features covered by the ADA, passenger vessel facilities must include an accessible route between the terminal or other passenger waiting area and the boarding ramp or device used for the vessel. An accessible route is one meeting the requirements of the standards referenced in § 37.9.

For example, as part of reconstruction following fire damage, the Staten Island Ferry Whitehall terminal incorporated a high-capacity accessible ramp and elevator system to accommodate very large crowds of pedestrians for boarding and unloading on multiple levels. The new high-capacity passenger-only access system replaced a combined vehicle and passenger access system.

10.4.2 Alterations

Requirement

"When a facility is altered, the altered portion must meet the same standards that would apply to a new facility" (§ 39.61(b)).

Discussion

When altering existing terminal and other landside facilities, PVOs must meet the same standards that apply to a new facility. For example, when the Staten Island Ferry terminal at St. Georges underwent alterations, the project converted vehicle ramps into accessible passenger ramps and added elevators. As another example, boarding systems at other locations such as Larkspur and the San Francisco Ferry Building in California have been constructed with either ramps and float systems or mechanical transfer bridges, depending on the vessels used on different routes.

10.4.3 Program Accessibility Requirements

Requirement

"With respect to an existing facility, your obligations are the following:

(1) If you are a public entity, you must ensure that your terminals and other landside facilities meet program accessibility requirements, consistent with Department of Justice requirements at 28 CFR 35.150.

(2) If you are a private entity, you are required to remove architectural barriers where doing so is readily achievable, i.e., easily accomplishable and able to be carried out without much difficulty or expense, consistent with Department of Justice requirements at 28 CFR 36.304 or, if not readily achievable, ensure that your goods, services, facilities, privileges, advantages, or accommodations are available through alternative methods if those methods are readily achievable, consistent with Department of Justice regulations at 28 CFR 36.305." (§ 39.61(c)).

Discussion

Similar to the program accessibility discussion in Chapter 3, public entities have a responsibility to conduct their programs in an accessible manner. The following are examples of accessible and usable programs and activities for passenger vessel services and terminals:

- User-friendly fare cards and ticketing options
- Accessible websites and mobile applications
- User-friendly ferry schedules
- Adequate lighting
- Enhanced wayfinding and signage for persons with speech and hearing impairments including use of TDDs, 711 Relay telephones, broadcast text messaging, and similar devices
- Enhanced wayfinding and signage for people with visual impairments, including public address announcements and text-to-speech devices
- Continuous pathways for individuals with visual and ambulatory impairments
- Public address systems and clocks
- User guidance in multiple formats on site-specific marine conditions that might affect boarding or use of the ferries for all passengers including people with impairments. These might include weather reports, operating conditions, tide reports, and any variations in accessible paths of travel related to tide or weather factors.

The Part 37 Appendix D discussion emphasizes that while there is not a definitive list of ways applicable to all transportation facilities to accommodate individuals with various types of disabilities, PVOs should consider as many actions short of alteration that do apply in specific facilities.

10.4.4 Shared Facilities

Requirement

"Where you share responsibility for ensuring accessibility of a facility with another entity, you and the other entity are jointly and severally responsible for meeting applicable accessibility requirements" (§ 39.61(d)).

Discussion

When PVOs share a terminal facility with another entity, they also share the responsibility for ensuring accessibility of that facility. Some PVOs provide public transportation services that operate from privately owned and built landings but use publicly owned vessels acquired with FTA grant assistance. Such shared terminal facilities are subject to the same § 39.61(d) access requirements. For example, a privately owned ferry terminal at Fan Pier Cove in Boston Harbor was constructed in anticipation of publicly operated FTA-funded commuter ferries and includes boarding ramps and terminal facilities designed to comply with § 39.61(d).

10.4.5 Facility Requirements for Individuals with Hearing or Vision Impairments

Requirement

"As a PVO, you must ensure that the information you provide to the general public at terminals and other landside facilities is effectively communicated to individuals who are blind or who have impaired vision and deaf or hard-of-hearing individuals, through the use of auxiliary aids and services. To the extent that this information is not available to these individuals through accessible signage and/or verbal public

address announcements or other means, your personnel must promptly provide the information to such individuals on their request, in languages (e.g., English, Norwegian, Japanese) in which the information is provided to the general public" (§ 39.63(a)).

"The types of information you must make available include, but are not limited to, information concerning ticketing, fares, schedules and delays, and the checking and claiming of luggage" (§ 39.63(b)).

Discussion

In 2011, Washington State Ferries began implementing a visual paging system that displays important travel-related information on video screens for passengers with hearing impairments. This system, which transmits the same information via text message, is a good example of accessible activities discussed in Section 10.4.3.

10.5 Assistance and Services

10.5.1 Transfer Shuttle and Terminal Assistance

Requirement

"As a PVO, if you provide, contract for, or otherwise arrange for transportation to and from a passenger vessel in the U.S. (e.g., a bus transfer from an airport to a vessel terminal), you must ensure that the transfer service is accessible to and usable by individuals with disabilities, as required by [Part 39]" (§ 39.81(a)).

"You must also provide assistance requested by or on behalf of a passenger with a disability in moving between the terminal entrance (or a vehicle drop-off point adjacent to the entrance) of a terminal in the U.S. and the place where people get on or off the passenger vessel. This requirement includes assistance in accessing key functional areas of the terminal, such as ticket counters and baggage checking/claim. It also includes a brief stop upon request at an accessible toilet room" (§ 39.81(b)).

Discussion

Providing service to passengers with disabilities includes more than just on-board assistance. As with other elements of accessible service, it is useful to consider a passenger's entire trip. For those driving to a ferry terminal, the facility requirements for accessible parking spaces and accessible path of travel outlined in Chapter 3 apply. Passengers traveling to and from ferry terminals by shuttle vehicle must have access to those shuttle vehicles. Finally, given the unique characteristics of boarding facilities, there are specific requirements for providing boarding assistance on land and on-board the vessel, as described below. See Chapter 4 for accessible vehicle requirements and see Chapter 2 for general requirements for accessible service.

10.5.2 Boarding Assistance

Requirement

"If a passenger with a disability can readily get on or off a passenger vessel without assistance, you are not required to provide such assistance to the passenger. You must not require such a passenger with a disability to accept assistance from you in getting on or off the vessel unless it is provided to all passengers as a matter of course" (§ 39.83(a)).

"With respect to a passenger with a disability who is not able to get on or off a passenger vessel without assistance, you must promptly provide assistance that ensures that the passenger can get on or off the vessel" (§ 39.83(b)).

"When you have to provide assistance to a passenger with a disability in getting on or off a passenger vessel, you may use any available means to which the passenger consents (e.g., lifts, ramps, boarding chairs, assistance by vessel personnel)" (§ 39.83(c)).

Discussion

In January 2011, DOT provided additional guidance on providing boarding assistance to passengers with disabilities. Given that passengers with disabilities should be able to experience the same aspects of a cruise or other passenger vessel operation as passengers without disabilities, PVOs have an obligation to assist passengers to enable them to get on or off the vessel. As stated above, PVOs should be sure to ask passengers whether they want or need assistance and what method of assistance they prefer.

