

# Transcript

## FTA ADA Circular Webinar 5:

### The ADA and Transportation Facilities

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>> JOHN DAY: Okay. Everyone, welcome to the fifth in a series of webinars on the FTA ADA circular. This one will cover transportation facilities. I am John Day, Program Manager for Policy and Technical Assistance in the FTA Office of Civil Rights. With me today is my copresenter Richie Nguyen, Presidential Management Fellow and Equal Opportunity Specialist also in the Office of Civil Rights and he will also be assisting us with the Q&A. Due to the size of the audience, everyone is muted, but we want it to be as interactive as possible so please use the Q&A box for questions. You can ask questions throughout the presentation. And we will do our best to keep up. Once a question has been answered we will post it to the screen. We may not have time to get to all of the questions, but we will post Q&A later on the civil rights training page.

So today we are going to start with some background on the circular itself. We will cover chapter 3 on transportation facilities, we will talk a little bit about chapter 5, equivalent facilitation, and then we will have some time for questions.

In developing the circular we want to create a plain English reference on the DOT ADA regulations to help people better understand the requirements which span four chapters of the Code of Federal Regulations. It is our hope that by using it, it will help you avoid oversight findings in some of our triennial reviews or our specialized reviews of civil rights requirements. It is important to understand that the circular contains no new requirements, although some may seem new to you and it is our hope that we can provide a one-stop shopping place for all your ADA transportation needs.

The circular itself is organized in to 12 chapters and it may seem imposing by itself, but it's important to remember that it's intended to be used as a reference document, not read cover-to-cover. Today's topic is chapter 3 on transportation facilities and we'll also touch on chapter 5, equivalent facilitation.

The standards for building and facilities are established by the U.S. Access Board, that's the federal agency that has the statutory authority to develop standards for accessibility under the ADA and the Architectural Barriers Act. And these standards must be adopted as a minimum by Federal agencies with ADA responsibilities, such as DOT. DOT adopted the latest standards in 2006 with four additions or modifications which we refer to as the DOT Standards. Basically we

retained four existing requirements from the previous standards when we adopted the new ones concerning accessible routes, detectible warnings on curb ramps, bus boarding and alighting areas, and rail stations platforms. These together we call the DOT Standards and it's important when pursuing a transportation facility project that you use the right standards because DOT's differ in those four regards from the standards that the Access Board issued in 2004 which they call the ADA accessibility guidelines. They also differ from the DOJ's 2010 standards. Ours were adopted in 2006 and a lot of people think that DOJ's 2010 standards must be the new ones we should use those. No, the current standards for transportation are the 2006 DOT Standards.

FTA encourages agencies undertaking construction or alteration projects to engage other entities to control facility elements. For example, coordinating with municipalities that control sidewalks adjacent to a new rail station to assure that accessible curb ramps are in place. FTA may be able to help coordinate with our colleagues at FRA and FHWA. FRA is the Federal Railroad Administration dealing with railroads and FHWA being the Federal Highway Administration which has a big role in pedestrian infrastructure. It's important to understand that public entities are required to follow the DOT standards when constructing new transportation facilities or altering existing ones. And so in order to ensure that your facilities are not just accessible in and of themselves but accessible to people getting to and from them, it is important to coordinate with these other agencies to make sure that there is a seamless transition.

Richie is now going to go over some of the common issues that we see when dealing with transportation facilities and these are all covered in the circular.

>> RICHIE NGUYEN: Thanks. As John mentioned I am going to discuss some common issues regarding the DOT Standards. The first one is station parking. Two main points about station parking are the number of accessible spaces and the location of the accessible spaces. So in terms of the number of accessible spaces if there are multiple parking facilities that serve as station the entity needs to calculate the requirements for each parking facility. If you aggregate all the multiple parking together you will get the wrong number of acquired accessible spaces. You need to separate them. So in the figure we see that there are three lots, lot 1 on the top left, the garage on the top right and lot 2 on the bottom. So calculating each one separately you see the number of acquired accessible spaces for each one and then if you add that total together that's the number that you see there. There's 43 required accessible spaces. If you were to just take all the spaces together of all three and then calculate it you would get 33 and that's incorrect. You would be ten short of the required number of accessible spaces. And to calculate the number of required accessible spaces we use Table 208.2 from the DOT Standards.