However, DOT recognizes that there may be occasional circumstances in which it is impracticable to ensure that a passenger can get on or off the vessel (e.g., because of adverse weather, tidal, or sea conditions). Part 39 does not require PVOs to transfer passengers to or from a vessel where a transfer would be contrary to legitimate safety requirements. Finally, except in emergencies, DOT strongly discourages hand carrying (i.e., picking up a passenger physically in the arms of PVO personnel) as a means of providing assistance, since it raises serious safety and dignity concerns.

10.5.3 Service Animals

Requirement

"As a PVO, you must permit service animals to accompany passengers with a disability" (§ 39.91(a)).

"You must permit the service animal to accompany the passenger in all locations that passengers can use on a vessel, including in lifeboats" (§ 39.91(b)).

"You must permit the passenger accompanied by the service animal to bring aboard a reasonable quantity of food for the animal aboard the vessel at no additional charge. If your vessel provides overnight accommodations, you must also provide reasonable refrigeration space for the service animal food" (§ 39.91(c)).

"You must accept the following as evidence that an animal is a service animal: Identification cards, other written documentation, presence of harnesses, tags, and/or the credible verbal assurances of a passenger with a disability using the animal" (§ 39.91(d)).

Discussion

See Chapter 2 for a definition of and guidance on service animals.

10.5.4 Wheelchairs and Other Assistive Devices

Requirement

"As a PVO subject to Title III of the ADA, you must permit individuals with mobility disabilities to use wheelchairs and manually powered mobility aids, such as walkers, crutches, canes, braces, or other similar devices designed for use by individuals with mobility disabilities in any areas open to pedestrian use" (§ 39.93(a)).

"(1) As a PVO subject to Title III of the ADA, you must make reasonable modifications in your policies, practices, or procedures to permit the use of other power-driven mobility devices by individuals with mobility disabilities, unless you can demonstrate that a device cannot be operated on board the vessel consistent with legitimate safety requirements you have established for the vessel.

(2) In determining whether a particular other power-driven mobility device can be allowed on a specific vessel as a reasonable modification under paragraph (b)(1) of this section, the PVO must consider:

(i) The type, size, weight, dimensions, and speed of the device;

(ii) The vessel's volume of pedestrian traffic (which may vary at different times of the day, week, month, or year);

(iii) The vessel's design and operational characteristics (e.g., the size and balance requirements of the vessel, the density and placement of stationary devices, and the availability of storage for the device, if requested by the user);

(iv) Whether legitimate safety requirements can be established to permit the safe operation of a device in the specific vessel" (§ 39.93(b)); and

"(1) As a PVO subject to Title III of the ADA, you must not ask an individual using a wheelchair or other power-driven mobility device questions about the nature and extent of the individual's disability.

(2) You may ask a person using another power-driven mobility device to provide a credible assurance that the mobility device is required because of the person's disability. In response to this inquiry, you must accept the presentation of a valid, state-issued disability parking placard or card, or state-issued proof of disability as a credible assurance that the use of the other power-driven mobility device is for the individual's mobility disability. In lieu of a valid, state-issued disability parking placard or card or state-issued proof of disability, a PVO shall accept as a credible assurance a verbal representation not contradicted by observable fact, that the other power-driven mobility device is being used for a mobility disability" (§ 39.93(c)).

"As a PVO subject to Title II of the ADA, you must follow the requirements of paragraphs (a) through (c) of this section. In addition, any restriction you impose on the use of another powered mobility device on your vessel must be limited to the minimum necessary to meet a legitimate safety requirement. For example, if a device can be accommodated in some spaces of the vessel but not others because of a legitimate safety requirement, you could not completely exclude the device from the vessel" (§ 39.93(d)).

"As a PVO, you are not required to permit passengers with a disability to bring wheelchairs or other powered mobility devices into lifeboats or other survival craft, in the context of an emergency evacuation of the vessel" (§ 39.93(e)).

Discussion

See Chapter 2 for a detailed discussion of legitimate safety requirements.

10.5.5 Prohibition Against Limits on Liability

Requirement

"Consistent with any applicable requirements of international law, you must not apply any liability limits with respect to loss of or damage to wheeled mobility assistive devices or other assistive devices. The criterion for calculating the compensation for a lost, damaged, or destroyed wheelchair or other assistive device is the original purchase price of the device" (§ 39.95).

Discussion

In January 2011, DOT provided additional guidance on compensation requirements for loss of or damage to wheelchairs, as follows:

> Generally, a PVO must compensate a passenger with a disability for the full value (measured by the original purchase price) of a lost or damaged wheelchair or mobility device.
>
> This obligation applies in any situation in which the device is under the control or care of the PVO or a party acting on behalf of the PVO (e.g., an agent or contractor).
>
> However, there may be circumstances in which a wheelchair or mobility device is damaged as the result of action by the passenger, who is in control of the device at the time. For example, a passenger riding a scooter might run into a fixed object, damaging the scooter. In such a case, the PVO would not be responsible for compensating the owner.

10.6 Complaints and Enforcement Procedures

The complaint reporting and resolution process for passenger vessels differs from land transit modes for several reasons. With some exceptions, most passenger vessel services are operated independently from bus and rail services. Compared with other transit modes, most passenger ferry operations are limited in scale, management, and location. Often, each ferry route essentially functions as an independent transportation management entity. For example, a typical metropolitan area passenger ferry service operating between two terminals might use vessels with capacity for 150 to 400 passengers and a designated captain and a crew of between two and four for each vessel. Each vessel's captain is responsible for all passengers, including passengers with disabilities and in many cases, the captain and crew are the only point of PVO contact on the vessel and at an unattended terminal.

10.6.1 Providing Complaints Resolution Officials

Requirement

"As a PVO, you must designate one or more Complaints Resolution Officials (CROs)" (§ 39.101(a)).

"You must make a CRO available for contact on each vessel and at each terminal that you serve. The CRO may be made available in person or via telephone, if at no cost to the passenger. If a telephone link to the CRO is used, TTY or TRS service must be available so that persons with hearing impairments may readily communicate with the CRO. You must make CRO service available in the language(s) in which you make your other services available to the general public" (§ 39.101(b)).

"You must make passengers with a disability aware of the availability of a CRO and how to contact the CRO in the following circumstances:

> (1) In any situation in which any person complains or raises a concern with your personnel about discrimination, policies, or services with respect to passengers with a disability, and your personnel do not immediately resolve the issue to the customer's satisfaction or provide a requested accommodation, your personnel must immediately inform the passenger of the right to contact a CRO and the location and/or phone number of the CRO available on the vessel or at the terminal. Your personnel must provide this information to the passenger in a format he or she can use.

(2) Your reservation agents, contractors, and Web sites must provide information equivalent to that required by paragraph (c)(1) of this section to passengers with a disability using those services" (§ 39.101(c)).

"Each CRO must be thoroughly familiar with the requirements of [Part 39] and the PVO's procedures with respect to passengers with a disability. The CRO is intended to be the PVO's 'expert' in compliance with the requirements of [Part 39]" (§ 39.101(d)).

"You must ensure that each of your CROs has the authority to make dispositive resolution of complaints on behalf of the PVO. This means that the CRO must have the power to overrule the decision of any other personnel, except that the CRO may not be given authority to countermand a decision of the master of a vessel with respect to safety matters" (§ 39.101(e)).