The second point I want to make about station parking is location of accessible spaces and most important thing to know in these location they need to be on the shortest route of accessible entrances. So one or more accessible station entrances, pardon me. And generally if parking is located near more than one accessible entrance this means allocating spaces to each accessible entrance. In the figure there are accessible spaces for each of those lots, lot 1 with the garage and lot 2, but we want to make sure that you know it is okay to co-locate all spaces in one area. For instance, if better accessibility might result from locating all the spots in lot 1 if it was uncovered,

for instance. It may make sense to put all the accessible spaces on the top part of that facility in the parking garage if covered and closer to upper level accessible platform entrance. And also regarding station parking I want to mention that it is more than just signage. You want to account for access aisles, too. Otherwise the accessible spaces aren't going to be useable if they run in to islands or peninsulas.

>> JOHN DAY: And if you put them all in the garage there is a height requirement.

>> RICHIE NGUYEN: Yes. And so I referenced Table 208.2 from the DOT Standards and we include this in our optional facilities. It is Attachment 3-1 and a lot of useful information on the DOT Standards and section 1 is on parking and you can see in the middle there that's how you can calculate the number of minimum accessible spaces that are required.

The second common issue I want to talk about is passenger loading zones and this is DOT Standards Section 503 and what's required is that clearly marked 60-inch wide access aisle for the full length of the vehicle pull-up space. So in the figure you see that area, the area that's marked with diagonal lines. So it needs to be clearly marked. And one important thing to note about this is changes in level between accessible aisle and vehicle pull-up space are not permitted. That means that the passenger loading zone needs to be pavement level and not curb level. And again they need to be the full length of the vehicle pull-up space.

Alright. Again the circular I want to point back to that, at the end of chapter 3, Attachment 3-1 a lot of useful information. Section 2 has information on passenger loading zones that you can use when constructing these and there is information on dimensions, locations, surfaces, and circular goes in more detail on that.

The third common issue I want to talk about are curb ramps. So this is DOT Standards 406 and if this is not met then the curb ramp is inaccessible. Common deficiencies that we see are when top landings are too small, ramps are too steep, counter slopes are too steep, or they're missing detectable warnings. So not only if these deficiencies are present is the curb ramp not compliant but there's also the public risk of wheelchairs tipping over and people getting hurt. For missing detectable warnings, this is bolded because this is an instance where the DOT Standards differ from the Access Board around the DOJ standards. DOT retained this requirement when we adopted the DOT standards. Monitoring is important. In terms of monitoring it is important during construction to monitor and assure compliance and it is more than just saying to the contractors, construct an ADA compliant curb. We recommend specifying the requirements as laid out in Section 406. And so the circular includes this figure and it shows common deficiencies for curb ramps.

>> JOHN DAY: My county has done the same street corner three times trying to get the curb ramps right before they figured out that they should tell them exactly how to build them. It is very important.

>> RICHIE NGUYEN: Yeah, so if they had used this optional facilities checklist at the end of chapter 3, which has all this information on curb ramps, that would have helped the situation and this is what the section on curb ramps look like.

And the fourth common issue I want to talk about regarding the DOT standards are track

crossings and that's from DOT Standards Section 810.10. And this is at rail stations where accessible routes to boarding platforms crosses tracks. When that happens, wheel flangeways are permitted to be a maximum of 2.5 inches wide. Because if the flangeway gaps are greater than 2.5 inches this can cause mobility devices to become caught in track crossings and that's a critical safety issue. Right. So what's also important for track crossings is that they be maintained. Not just built to be two and a half inches or less but they be maintained, because they are an accessibility feature, in operative condition and because of asphalt changes, train crossings other maintenance that can affect the gaps it is not just a build it and be done. So if the track -- if this gap could not be met or maintained, the two and a half inches or less, other means of crossing the track may need to be explored and those alternatives can include an overpass or underpass with an elevator. So in the long run it makes sense to maintain these accessibility features in operative condition.

And the last common issue that I want to talk about today are station with station platforms. So there are detectible warnings, station name signage and direction to accessible means of egress. For detectible warnings and this is covered in the Section 705 of the DOT standards, those DOT standard section it specifies requirements for the domes, including the size, spacing, contrast as well as the dimensional requirement along platform edges. It is related to the one about the requirement regarding curb ramps but for station platforms. They need to run alongside the edge of the platform two and a half feet wide and for the full length of the public use of the platform. And one thing that we see, a common misunderstood element of these requirements that the orientation of the dome pattern is not part of the requirement. You can align them at 90 degrees to the platform or 45, those are acceptable. The DOT standards do not specify the orientation but they do specify the size, spacing and width and length.