Discussion

PVOs are required to designate a Complaints Resolution Official (CRO) on each vessel. In passenger ferry operations, the CRO is most often the captain. CROs who cannot resolve complaints immediately must follow specific reporting requirements to the PVO. (See Section 10.6.3.)

10.6.2 Responding to Direct Complaints

Requirement

"When a complaint is made directly to a CRO (e.g., orally, by phone, TTY) the CRO must promptly take dispositive action as follows:"

"If the complaint is made to a CRO before the action or proposed action of PVO personnel has resulted in a violation of a provision of [Part 39], the CRO must take, or direct other PVO personnel to take, whatever action is necessary to ensure compliance with [Part 39]" (§ 39.103(a)).

"If an alleged violation of a provision of [Part 39] has already occurred, and the CRO agrees that a violation has occurred, the CRO must provide to the complainant a written statement setting forth a summary of the facts and what steps, if any, the PVO proposes to take in response to the violation" (§ 39.103(b)).

"If the CRO determines that the PVO's action does not violate a provision of [Part 39], the CRO must provide to the complainant a written statement including a summary of the facts and the reasons, under [Part 39], for the determination" (§ 39.103(c)).

"The statements required to be provided under this section must inform the complainant of his or her right to complain to the Department of Transportation and/or Department of Justice. The CRO must provide the statement in person to the complainant in person if possible; otherwise, it must be transmitted to the complainant within 10 calendar days of the complaint" (§ 39.103(d)).

Discussion

While § 39.103 specifically mentions contacting CROs in person or via telephone, the January 2011 guidance permits other equivalent means of communication, including electronic communications. DOT emphasizes that the means of communication provided must ensure direct, interactive contact between the passenger and the CRO. It is not sufficient only to provide an opportunity to leave a message for a CRO (e.g., voice mail, email) for the CRO to return later.

Dispositive Actions

In January 2011, DOT provided the following guidance on the use of "dispositive," in the context of complaint resolution.

> The word "dispositive" is used in its dictionary sense: "[an action] that disposes of, or settles, a dispute, question, etc.; conclusive; decisive." It is intended to be the PVO's final word on the matter.
>
> The dispositive response should summarize the facts of the matter, as the CRO understands them.
>
> The dispositive response then says one of two things:
>
> (1) The PVO acted in accordance with the regulation, or
>
> (2) The PVO did not act in accordance with the regulation.
>
> It is possible that, with respect to some complaints, the CRO will conclude that the PVO acted in accordance with the regulation in some respects but not in others. In any case, the CRO's responses should explain why the PVOs actions were consistent with the regulation or not.
>
> If the CRO concludes that the PVO did not act in accordance with the regulation, the response should offer appropriate redress to the passenger.

10.6.3 Responding to Written Complaints

Requirement

"As a PVO, you must respond to written complaints received by any means (e.g., letter, fax, e-mail, electronic instant message) concerning matters covered by [Part 39]" (§ 39.105(a)).

"A passenger making a written complaint, must state whether he or she had contacted a CRO in the matter, provide the name of the CRO and the date of the contact, if available, and enclose any written response received from the CRO" (§ 39.105(b)).

"As a PVO, you are not required to respond to a complaint from a passenger postmarked or transmitted more than 45 days after the date of the incident" (§ 39.105(c)).

"As a PVO, you must make a dispositive written response to a written disability complaint within 30 days of its receipt. The response must specifically admit or deny that a violation of [Part 39] has occurred. The response must be effectively communicated to the recipient.

> (1) If you admit that a violation has occurred, you must provide to the complainant a written statement setting forth a summary of the facts and the steps, if any, you will take in response to the violation.
>
> (2) If you deny that a violation has occurred, your response must include a summary of the facts and your reasons, under [Part 39], for the determination.
>
> (3) Your response must also inform the complainant of his or her right to pursue DOT or DOJ enforcement action under [Part 39], as applicable. DOT has enforcement authority under Title II of the ADA for public entities and under Section 504 of the Rehabilitation Act for entities that receive Federal financial assistance; DOJ has enforcement authority under Title III of the ADA for private entities" (§ 39.105(d)).

Discussion

Interim Responses to Complaints

In January 2011, the Department provided additional guidance on providing interim responses to complaints, as follows:

> Complaints should be as detailed and specific as possible, and should be filed as soon as possible after the matter that gave rise to the complaint.
>
> If a written complaint is filed more than 45 days after the matter giving rise to the complaint, the CRO is not required to respond.
>
> If the complaint does not have enough information to permit the CRO to make a decision, or if the CRO needs to make an extended factual inquiry to determine the facts of the matter, the CRO may provide an interim response to the complainant, within 30 days of receiving the complaint.
>
> The interim response should state the reasons for needing additional time and inform the complainant of when the CRO expects to issue a determination. However, overuse or abuse of interim responses (e.g., routine issuance of interim responses because of insufficient resources to respond in a timely manner) may result in a finding of noncompliance.

Attachment 10.2 includes an example complaint resolution policy.

Attachment 10-1
Steamship Authority Ferry Accessibility Information

Traditional Ferries

All passenger decks of all four of the Steamship Authority's traditional passenger/vehicle ferries (the M/V Eagle, the M/V Island Home, the M/V Martha's Vineyard and the M/V Nantucket) are fully accessible.

Each ferry is equipped with elevators that transport passengers between the vehicle deck and all passenger decks (including the food and beverage service area). Access to the elevator is by the transfer bridge that is used to load vehicles onto the ferry.

Passengers wishing to use the elevator should arrive at the ferry terminal 30 minutes prior to their scheduled departure time. Upon arriving, they should notify a Terminal Agent (or the terminal employee checking them in) that they require access to the elevator for boarding. This applies to all passengers who wish to use the elevator whether or not they are traveling with their vehicles.

Accessible rest rooms are also available on all four of our large passenger/vehicle ferries.

High Speed Ferry

The main passenger deck of the M/V Iyanough is fully accessible (including rest rooms and the food and beverage service area). Access to the M/V Iyanough's main passenger deck is by the transfer bridge that is used to board all passengers onto the ferry. The M/V Iyanough's upper deck is not accessible.

Ferries with Limited or No Accessibility

The Steamship Authority encourages passengers with disabilities to travel on our four traditional passenger/vehicle ferries and our high-speed passenger-only ferry, the M/V Iyanough, all of which are accessible and have passenger amenities, including food and beverage service and accessible rest rooms. However, because passengers with disabilities may also travel on our freight boats, please be aware that not all of them are accessible. The freight boats are described below:

M/V Governor & M/V Sankaty: Access to each of these freight boats is by the transfer bridge that is used to board all passengers and vehicles onto the ferry. The interior passenger compartment that is located on the vehicle deck and the rest rooms are also accessible. Vending machines that offer beverages and snacks are available on both of these vessels.

M/V Gay Head & M/V Katama: The[se] two freight boats are not accessible for passengers with disabilities who require assistance. Passengers will need to climb a set of stairs to reach the interior passenger compartment. Vending machines that offer beverages only are available on both of these vessels.

Source: Woods Hole, Martha's Vineyard, and Nantucket Steamship Authority

Attachment 10-2
Steamship Authority Ferry
Complaint Resolution Policy

This example of a CRO process is described in the Accessibility Section of the Woods Hole, Martha's Vineyard and Nantucket Steamship Authority's Customer Policy Handbook, available on its website:

In any situation when any person complains or raises a concern with a Steamship Authority employee about discrimination, policies or services with respect to passengers with a disability, and the employee (or the employee's supervisor) does not immediately resolve the issue to the customer's satisfaction or provide a requested accommodation, the customer has the right to contact our Complaints Resolution Official ("CRO"). The employee will provide the customer with the CRO's phone number and, if requested by the customer, the number of the Massachusetts TRS service (which is a relay service for individuals who use text telephones called "MassRelay"). The employee will also provide this information to the passenger in a format he or she can use.

The CRO will be available for contact on each vessel and at each terminal via telephone. The customer will be allowed to use a Steamship Authority phone (either the vessel's phone or the terminal's phone, as the case may be) to contact the CRO so that the call will be at no cost to the customer. In addition, the number for the MassRelay service will be available so that persons with hearing impairments may readily communicate with the CRO."

The CRO's name and contact information is also included in the written information.

Source: Woods Hole, Martha's Vineyard, and Nantucket Steamship Authority

Chapter 11 – Other Modes

11.1 Introduction

Part 38 of the U.S. Department of Transportation (DOT) Americans with Disabilities Act (ADA) regulations provides minimum guidelines and requirements for accessibility standards in Part 37 for transportation vehicles required to be accessible under ADA. These are the ADA Accessibility Specifications for Transportation Vehicles. Chapter 4 covers the acquisition requirements for vans, buses, and rail vehicles as contained in Part 38 Subparts B, C, D, and E.

This chapter covers the Part 38 Subpart H requirements for other vehicles and conveyances not covered in Subparts B, C, D, and E, including:

- Automated guideway transit vehicles and systems
- High-speed rail cars, monorails, and systems
- Trams and similar vehicles and systems[26]

Subpart H also establishes a process for determining standards for other types of vehicles and systems, such as new forms of transportation that may be developed.

This Circular does not alter, amend, supersede, or otherwise affect the DOT ADA regulations themselves or replace or reduce the need for detailed information in the regulations. Suggestions of good practices are included throughout the Circular; FTA recognizes that there are many different ways agencies can implement the regulatory requirements and ensure the delivery of compliant service.

11.2 General Requirements

Requirement

"New, used and remanufactured vehicles and conveyances for systems not covered by other Subparts of [Part 38], to be considered accessible by regulations in Part 37 of this title shall comply with this Subpart" (§ 38.171(a)).

Discussion

Because the DOT ADA regulations cover both public and private entities that operate transportation systems, they contain additional standards for modes of transportation that are not typically used by transit agencies, such as trams, automated guideway transit systems, and monorails. They also establish a process by which standards are to be developed for new forms of transportation that may not have been developed at the time these regulations were written. To the extent that transit agencies use these types of vehicles and systems, they must comply with these requirements.

[26] See Chapter 10 for guidelines and requirements for ferries.

11.2.1 Modifications to Other Vehicles and Systems

Requirement

"If portions of the vehicle or conveyance are modified in a way that affects or could affect accessibility, each such portion shall comply, to the extent practicable, with the applicable provisions of this Subpart. This provision does not require that inaccessible vehicles be retrofitted with lifts, ramps or other boarding devices" (§ 38.171(b)).

Discussion

Transit agencies using the types of other vehicles and systems described in Subpart H do not have to retrofit inaccessible vehicles with lifts, ramps, or boarding devices. However, when modifying vehicles, agencies are required to make them accessible to the extent practicable. This could include removing stanchions that interfere with entry and egress by individuals using wheelchairs or other mobility aids, replacing fixed seating with fold-up seats to increase clear floor space, or replacing signage.

11.2.2 New Vehicles and Modes

Requirement

"Requirements for vehicles and systems not covered by [Part 38] shall be determined on a case-by-case basis by the Department of Transportation in consultation with the U.S. Architectural and Transportation Barriers Compliance Board (Access Board)" (§ 38.171(c)).

Discussion

Transit agencies may develop and operate new vehicles and modes of transportation. The DOT ADA regulations anticipated advances in technology and innovative methods of delivering services without having specific details on these technologies and services. In order for new technologies and services to be considered accessible to individuals with disabilities, DOT and the U.S. Architectural and Transportation Barriers Compliance Board (Access Board) will establish accessibility standards and specifications specific to the vehicles and services on a case-by-case basis.

Some advances in technologies and services have not necessitated new standards, including ramp-equipped low-floor buses, which have become prevalent in fixed route fleets. In addition, transit agencies have implemented new bus rapid transit (BRT) systems, which combine elements of bus and light rail operations and are subject to the standards for buses and vans.

Transit agencies are encouraged to contact the FTA Office of Civil Rights with questions if they believe that they will be operating a mode not covered by the existing regulations or acquiring vehicles not covered by the existing Part 38 specifications. Agencies should review all elements of new services that they plan to operate to determine the applicability of Part 38. Similarly, agencies should review any new vehicles and systems to determine whether the Part 38 specifications in Subparts B, C, D, or E already apply.

11.3 Automated Guideway Transit Vehicles and Systems

Section 38.173 explains which vehicle specifications apply to automated guideway transit (AGT) vehicles and systems, with different specifications for vehicles operating at 20 miles per hour (MPH) or less or at more than 20 MPH. The section also establishes requirements for when open platforms are not protected by platform screens.

11.3.1 Interior Vehicle Components for AGTs Operating at ≤20 MPH

Requirement

"Automated Guideway Transit (AGT) vehicles and systems, sometimes called "people movers," operated in airports and other areas where AGT vehicles travel at slow speed (i.e., at a speed of no more than 20 miles per hour at any location on their route during normal operation), shall comply with the provisions of § 38.53 (a) through (c), and §§ 38.55 through 38.61 of [Part 38] for rapid rail vehicles and systems" (§ 38.173(a)).

Discussion

Doorways in AGTs operating at speeds up to 20 MPH must comply with the following § 38.53 rapid rail vehicle requirements for doorways, discussed in detail in Chapter 4:

- Clear width – § 38.53(a)
- Signage – § 38.53(b)
- Signals – § 38.53(c)

In addition, AGT vehicles operating at slow speed must comply with the §§ 38.55 through 38.61, which are also portions of the rapid rail vehicle requirements, discussed in detail in Chapter 4:

- Priority seating signs – § 38.55
- Interior circulation, handrails, and stanchions – § 38.57
- Floor surfaces – § 38.59
- Public information system – § 38.61

11.3.2 Platform Vehicle Gaps for AGTs Operating at ≤20 MPH

Requirement

"Where the vehicle covered by [§ 38.173(a)] will operate in an accessible station, the design of vehicles shall be coordinated with the boarding platform design such that the horizontal gap between a vehicle door at rest and the platform shall be no greater than one inch and the height of the vehicle floor shall be within plus or minus 1/2 inch of the platform height under all normal passenger load conditions. Vertical alignment may be accomplished by vehicle air suspension or other suitable means of meeting the requirement" (§ 38.173(b)).

Discussion

The horizontal and vertical gap tolerances for AGTs operating at no more than 20 MPH in accessible stations are smaller than for light rail, rapid rail, or commuter rail vehicles. Note that a vehicle is "at rest" when motionless.