For station name signage, the second bullet on the slide, the DOT standards require the signs to be visible so the riders can identify the station they are at from inside the train and know whether or not to get off the train. And these signs 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. And that's in DOT standards 810.6.3.

And finally, for station name signage on platforms, the text on the signs must be sized to be legible at the distance from which train riders can view it. The circular references section 703.5 of the DOT standards. For directions to accessible means of egress, in stations where some but not all means of egress are accessible, agency needs to have signs that direct people to the accessible means of egress. So, for instance, if you get off station and there are stairs on one end and elevator on the other, there needs to be clear directional signs to the accessible means of egress. And that's also the case for you need signs for accessible paths to areas of refuge as well. And finally, doors that exit stairways, and pathways and discharge must be identified by tactile sign and include both raised characters and Braille and meet the specified visual criteria. The circular goes more in-depth in this when it discusses section 216.4.1 of the DOT standards and with that I'm going -- this is again I just want to hark back to the optional facilities checklist at the end of the chapter 3. A lot of useful information on specifically station platforms which is section 15. It is 26 pages long. The Attachment 3-1 and again as John mentioned it is not meant to be read cover to cover but has a lot

of useful reference and information. With that I am going to turn it back to John.

>> JOHN DAY: Okay. So for new construction, new facilities must be accessible and accessible means complying with the DOT Standards. There is -- this includes things for like new stations, bus boarding areas, intermodal centers, anything that you build with must comply with the DOT Standards. There is a limited exception for those rare circumstances where an agency can demonstrate that it is structurally impracticable to fully comply with one of the specific technical and scoping requirements in the standards. These rare circumstances may occur when the unique characteristics of terrain prevent the incorporation of accessibility features but the -- in its final rule adopting the DOT Standards, DOT noted that in the case of new construction the structural and impracticability standards may not be applied to a situation where the building is located in hilly or on a plot of land with steep grains. This means that a facility located at the top of the steep hill must be accessible and because FTA must determine compliance with the DOT ADA regulations for grant making purposes grantees must submit for review documentation substantiating any claim that compliance with a particular DOT Standard in new construction is structurally impracticable. And demonstrate compliance with DOT Standards to the maximum extent possible.

And anyone with questions about matters of structural impracticability should contact the FTA office of civil rights. There is a limited exception for structural impracticability. You have got to document and show your work and you still must meet the DOT Standards to greatest extent possible.

Altered elements of existing facilities must be accessible and alteration is defined as a change to existing facility including but not limited to remodel, renovation, rehabilitation, reconstruction, historic restoration, changes or rearrangement and structural parts or element and changes or rearrangement in the plan configuration of walls and full height partitions. Normal maintenance is not an alteration and it would include things such as reroofing, painting, wallpaper or asbestos removal, or changes to mechanical or electrical systems unless they affect the usability of the facility. Again has to be accessible to the maximum extent feasible. And the DOT Standards define technically infeasible in terms of something that has little likelihood of being accomplished because the 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 site constraints prohibit modification or addition of elements, spaces or features that are in full and strict compliance with the minimum requirements. So in other words, for new construction you have got structural impracticability which is mainly related to the site. The regulations and standards recognize that there may be constraints presented by the existing facility itself. Again if you are going to claim that something is technically infeasible to accomplish in an alteration, show your work. Document this infeasibility to the FTA Office of Civil Rights in a narrative format that covers a detailed project scope and affirmative statement as to whether the facility was accessible prior to construction.

So altered elements must be accessible. So there is another requirement that applies to alterations to an area that contains a primary function. So what is a primary function? A primary function is basically a major activity for which the facility is intended. It is what it is there for. In

transportation terms that could be ticket purchase and collection areas, passenger waiting areas, train or bus platforms, baggage checking and return areas and employment areas. Those are all areas that contain primary functions. If you are altering an area that contains a primary function, not only must the altered elements themselves be accessible but it triggers an additional requirement requiring the path of travel to and from the altered area to be accessible. Because this is sort of an add-on, this is something that the regulations are requiring you to do when it may not originally have been part of your project, the regulations say unless it is disproportionate to do so and disproportionate is defined by the Attorney General's office as exceeding the 20% of the cost of the alterations themselves. Whatever you spent on altering the area of a primary function including all of the accessibility elements that you had incorporate in to that primary function area, up to 20% of that amount in addition needs to be spent on making the path of travel to and from the altered area accessible. That's a little bit different than for alterations themselves. If the alteration project itself includes the path of travel, then the path of travel as the altered element must be accessible. It is only where you are altering a primary function area and weren't planning on doing anything to the path of travel to begin with that the disproportionality provision is invoked. So I hope that's clear. If not, you know, ask us a question or we have got a contact us function on our website that you can use. But I hope I have made that clear. It is a bit of an esoteric point but a very important one.