11.3.3 Between-Car Barriers for Vehicles and Systems Operating at ≤20 MPH

Requirement

"In stations where open platforms are not protected by platform screens, a suitable device or system shall be provided to prevent, deter or warn individuals from stepping off the platform between cars. Acceptable devices include, but are not limited to, pantograph gates, chains, motion detectors or other appropriate devices" (§ 38.173(c)).

Discussion

The requirement for between-car barriers for vehicles and systems operating at no more than 20 MPH is similar to the § 38.63 requirements for between-car barriers for rapid rail vehicles. (See Chapter 4.)

11.3.4 Light Rail and Rapid Rail AGT Vehicles and Systems Operating at >20 MPH

Requirement

"Light rail and rapid rail AGT vehicles and systems shall comply with Subparts D and C of [Part 38], respectively. AGT systems whose vehicles travel at a speed of more than 20 miles per hour at any location on their route during normal operation are covered under this paragraph rather than under [§ 38.173(a)]" (§ 38.173(d)).

Discussion

For AGT systems whose vehicles travel at a speed of more than 20 MPH at any location on their route during normal operation, the vehicle requirements are the same as the following Part 38 requirements for light rail (Subpart D) or rapid rail (Subpart C), which are also discussed in Chapter 4:

Subpart C – Rapid Rail Vehicles and Systems

- General – § 38.51
- Doorways – § 38.53
- Priority seating signs – § 38.55
- Interior circulation, handrails, and stanchions – § 38.57
- Floor surfaces – § 38.59
- Public information system – § 38.61
- Between-car barriers – § 38.63

Subpart D – Light Rail Vehicles and Systems

- General – § 38.71
- Doorways – § 38.73
- Priority seating signs – § 38.75
- Interior circulation, handrails, and stanchions – § 38.77
- Floors, steps, and thresholds – § 38.79
- Lighting – § 38.81
- Mobility aid accessibility – § 38.83
- Between-car barriers – § 38.85
- Public information system – § 38.87

11.4 High-speed Rail Cars, Monorails and Systems

11.4.1 High-speed Rail Cars, Monorails, and Systems Primarily Operating on Dedicated Rail

Requirement

"All cars for high-speed rail systems, including but not limited to those using 'maglev' or high speed steel-wheel-on-steel-rail technology, and monorail systems operating primarily on dedicated rail (i.e., not used by freight trains) or guideway, in which stations are constructed in accordance with Part 37, Subpart C of this title, shall be designed for high-platform, level boarding and shall comply with § 38.111(a) of [Part 38] for each type of car which is similar to intercity rail, §§ 38.111(d), 38.113 (a) through (c) and (e), 38.115 (a) and (b), 38.117 (a) and (b), 38.121 through 38.123, 38.125(d), and 38.127 (if applicable) of [Part 38]. The design of cars shall be coordinated with the boarding platform design such that the horizontal gap between a car door at rest and the platform shall be no greater than 3 inches and the height of the car floor shall be within plus or minus 5/8 inch of the platform height under all normal passenger load conditions. Vertical alignment may be accomplished by car air suspension or other suitable means of meeting the requirement. All doorways shall have, when the door is open, at least 2 foot-candles of illumination measured on the door threshold" (§ 38.175(a)).

Discussion

The allowed horizontal and vertical gaps between the rail car and the boarding platform are different from the requirements for intercity rail cars and systems. When a high-speed rail, monorail, or other system vehicle is operating on dedicated rail, the following Subpart F requirements apply:

- Interior space – § 38.111(a) and (d)
- Doorways and signage – § 38.113(a)-(c)
- Interior circulation, handrails, and stanchions – § 38.115(a) and (b)
- Floors, steps, and thresholds – § 38.117
- Public information systems – § 38.121
- Restrooms – § 38.123
- Seating – § 38.125(d)
- Sleeping compartments (if applicable) – § 38.127

Note that the doorway lighting requirement for high-speed railcars differs from intercity rail cars (two foot-candles vs. one foot-candle).

11.4.2 High-speed Rail Cars, Monorails, and Systems Operating on Shared Right-of-Way

Requirement

"All other high-speed rail cars shall comply with the similar provisions of Subpart F of [Part 38]" (§ 38.175(b)).

Discussion

The requirements for high-speed rail cars, monorails, and systems that operate on rail right-of-way shared with freight trains are the same as for intercity rail cars, covered in Part 38 Subpart F. There is a

distinction for the tolerance in the vertical gap between the rail car and the boarding platform as outlined in § 38.113(d).

11.5 Trams and Similar Vehicles and Systems

Requirement

"New and used trams consisting of a tractor unit, with or without passenger accommodations, and one or more passenger trailer units, including but not limited to vehicles providing shuttle service to remote parking areas, between hotels and other public accommodations, and between and within amusement parks and other recreation areas, shall comply with this section. For purposes of determining applicability of 49 CFR 37.101, 37.103, or 37.105 the capacity of such a vehicle or "train" shall consist of the total combined seating capacity of all units, plus the driver, prior to any modification for accessibility" (§ 38.179(a)).

"Each tractor unit which accommodates passengers and each trailer unit shall comply with § 38.25 and § 38.29 of [Part 38]. In addition, each such unit shall comply with § 38.23 (b) or (c) and shall provide at least one space for wheelchair or mobility aid users complying with § 38.23(d) of [Part 38] unless the complete operating unit consisting of tractor and one or more trailers can already accommodate at least two wheelchair or mobility aid users" (§ 38.179(b)).

Discussion

Transit agencies that operate trams or similar vehicles and systems must make these vehicles accessible to persons with disabilities, including riders who use wheelchairs or other mobility aids. Part 37 Subpart E is primarily directed to private entities. However, for determining the applicable regulations based on the total vehicle capacity, §§ 37.101–37.105 also apply to public entities.

For transit agencies that operate a tram or similar system with a total capacity of eight or more in fixed route service, the tram must be readily accessible to and usable by individuals with disabilities, unless, when viewed in its entirety, the system meets the standard for equivalent service covered in § 37.105. (See Chapter 7.)

For transit agencies that operate a tram or similar system with a total capacity of less than eight—whether fixed route or demand responsive service—the tram must be readily accessible to and usable by individuals with disabilities, unless, when viewed in its entirety, the system meets the standard for equivalent service.

Each tractor that accommodates passengers and each trailer must comply with the Part 38 Subpart B requirements for:

- Doors, steps, and thresholds – § 38.25
- Interior circulation, handrails, and stanchions – § 38.29
- Lift or a ramp – § 38.23(b) or (c)
- Securement device – § 38.23(d)

An exception to these requirements is that if the complete tram can accommodate at least two individuals who use wheelchairs or other mobility devices, then it is not necessary for all tractor and trailer units to have a lift or ramp and a securement device.

Chapter 12 – Oversight, Complaints and Monitoring Methods

12.1 Introduction

This chapter explains how the Federal Transit Administration (FTA) carries out its oversight and enforcement responsibilities, including complaint investigations under the Americans with Disabilities Act (ADA), and covers transit agencies' own responsibilities for resolving and tracking nondiscrimination complaints. This chapter also presents an overview of monitoring compliance for the programs and services agencies provide and monitoring any contractors or service providers that agencies use.

As with all chapters of this Circular, the information described in this chapter does not alter, amend, supersede or otherwise affect the DOT ADA regulations themselves or replace or reduce the need for detailed information in the regulations. Suggestions of good practices are included throughout the Circular; FTA recognizes that there are many different ways agencies can implement the regulatory requirements and ensure the delivery of compliant service.

12.2 FTA Oversight of Recipients

Requirement

"Recipients of Federal financial assistance from the Department of Transportation are subject to administrative enforcement of the requirements of [Part 37] under the provisions of 49 CFR Part 27, Subpart C" (§ 37.11(a)).

"Public entities, whether or not they receive Federal financial assistance, also are subject to enforcement action as provided by the Department of Justice" (§ 37.11(b)).

"Private entities, whether or not they receive Federal financial assistance, are also subject to enforcement action as provided in the regulations of the Department of Justice implementing Title III of the ADA (28 CFR Part 36) " (§ 37.11(c)).

Discussion

FTA is charged with ensuring that recipients of Federal transit funding (grantees) do not discriminate against individuals with disabilities. The responsibility falls under § 37.11(a) and Subpart C (Enforcement) of Part 27 (Nondiscrimination on the Basis of Disability in Programs or Activities Receiving Federal Financial Assistance).

Each recipient annually signs FTA's master agreement, thus agreeing it will comply with Federal law. In addition, each recipient annually signs FTA's certifications and assurances, self-certifying that it is complying with Federal law. FTA determines compliance through self-certification, as well as grant reviews, complaint investigations, and site visits such as:

- Triennial Reviews of grantees receiving § 5307 Urbanized Area Formula Grants
- State Management Reviews of grantees receiving § 5311 Non-Urbanized Area Formula Grants

FTA also conducts oversight reviews in specific areas when grantees are either participating in special programs (e.g. Project Management Oversight reviews for grantees receiving § 5309 New Starts funding)

or may be at risk for noncompliance in specific areas, including the ADA. FTA conducts several in-depth ADA compliance reviews each year, examining both fixed route and complementary paratransit service. Further information on other program reviews is available on FTA's website.

12.3 Informal Resolution

Requirement

"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 [Part 27]" (§ 27.121(a)).

Discussion

FTA's role in overseeing ADA compliance is rooted in the Department's overall administrative enforcement policy, as discussed in the Appendix D section of the same name:

> In considering enforcement matters, the Department is guided by a policy that emphasizes compliance. The aim of enforcement action, as we see it, is to make sure that entities meet their obligations, not to impose sanctions for their own sake. The Department's enforcement priority is on failures to comply with basic requirements and "pattern or practice" kinds of problems, rather than on isolated operational errors.

If through a compliance review, complaint, or other means, FTA identifies a grantee's alleged failure to comply with applicable ADA requirements, it notifies the grantee and gives it an opportunity to correct the issue.

12.4 Administrative Enforcement

Requirement

"(a) Recipients of Federal financial assistance from the Department of Transportation are subject to administrative enforcement of the requirements of [Part 37] under the provisions of 49 CFR Part 27, Subpart C" (§ 37.11).

"General. If there is reasonable cause for the responsible Departmental official to believe that there is a failure to comply with any provision of [Part 27] 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" (§ 27.125(a)).

"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 [Part 27].

(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 activity, or part thereof, in which noncompliance has been found" (§ 27.125(b)).

"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" (§ 27.125(c)).

Discussion

If FTA determines that a matter cannot be resolved voluntarily, FTA may take action, including suspension or termination of Federal financial assistance, refusal to grant or to continue Federal financial assistance, referral of the matter to the Department of Justice (DOJ) for enforcement, or any other steps authorized by law.

In order to suspend or terminate Federal financial assistance three conditions apply:

- FTA must advise the grantee of its failure to comply.
- FTA must determine that compliance cannot be secured by voluntary means.
- The Secretary of Transportation must make an express finding on the record, after opportunity for hearing, that the grantee has failed to comply.

In addition to suspending or terminating Federal financial assistance, § 27.125(a)(1) gives FTA the option of referring the matter to DOJ with a recommendation that appropriate proceedings be brought to enforce any rights of the government under any law of the United States.

12.4.1 Department of Justice Authority

DOJ has authority to initiate litigation through either of two vehicles. First, DOJ may initiate litigation on a referral from DOT/FTA. Upon such referral, DOJ may conduct further investigation and legal analysis to determine what enforcement means are appropriate, including litigation. DOJ will then initiate its own efforts to resolve the matter without litigation, before proceeding with a court filing. DOJ may also entertain litigation by intervening into lawsuits already pending in the courts filed by private plaintiffs. In such instances, DOJ also attempts voluntary resolution prior to filing a complaint in court.

In addition, Part 35 of DOJ's updated ADA Title II regulations (Nondiscrimination on the Basis of Disability in State and Local Government Services) includes a provision in Subpart G (Designated Agencies) that allows DOJ to investigate a complaint on its own, without referring the complaint to the designated agency. (See 28 CFR 35.190(e).) This means an FTA grantee may be subject to a DOJ complaint investigation independent of FTA.

12.4.2 Department of Justice-FTA Memorandum of Understanding

In 2005, FTA and DOJ executed a Memorandum of Understanding (MOU) to formalize their ongoing cooperation in the implementation and enforcement of the ADA public transportation provisions. The MOU outlines the two agencies' enforcement options, while reinforcing that attempts to resolve issues informally are to be made before enforcement steps are initiated.

12.5 Onsite Reviews

Requirement

"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 [Part 27]" (§ 27.123(a)).

Discussion

FTA's onsite reviews for ADA compliance include Triennial or State Management Reviews and a select number of discretionary reviews. FTA conducts Triennial and State Management Reviews of all § 5307 funding recipients and state grantees on a rotating basis.

Discretionary Review Selection Criteria

The following factors contribute to the selection of transit agencies for ADA discretionary reviews, either specialized reviews or enhanced reviews through the Triennial and State Management Review process:

- Risk factors identified by the FTA annual Grantee Oversight Assessment
- FTA complaints (triggered either by the volume of complaints or the scope of a specific complaint, requiring an in-person investigation)
- ADA findings or recommendations on prior Triennial, State Management, or other reviews that grantees have not sufficiently resolved or implemented or repeat findings in any FTA review concerning ADA
- Lawsuits, complaints, or investigations conducted by organizations other than FTA alleging a grantee's noncompliance
- Alleged noncompliance brought to FTA's attention by other agencies

Compliance Reporting and Follow-up

After conducting a site visit, FTA issues a report that includes findings of deficiency or no deficiency for each of the relevant requirements.

Transit agencies are required to undertake corrective actions to address findings of deficiency within a specified timeframe following finalization of the report. FTA works with agencies to confirm implementation of corrective actions.

12.6 Grant Reviews

When reviewing grant applications, FTA looks for information in the package substantiating that the project or vehicle procurement will meet ADA requirements. Grantees are encouraged to submit a narrative analysis of how ADA compliance is projected to be met, along with any supporting documentation such as architectural drawings and photographs that would assist in FTA's review.

12.7 FTA Complaint Process

Requirement

"Complaints. Any person who believes himself/herself or any specific class of individuals to be harmed by failure to comply with [Part 27] 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" (§ 27.123(b)).

"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 [Part 27]. 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 [Part 27] occurred" (§ 27.123(c)).

"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 [Part 27], 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" (§ 27.123(d)).