So as I said for general alterations the thing you are altering has to be accessible to the maximum extent feasible or unless it is technically infeasible. There is no cost consideration involved. When you are altering a primary function area the primary function area must be accessible to the maximum extent feasible. But you must also make the path of travel accessible unless it is disproportionate to do so.

I want to stop for a moment and say a word or two about key stations because this is the question that comes up most. "What about key stations? I thought the other stations that had to be made accessible were key stations. This station we are altering is not a key station. So it doesn't have to be accessible, right?" The answer is wrong. Question stations represented a deadline by which existing rail systems had to make certain stations that met specific criteria put forth in the regulations whether they were planning to do any work at them or not. It is one of the few affirmative ADA requirements. If you are altering other stations the expectation is that the -- at the end of the alteration the altered element will be accessible to and useable by persons with disabilities.

The idea of the ADA long term was that as things are renovated and redone and rebuilt that they would become accessible over time. So key stations represented a deadline when you are altering a station whether it is key or not, it has to be accessible.

So one of the other issues that comes up with new construction is the platform to vehicle coordination in rail stations. And for new construction and alterations the platforms have to be positioned to coordinate with the vehicles in accordance with specific standards, the standard is less than three inches horizontal, and plus or minus five-eighths [inches] vertically, and the idea is that persons who use wheelchairs would be able to board and disembark independently. Where it's

not operationally or structurally feasible to meet the horizontal gap or vertical difference requirements, mini-high platforms, car born or wayside lifts, ramps or similar manually deployed devices will suffice. There is no -- that exception is for light rail and for commuter rail. There is no exception from the platform gap requirements for rapid rail level boarding is always required. So three inches horizontally plus or minus five eighths inches vertically.

In addition to new construction and alterations, programs and activities in existing facilities must be conducted so that when viewed in their entirety they are readily accessible to and usable by individuals with disabilities. And Appendix D clarifies this provision is intended to cover activities and programs that don't rise to the level of an alteration, even if an entity is not making alterations to a facility it has a responsibility to conduct its program in accessible manner. Examples given in the regulations include user friendly fare cards, schedules, edge detection on rail platforms, adequate lighting, display and broadcast devices and PA systems. These are all things that will help make your transportation system as a whole more accessible to and usable by individuals with disabilities regardless of whether you are altering or building something.

Okay. The regulations contain a mechanism for an accommodating innovation and accessible design. It is called equivalent facilitation and what that represents is permission to depart from the DOT Standards. It's not a waiver. The requirement is for equal or greater accessibility. And it requires a formal determination by FTA. And I like to use the example of a mousetrap. The regulations will tell you—the DOT Standards will tell you how to build a regulation mousetrap. If you think you can build a better mousetrap, then equivalent facilitation is how you would demonstrate to us that your better mousetrap catches mice as well as or better than that regulation mousetrap. And you—of course, everyone building a better mousetrap needs to make their own case. Determinations of equivalent facilitation are made on a case by case basis. You can't say, "Well, I'm building the same mousetrap as this guy over here was building, and you side that was okay, so I'm going to do it, too. You've got to make your own case. No matter how similar your mousetrap is to that guy's, you've got to show that it catches mice as well as or better than a regulation mousetrap.