Discussion

As part of its ADA oversight responsibilities, FTA investigates complaints it receives alleging noncompliance. FTA presents deficiencies it identifies during the complaint-investigation process to grantees (typically transit agencies) and offers agencies assistance to correct the deficiencies within a predetermined timeframe, typically 30 days. If FTA cannot resolve apparent violations of the ADA or the DOT ADA regulations by voluntary means, it may pursue the enforcement provisions discussed above.

In responding to complaints, FTA considers the facts and circumstances at issue. Determinations resulting from FTA's investigations are not intended as an expression of an opinion as to a transit agency's overall compliance with ADA requirements.

FTA does not represent the interests of individual complainants but rather the interests of the Federal government. FTA's objective during the complaint process is to ensure grantees comply with the ADA requirements as a condition to receiving Federal funds and that they correct any deficiencies identified in order to compliant future service.

Individuals or any specific class of individuals may submit a complaint to FTA—which must be in writing—personally or through a representative. Those wishing to submit a complaint may do so independent of a transit agency's complaint process. FTA provides an optional form on its website for complainants to print, complete, and mail to the Office of Civil Rights within 180 days from the date of the alleged discrimination. FTA's policy is to encourage riders and others to resolve issues with local agencies when possible before filing a complaint with FTA.

To assist transit agencies and others, FTA publishes Letters of Finding on its website, which result from FTA's investigation, analysis, and determination of complaints the Office of Civil Rights receives. Generally, Letters of Finding, which are normally addressed to a specific individual or agency, set forth FTA's determinations regarding an issue involving a specific factual situation. These determinations are

applicable to facts in question and, as such, should not be applied broadly to other situations, which may or may not involve the same facts.

12.8 Transit Agency Complaint Process

12.8.1 Designation of Responsible Employee

Requirement

"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 [Part 27]. Each such recipient shall inform the head of the operating administration of any subsequent change" (§ 27.13(a)).

Discussion

While providing good customer service is a goal all transit agencies share, issues arise that lead to customer complaints. Many agencies have robust customer service programs in place to address such issues, and while these are important to agency activities, all agencies must have procedures in place specifically to address issues of ADA noncompliance and must identify at least one agency employee to coordinate compliance with the Part 27 requirements.

12.8.2 Complaint Procedures

Requirement

"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 [Part 27]" (§ 27.13(b)).

Discussion

Transit agencies must have administrative procedures in place that incorporate appropriate due process standards and provide for the prompt and equitable resolution of complaints. Establishing complaint policies and procedures is the responsibility of the transit agency, not its contractors, and complaint procedures must be applicable to all transit service provided by the agency. Although not a specific ADA requirement, FTA encourages agencies to publicize their due process standards and related procedures in a manner similar to posting information regarding protections against discrimination afforded to members of the public under Title VI of the Civil Rights Act of 1964. (See FTA's Title VI Circular.) FTA notes that agencies can use the same process for ADA and Title VI complaints but must treat ADA complaints separately from Title VI complaints.

12.8.3 Recordkeeping

Requirement

"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 in 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" (§ 27.121(b)).

Discussion

Transit agencies must keep all complaints of noncompliance on file for one year and a record of all such complaints (which may be in summary form) for five years. With the development of automated complaint-tracking systems, a good practice is to maintain an ongoing database of all complaints and to tag ADA-related complaints accordingly. This practice enables transit agencies to produce historical reports upon request.

It is important for transit agencies to distinguish between complaints (justified or not) that pertain to the DOT ADA requirements versus complaints about services or policies that do not—even if the complainant has a disability. For example, a complaint about wheelchair securements on fixed route buses not functioning properly is an ADA complaint, while a complaint about noisy passengers on a complementary paratransit vehicle is not. In addition, while complementary paratransit service is an ADA requirement, it is important to distinguish between service complaints (e.g., occasional late pickups) and complaints related to regulatory compliance such a pattern or practice of significantly late pickups. (See Chapter 8.)

While there are many potential areas of noncompliance, some of the more common types of complaints include:

- Unreasonable administrative burdens in applying for ADA paratransit eligibility
- Bus drivers passing by riders using wheelchairs waiting at a bus stop
- Vehicle operators not announcing stops or identifying routes
- Personnel refusing to allow a rider's service animal in a station or on a vehicle

The following types of service-related complaints are not areas of noncompliance:

- Comfort while riding (e.g., driving style)
- Having to ride in a complementary paratransit vehicle with another rider
- Lack of or limited fixed route service (e.g., not serving a particular community or limited evening or weekend service)

Many transit agencies have developed good practices for resolving complaints. The following section outlines effective policies and practices in complaint resolution.

12.8.4 Written Policies and Procedures for Complaint Resolution

A good practice is to have clearly stated written policies and procedures describing the complaint-resolution process, covering information needed to investigate complaints, various methods of submitting complaints, and established and publicized timelines for promptly resolving complaints. Attachment 12-1 provides a sample comment form for obtaining customer complaints and feedback.

Information Requirements

To properly investigate complaints, transit agencies typically request the following information:

- Contact information (name, rider ID (if applicable), address, telephone, email, etc.)

- Date, time, and location of the incident
- Vehicle ID number
- Name(s) or ID numbers of agency employee(s) or others
- Description of what transpired
- Other documentation such as photographs

Because of the unique service requirements of complementary paratransit, many agencies establish specific information requirements related to such topics as:

- Telephones (reservations, cancellations, where's my ride, etc.)
- Lateness and no-shows
- On-board ride times
- Drivers not knowing travel routes or destinations

Communications

Transit agencies should make complaint filing easy and accessible. One way to do this is to allow complaints to be submitted via a number of means, including in writing, electronically, in-person, and via telephone. Many agencies have created interactive forms on their websites to receive complaints. Some forms generate an email to the agency's customer service department, while others use these forms to populate customer service databases. Typically, such interactive forms generate automated emails acknowledging receipt of the complaint and promising prompt investigation and resolution.

Transit agencies should also inquire if complainants need responses and other communications in alternative formats and use appropriate formats upon request.

Some transit agencies only respond to complainants that request a formal response. While the regulations do not require agencies to respond to complaints, agencies are required to resolve noncompliance complaints equitably and promptly. As such, for agencies that do not respond to all complainants, a good practice is to be sure to respond to those submitting complaints of noncompliance.

Timelines

The establishment of timelines for prompt complaint resolution is not defined, meaning that transit agencies can establish their own timelines for complaint resolution. However, agencies must apply timelines that are both reasonable and equitable so as not to discriminate against individuals with disabilities.

Regardless of local policies for timelines, a good practice is to keep track of dates throughout the complaint resolution process, including:

- Date of receipt
- Date of assignment for investigation
- Date of resolution
- Date of communication to complainant, if applicable

Transit agencies that thoroughly investigate complaints and openly communicate the investigative process and results can establish positive relationships with riders and minimize the need for legal actions.

12.8.5 Investigating Complaints

Complaint investigation should involve communicating with all parties involved. This includes the complainant as well as pertinent operations staff. However, complaint investigation should go beyond just

communicating with the parties. Other information sources that transit agencies should consider consulting include:

- Video recordings from facility surveillance and on-board cameras
- Telephone call recordings
- Written communications (paper and electronic)
- System data including location tracking, dispatch records, and reservationist notes and input
- Driver manifests (paper or electronic)
- Interviews with transit agency/contractor employees and other riders who may be witnesses to the incident

As discussed in Section 12.8.3, it is important to distinguish between service complaints and those that rise to the level of noncompliance and to fully investigate complaints of discrimination.