So the process looks something like this. The entity in charge of the transportation facility whether they are public, private, or a combination thereof develops their equivalent facilitation request with public participation. There is a public participation requirement involved and it's really got to be developed with public participation. It can't simply be invite people to a meeting and show them what you want to do fully formed. They have to be involved in the process. You develop your request with all your data and you submit it to FTA and we review it. We look at the data. We look to see that the public participation was documented. And any other evidence that's been submitted to prove that that mousetrap catches mice as well as a regulation mousetrap and in the end you did a formal determination by FTA, on a case-by-case basis, in writing, that yes, a determination of equivalent facilitation has been made. You can go ahead and use that mousetrap. A lot of people want to know why all this bureaucracy, why do you have to go through all this rigamarole to provide better accessibility in the end. Because under Department of Justice ADA regulations all you have to do is say, "I have got something that works better and I am going to use

it,” and you going ahead and put it in to practice. The difficulty with that is that somebody else may come along and say well, your mousetrap doesn’t catch mice at all and you are going to end up having to prove your own case probably in a court of law saying “Well, this is really as good or better than a regulation mousetrap, take my word for it, we did studies.” And you got to prove your own case. At the end of the DOT equivalent facilitation process you get a piece of paper from the government that says we agree your mousetrap catches mice as well as or better than a regulation mousetrap. You can go ahead and use it and if somebody should challenge you, you can hold up that piece of paper and say we have had this determination and go talk to the Feds. And then it becomes our problem and we will have all the data to support your case. But it takes the burden off of the transportation provider for making their case should somebody be unhappy with the performance of that mousetrap. The other thing that this does is it prevents equivalent facilitation from becoming a back door means of amending the ADA regulations outside the regulatory process. So it may seem a bit bureaucratic, and it is, but necessarily so.

So some suggestions for equivalent facilitation, do’s and don’ts. Do provide your actual test results. Don’t rely on somebody else’s data that may have done something similar a while ago and say, “we want to do the same thing and here is there their data showing it is good.” We want to see original work. Any testing you do should be performed with a realistic mockup and with a cross-section of potential passengers with varying types of disabilities and mobility aids; and the example I like to use is, we got a request from someone who had a different treatment for the detectable warning on the platform edges that they wanted to use. And so what they did is they went out to a parking lot and they laid down a section of regulation detectible warning material and right beside that they laid down a section of detectible warning material that had their modification made to it. They rounded up a bunch of people who were blind or had low vision and used a variety of different aids from white canes to guide dogs to nothing at all and they had them approach the detectible warning surfaces and stopped when they essentially detected it and they collected data and they were able to prove to us conclusively that their modified detectible warning pattern was as detectable or more detectible than the regulation warning pattern. So they were able to use their modification.

We have had other people come to us with new ramp designs for light rail cars and they have mocked up the front end of a light rail car and had people with varying types of disabilities using various types of mobility devices, you know, go in and out of this partial mockup. It all depends on what you are trying to prove to us but, you know, data is good and not only makes your case to us it helps us make the case to anybody who might object to a determination of equivalent facilitation down the road. It is important to have a large sample to provide a statistical analysis. Don’t get one guy or two guys or something like that. Get some volunteers, a lot of them with a wide variety of disabilities to help evaluate whatever it is that you are trying to get equivalent facilitation for. And please provide complete documentation of public participation. As I said we don’t want to see something that was developed behind doors and then presented fully-formed to the public as this is how we are going to do it. The public needs to be involved in the development of the equivalent facilitation request and also include all of the required information. The



regulations require the transportation entity name, address, and a contact person, the specific provision of the standards for which you are proposing equivalent facilitation –let’s say it is a departure from Section 703. I don’t know off the top of my head what section 703 of DOT ADA Standards is, but let’s say that you’ve come up with something that does that better. Tell us that you are can looking for equivalent facilitation from the requirement in section 703 of the DOT ADA standards. Complete and detailed description of the alternative method of compliance, other alternatives considered and your technical analysis to support a determination of equal or greater accessibility or usability, and a complete description again of the public participation process addressing all points listed in the regulation.

Some don’ts: the biggest one is don’t say “well, we just can’t comply with this.” Inability to comply with particular standard is not a basis of equivalent facilitation. It is not a waiver. Don’t rely on evidence from another system. Don’t combine requests for determinations of equivalent facilitation for separate issues. If you want to modify your platform and your vehicle some new type of more accessible interface, it is best to ask for one determination for the platform under the building and facilities standards and one determination for the vehicle under the vehicle standards. Otherwise we may not be able to disentangle the two and come up with a determination one way or the other on either of them. And don’t forget to include all of the information needed to make the request complete. The name and address and contact person, et cetera.

So for more information on accessibility of transportation facilities please see section or chapter 3 of the circular. I believe we have got some time left for Q&A. So let’s see what’s on everyone’s minds.

>> RICHIE NGUYEN: All right. First question is, “Do these regulations apply to administrating building for a transit agency?”

>> JOHN DAY: I think you would have to look at Title 2 of the ADA regulations but as the standards are essentially the same, yes, they would. Administrative buildings might be a place where the public interacts with you and also an employment area. So, you know, you wouldn’t have a boarding platform necessarily inside the administration building. You might. That would be convenient. But yeah, the standards for buildings and facilities apply generally.

>> RICHIE NGUYEN: Okay. Next question is the flangeway gap on heavy rail can be 3 inches?

>> JOHN DAY: The standard is 2 and a half inches. I know there has been a 3 inch standard proposed by the U.S. Access Board but those standards for public rights of way are still proposed, no final standard has been issued. Two and a half inches is what the standard is, and colleagues at FRA have confirmed that is something that the heavy rail can be expected to meet. I’m assuming we’re talking commuter rail, I know that the term heavy rail gets used for subways but that’s rapid rail. But for commuter rails in station areas the two and a half inch flangeway gap should be something that’s attainable.

>> RICHIE NGUYEN: Great. Where can we find approved detectible warning surface products information?

>> JOHN DAY: We don’t approve products as being compliant. What I would say is and I

don't even think the circular is that specific but if you look in the DOT Standards themselves which you can find on our website they will tell you how big the truncated domes have to be, how far apart and how high they have to be and they will talk about contrast and everything you want to know and you should be able to take that information and turn it in to specifications that a manufacturer of detectable warnings material should be able to meet.

>> RICHIE NGUYEN: This participant wants to know non-level boarding side platform, will a ten foot wide platform be compliant?

>> JOHN DAY: I think that's a question relating to something that FRA issued under the disability law coordinating council a few months ago and I would defer to that guidance on that.

>> RICHIE NGUYEN: Okay. This one is regarding bus stops. What guidance is there for existing bus stops in urban areas with sidewalks, new bus stops in urban areas with sidewalks, and existing bus stops with areas without sidewalks.

>> JOHN DAY: Okay. There are standards for bus stops in the DOT ADA Standards. There is not necessarily a requirement that you go back and proactively modify existing bus stops. You know, and as with any facility construction or renovation or whatever there are existing site constraints, I think in case of, you know, wanting to put a regulation bus boarding and alighting area in existing constrained urban environment, you know, there is some room there for the regulations to accommodate existing site constraints. I'm not sure if that answers the whole question or not. But see the standards and if you have specific questions we do have our Contact Us feature on our website and maybe we can give you a more complete answer if we have better understanding of where the question's going.

>> RICHIE NGUYEN: Another question along the lines of bus stop, is there a standard for bus stop sizes along fixed routes include how much space in front of the shelter, next to the shelter, and access to the sidewalk and so on?

>> JOHN DAY: There are, and it would take me a few minutes to look it up in the circular but I think it is addressed in the circular. There is specific depth that it has to be. It can be whatever slope the adjacent roadway is. . . . The answer is yes, there is a standard. And the area for the ramp to deploy on has to be a certain size. And it has to be connected to the public rights of way by an accessible route. Now if the nearest public right-of-way happens to be a street then you have to connect it to the road surface. You can't leave a curb there for somebody to get stranded at the bus stop.

>> RICHIE NGUYEN: A follow-up about the flangeway gaps. The person said I was talking about grade, pedestrian crossings and not at stations.

>> JOHN DAY: And again that's referencing a standard that hasn't been issued yet. There has been a proposed standard issued for grade crossings but that's in the public rights of way requirements that have not been issued yet.

>> RICHIE NGUYEN: Okay.

>> JOHN DAY: But again the smaller the gap the more accessible it is going to be.

>> RICHIE NGUYEN: How do agencies deal with bus stop locations they would like to upgrade or improve when the local city or county is unwilling to improve path of travel within

their property limits?

>> JOHN DAY: That's one of the things that we retained in the new standards when we adopted them that says the transit agency is not responsible if the entity that is responsible for the bus stop site will not cooperate. If you want to improve and the county public works says "no way you are not touching our concrete," then you are not responsible. The Department of Justice may hold the county responsible and that's between them and the attorney general. We are not going to hold the transit system responsible for that. But we do encourage transit agencies to work with those kinds of local government entities to, you know, to do what they can to make sure that the bus stops are accessible. Regardless of whether there are curb ramps and I know that the Federal Highway Administration and the Department of Justice are following up with cities who are falling behind on their curb ramp transition requirements and one of the things that was supposed to be a priority for those curb ramps were transportation stops, you know, because there is not a curb cut at either end of the block on which your bus stop is located that doesn't mean that you can construct an inaccessible bus stop.