Internal Follow-up Considerations

As discussed in Chapter 2, transit agencies are required to ensure that their personnel are trained to proficiency as appropriate to their duties. Information obtained from riders—whether complaints or compliments—is valuable in measuring transit agency or contractor employee proficiency levels. Rider comments that reveal issues with the provision of service are good indicators that employees may not be trained proficiently.

When complaint investigations confirm ADA violations, a good practice is to have established follow-up procedures in place. Transit agencies and/or their contractors typically employ progressive discipline measures, beginning with re-training and/or counseling followed by more punitive actions after repeat offenses. A good practice is to use properly investigated complaint findings as case studies in training curricula as these offer real-world examples to trainees. Another good practice is to include supervisor monitoring and follow-up to confirm that employees understand and properly carry out their responsibilities.

For ADA violations arising from issues with vehicles, accessibility equipment, or facilities, a good practice is to review operating procedures, maintenance procedures, and technical specifications to identify any needed changes.

12.9 Monitoring

Monitoring falls into two categories: (1) monitoring services provided under contract and (2) other monitoring.

12.9.1 Monitoring Services Under Contract

As discussed in Chapter 1, when transit agencies contract with other entities (public or private), these other entities "stand in the shoes" of a contracting agency and must meet the same regulatory requirements that apply to the agency. As such, agencies should incorporate into clearly worded and concise contracts with explicit service provision requirements, including minimum performance standards, incentives and penalties, and regular reporting. Agencies using other service providers should apply the methods discussed in the following sections and elsewhere in this Circular to ensure service providers are meeting applicable requirements.

12.9.2 Other Monitoring

Compliance with the DOT ADA regulations covers a broad range of topics, including vehicles, facilities, and services. While transit agencies may have appropriate policies and procedures, actual practices may deviate from agency protocols. It is therefore very important to monitor employee training to ensure thoroughness and accuracy and to monitor actual practices for consistency with agency policies and procedures. The type and extent of monitoring depends upon an employee's duties and responsibilities. This includes activities directly associated with transit service and behind-the-scenes activities.

Monitoring how transit employees interact with riders with disabilities is a key element in ensuring compliance. Certain of these activities—such as whether vehicle operators announce stops—are relatively easy to monitor (e.g., through the use of secret riders). Other activities—such as properly deploying bus ramps at stops—occur less frequently. As such, monitoring compliance depends on the service activity.

Table 12.1 lists the specific Circular chapters in which good monitoring practices are discussed.

Table 12.1 – Circular Chapters that Discuss Monitoring Activities

Chapter	Monitoring Topics Discussed
1 – Introduction and Applicability	Services under contract or other arrangement
2 – General Requirements	Maintenance of accessible features Training employees to proficiency Use of lifts and securement devices
3 – Transportation Facilities	Design review Construction oversight
4 – Vehicle Acquisition	Pre-delivery vehicle inspections
6 – Fixed Route Service	Stop announcements Route identification announcements Alternative transportation when lifts are inoperable
7 – Demand Responsive Service	Approaches for determining equivalency for each service requirement
8 – Complementary Paratransit Service	On-time pickup performance Trip denials Missed trips Trip lengths On-time drop-off performance (for trips with appointment times) Telephone interactions Telephone system performance
9 – ADA Paratransit Eligibility	Timeliness of ADA paratransit eligibility determinations Accuracy of no-show and missed trip coding
10 – Passenger Vessels	Accommodating passengers who use mobility aids Providing on-board assistance Complaint processing
12 – Oversight, Complaints, and Monitoring	Complaint processing

12.9.3 Elements of Effective Monitoring Programs

In addition to the specific monitoring activities discussed throughout the Circular, this section includes suggestions of effective monitoring activities applicable to more than one mode or program.

Performance Standards, Reporting, and Verification

As discussed in Chapters 6, 8, and 9, many transit agencies have established performance standards for providing compliant service to riders with disabilities. Many agencies also use internal reporting systems

or use commercial software to generate operational performance data. Such reports are essential to ensuring both compliant and efficient service and should cover a range of topics, including:

- Fixed route service performance
- Complementary paratransit service characteristics
- Equipment failures and maintenance and repair records
- Vehicle incidents
- Personnel changes
- Training records

While such reports are valuable sources of data, a good practice is to periodically audit the data. For example, an agency may obtain on-time performance reports for its complementary paratransit service. By examining a sample of trips performed during a specific service day from in-vehicle data terminals or from driver manifests, it is possible to verify the accuracy of the computer-generated reports.

Desk Audits

A good practice for transit agencies using other service providers (contractors or other public entities) is to regularly audit such providers for compliance with contract requirements. This typically involves reviewing contractor employee training records, individual vehicle maintenance records, driver pullout records, etc.

In-service Observations

To ensure compliant service, transit agencies need to go beyond reviewing performance reports or conducting desk audits and should observe actual service. Even when agency policies and procedures may be correct, actual practices may differ. Agencies can monitor certain activities by using employees such as road supervisors or by using secret riders when the monitor's presence is best kept hidden. Some agencies actually collaborate with nearby agencies and lend employees to one another to perform such monitoring activities. For example, state transit associations in Washington and Wisconsin arrange for supervisors of member agencies to monitor one another's services. See Chapter 6 for more information on using secret riders.

Rider Comments and Complaints

Many transit agencies have established customer feedback systems that go beyond the requirements by encouraging riders to submit service comments and complaints. Such feedback is a valuable element of an agency's monitoring program. Further, with the increased use of in-vehicle cameras, automatic vehicle location equipment, and other technology, it is easier to investigate complaints and use specific incident data (including video recordings) in subsequent employee training activities.

Attachment 12-1
Sample Comment Form

[Transit Agency] is committed to providing you with safe and reliable transportation services and we want your feedback. Please use this form for suggestions, commendations, or complaints. You may also call as at [number], visit our Customer Service Center at [address], or contact us by email or U.S. postal mail at the addresses below. Please make sure to provide us with your contact information if you would like to receive a response.

Type of Comment (Choose One)*			
Commendation/Suggestion/Complaint/Inquiry/Other			
Contact Information			
Salutation [Mr./Mrs./Ms., etc.]			
Name			
Street Address:			
City, State, Zip			
Phone:			
Email:			
Comment Details			
Transit Service (Choose One) [as applicable] [Bus/Subway/Paratransit/Ferry]*			
Date of Occurrence:			
Time of Occurrence:			
Vehicle ID/Route Number:			
Direction of Travel:			
Location of Incident:			
If above information is unknown, please provide other descriptive information in order that we may identify the employee			
Message [Text box on web form for narrative]:			
Follow-up			
May we contact you if we need more details or information?		Yes	No
What is the best way to reach you? (Choose One) [Email/Phone/Mail]*			
If a phone call is preferred, what is the best day and time to reach you?			
Desired Response (Choose One)*			
- No response required - Email response - Telephone response - Response by U.S. Postal Service			

* Drop-down menu on web forms

[Include Agency Name, Address, Telephone, and Email link]