>> RICHIE NGUYEN: Where I do find the specs on bus shelter requirements and I believe they are in the optional checklist, third section. There is a section on bus shelters.

>> JOHN DAY: Yeah, and if you look in section 810 of the DOT Standards those are the standards that are specific to transportation facilities. One of the subsections in there covers bus shelters.

>> RICHIE NGUYEN: Okay. This participant asks do the Federal ADA regulations supersede state and local regulations specifically when these agencies are permitting building construction?

>> JOHN DAY: The answer is that the ADA regulations always apply. If the state and local building codes provide better access, in other words, they are stricter in terms of what they require and they -- if they require better access than the ADA standards then you are required to follow those standards but if they provide for less accessibility then you are required to follow the ADA standards. I'm not sure if I can be any clearer than that.

>> RICHIE NGUYEN: That's pretty clear. Going back to bus stops, in more rural areas on roads that no curb and gutters and often huge ditches, can a transit system use flag stops at cross streets or driveways to meet accessibility standards?

>> JOHN DAY: I don't know that you would guarantee that they meet accessibility standards. Flag stops are sort of unique in and of themselves because somebody can get on and off basically anywhere along the system. I don't know that in most flag stops systems you have designated stops. That would be something you would have to work out locally I think.

>> RICHIE NGUYEN: Right. Another participant asks if we modify or improve a bus stop, is there is requirement for a sidewalk connection, certainly we cannot build sidewalks.

>> JOHN DAY: There is a requirement that it be connected to the public right-of-way. If that's a sidewalk, connect to the sidewalk. If there's no sidewalk you have to connect it to the street.

>> RICHIE NGUYEN: Okay.

>> JOHN DAY: But that again is where these conversations with other local agencies may come in. As part of the curb ramp initiative in my county along one major roadway they build a sidewalk to connect to the bus stop and bus shelter what was already there that was noncompliant. A little conversation can often go a long way.

>> RICHIE NGUYEN: Can you identify any light rail elements that would accommodate individuals with chemical sensitivity, i.e. low VOC materials.

>> JOHN DAY: There aren't any standards for that. That is something that the Access Board would have to work on and they would have to issue and the standards that we have just don't get in to that.

>> RICHIE NGUYEN: If you cannot place station I.D. signs on one side of the track how does this affect the placement of signs on the other side of the track?

>> JOHN DAY: Signs have to be placed so that people inside the rail car on both sides seated or standing can see the station. And I'm not sure what would prevent putting -- sign is not very wide, putting it on the side opposite the platform. But the requirement is that it has to be visible from inside the car. A lot of times what we see is that signage will be oriented so that it is visible to people on the platform who already know where they are as opposed to the ones on the train who may not. I saw one recently in a news clip where it looked like they had the station area sign at the canary level in a light rail station, and I'm not sure how visible that's going to be, but the requirement is that it has to be visible from inside to seated and standing passengers.

>> RICHIE NGUYEN: Going back to accessible parking, if an agency establishes a parking lot that is not adjacent to a transit facility but across the street, would disabled person parking space requirements apply to that lot?

>> JOHN DAY: I think they would, but I think you'd want to co-locate the accessible parking in the near lot. And again, you would have to calculate the number of accessible spaces for each parking lot and then have that total number be in the lot that's adjacent to the station. You couldn't add up the total number of spaces in the two lots and then go look at the chart and figure out how many accessible spaces you need because you would come up short.

>> RICHIE NGUYEN: Okay. This person asks in cities with older rapid rail infrastructure, particularly underground infrastructure, is there a specific requirement to install elevators to underground facilities when performing renovations to the station?

>> JOHN DAY: Depends on the scope of the renovation that you are doing. If you are ripping out stairways and putting in new then you would have to make accessible path of travel in to and out of the station unless it is not structurally feasible to do so. You know, and that includes things like piercing a load bearing wall that's an essential part of the structure, things like that. If you are altering a primary function area, let's say you are renovating the platforms and everything that are leaving the stairs intact, you are not doing anything with that, there is still a requirement to make the path of travel to and from the platforms accessible unless it is disproportionate to do so and disproportionate would mean it would cost more than 20% of what you spent on the platforms to make the path of travel accessible. So I hope that's clear enough.

>> RICHIE NGUYEN: Yes, I think this is alterations question. If a transit agency

reconstructs the curb and gutter at a bus stop, would the agency be required to fix the cross slope of the adjacent crosswalk at the same time?

>> JOHN DAY: That's a pretty specific question. And I'm trying to envision what the situation looks like. I mean the cross slope. That might take some more brain power than we can put in today. I would say submit that one to contact us and we will ponder that one a little bit. I am having a little trouble envisioning what we are talking about.

>> RICHIE NGUYEN: Going back to accessible parking spaces, are park and ride parking lots do they have to have ADA access to the transit facility?

>> JOHN DAY: Park and ride lots, yes, that's what it is there for.

>> RICHIE NGUYEN: What if a property owner does not permit the installation of signs. I'm guessing to accessible means of egress or something.

>> JOHN DAY: There's all kinds of regulations concerning who owns the property and who is responsible for meeting what. I'm tempted to guess that this is a commuter rail question and the freight rail road is saying, "we don't want your stupid signs," or something like that, and that may be a question that our colleagues in FRA would need to get involved. Like I said the requirement is that the signage has to be visible to seated and standing passengers on both sides, inside the rail car. So however you need to achieve that.

>> RICHIE NGUYEN: Another participant asked a broader version of the question. What about non-cooperating party, whose party needs to be made ADA compliant, how do we get them to cooperate?

>> JOHN DAY: I think we'd need to see the specific facts of the situation.

>> RICHIE NGUYEN: If a park and ride lot is owned privately but used by transit customers what are the ADA requirements?

>> JOHN DAY: Same as they would for park and ride lot owned by anybody else. The ADA regulations apply, they apply to public things. They apply to private things. They are not dependent on Federal funding or anything like that. So your private park and ride lot would need to have accessible parking spaces for the same reason your private movie theater parking lot would have to have accessible parking spaces.

>> RICHIE NGUYEN: This person asked are you required to make a facility which only accessible by police officers who cannot have any ADA limitations, require to make that facility fully accessible?

>> JOHN DAY: That's something that I would probably punt over to the Equal Employment Opportunity Commission because that sounds like a place of employment type of question. But, you know, I would say aside from that, you know, recognize that there are going to be areas where sooner or later a member of the public is going to need to come through and, you know, you may have service wounded officers who are doing desk work who may be employed there. You know, there are specific provisions and exemptions for certain types of employment areas. Usually they mention things like cat walks and elevator pits and things like that that aren't generally entered by -- they are rarely entered by people let alone entered by members of the public. But, you know, you always have to prepare for that possibility.

>> RICHIE NGUYEN: Okay. Another question regarding bus stops, do we have to build a concrete five foot by eight foot pad every time we place a new bus stop even when it is a pilot bus stop?

>> JOHN DAY: Well, the regulations basically require that. So and I am in the sure what's meant by a "pilot bus stop." I mean I guess you are trying out boarding and disembarking to see how many people are going to use the stop and I don't know that the regulations necessarily require concrete. I think they specify firm and slip resistant or something like that. Check the regulations again and see section 810 of the standards. And, you know, there may be some way of having to do a -- being able to do a pilot bus stop that meets the requirements without having to pour six inches of concrete. I just don't know.

>> RICHIE NGUYEN: We have time for a few more questions. Are public agencies required to obtain private property to comply with ADA when constructing bus shelters?

>> JOHN DAY: There is no requirement to have a bus shelter. If there is something prohibiting you from having an ADA compliant bus shelter then the alternative is, you can't have a bus shelter. The important thing to remember is that the less accessible your bus stops are the more that people are going to be dependent on complimentary paratransit. And there's a big difference in cost between a complementary paratransit trip and a trip on the fixed route bus. And so the more accessible you can make your fixed route bus system the less paratransit dependence you are going to have.

Okay I think we have exhausted the questions and we are just about out of time. If there is nothing else we will go ahead and conclude the presentation. This will be posted on the FTA ADA webpage. We have been recording it. So if you want to go back and review some of the slides and hear what we said, you know, it should be up in a few days. If you've got other questions that are maybe a little more complex than we can address in this forum, feel free to use the contact us function on our website and we will get back to you as soon as we can. Other than that thank you all for participating and everyone have a good day.

(Session concluded at 1:56 p.m. CST)