

# Transcript

## FTA ADA Circular Webinar 6: The ADA and Vehicles

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>> Okay, welcome, everyone, to the 6th and last in our series of webinars on the FTA ADA circular. Today's topic is vehicles. I'm John Day, program manager for policy and technical assistance in the FTA Office of Civil Rights. With me today is Richie Nguyen, presidential management fellow and equal opportunity specialist, in the Office of Civil Rights, who will be assisting with the Q&A. Due to the size of the audience, everyone is muted. But we want this to be as interactive as possible. So please use the Q&A box for questions. You can ask questions at any time during the presentation. We will try to keep up. We may save some of the more interesting questions for later. Once a question has been answered, we will post it on the screen. We may not have time to get to all of the questions today. But we will post a Q&A later on the civil rights training page.

We are going to start with some background on the FTA ADA circular. Then we are going to discuss some things in chapter 4 on vehicle acquisition and specifications. We will touch on chapter 5, equivalent facilitation; Chapter 11, which covers other modes of transportation; and then as I said we will have time for Q&A.

In developing the circular, we wanted to create a plain English reference on the DOT ADA regulations, to help people better understand the requirements which span four parts of the Code of Federal Regulations.

The circular contains no new requirements, although some may seem new to you. It's our hope that by using it, it will help you avoid findings in triennial and other oversight reviews.

The circular itself consists of twelve chapters, and that may seem imposing in and of itself. But it's important to remember that the circular is intended as a reference document. It is not meant to be read cover to cover. As I said today we will be talking about what is in chapter 4 on vehicle acquisition, chapter 5 on equivalent facilitation as it relates to vehicles and chapter 11 which covers other modes of transportation.

In general terms, all new vehicles must be accessible. There is an exception for demand responsive vehicles which are subject to the equivalent service requirements, which we discussed in our demand responsive webinar.

All used vehicles must be accessible, unless none can be found after making a good faith effort. The regulations define a good faith effort as including an initial solicitation for accessible vehicles, nationwide search for accessible vehicles involving specific inquiries to used vehicle dealers and other transit providers, and advertising in trade publications and contacting trade

associations. All of those are what is necessary to engage in a good faith effort to find used accessible vehicles.

All remanufactured vehicles must be accessible. There is an exception for when an engineering analysis demonstrates that meeting a particular accessibility requirement would have a significant adverse effect on the structural integrity of the vehicle.

These, all of these requirements apply to both rail and non-rail vehicles.

Sometimes an agency will use a private contractor to operate service, whether fixed route or demand responsive or complementary paratransit. In that case it must ensure that the private contractor complies with ADA requirements that apply to the agency itself. The contractor stands in the shoes of the public agency that operates the transit system.

This applies both to service delivery and vehicle acquisition. In terms of vehicle acquisition, if the contract requires the private entity to acquire vehicles to fulfill the terms of a contract, then those vehicles must be accessible, the same way they must be accessible if the public entity acquired them on their own.

Also, if a private entity acquires vehicles in contemplation of use for service under contract, those vehicles would also need to be accessible as they would be if the public entity acquired the vehicles on its own.

The use of a contractor cannot diminish fleet accessibility. If your fixed route fleet is 100% accessible, then when you contract out for service for somebody to operate it for you or a portion of it for you, those vehicles must also all be accessible, so you maintain your 100%.

What makes a vehicle accessible? The standards for each type of vehicle are set forth in 49 CFR Part 38. Subpart B covers buses and vans, and a reminder that the “B” in BRT stands for bus. Subpart C covers rapid rail vehicles. Subpart D covers light rail vehicles, which includes street cars, and Subpart E covers commuter rail cars.

The requirements in part 38 are very, very detailed for each type of vehicle, so instead of trying to go through all of those in the time that we have, we are going to focus on some of the more crucial and/or overlooked requirements.

The circular includes an optional checklist for buses and vans that agencies can use to help them develop specifications and check out their vehicles to make sure that they meet all of the requirements in Part 38 for buses and vans. It covers lifts, ramps, the securement area, as well as general vehicles specifications, it’s a handy little tool that we try to provide for people to assist them in acquiring accessible buses and vans.

Some of the considerations that come up for buses and vans, the first involves lifts. There is a minimum design load that the regulation specifies, which is 600 pounds. That is the weight that the lift is supposed to be able to accommodate at a minimum.

What some people also overlook is that the regulations establish minimum safety factors based on the ultimate strength of the material. For example, working parts such as belts, pulleys and shafts, have to meet a safety factor of six times the design load, and for nonworking parts like the platform and frame, the safety factor is three times the design load.

This means that a lift meeting the minimum 600-pound design load must have a safety

factor of 1800 pounds for nonworking parts and 3600 pounds for working parts.

It's important when specifying lifts to ensure that both the design load and the safety factors are addressed. Sometimes what we see is an entity will go out and they will acquire a vehicle with a design load of 800 pounds. They will say that 200 pounds is our safety factor. We don't want to take anything over 600 pounds. For a lift with an 800-pound design load, the safety factor would be three times that 800 pounds or, and six times the 800 pounds, depending on the part. So the difference between the minimum design load and the regulations and the design load of the lift you specify is not in this example 200 pounds. The safety factor is in addition to all of that.

It's common now in fixed route service for low-floor vehicles that are accessible by ramps to be deployed. They have pretty much eclipsed the old high-floor with the lift vehicles that were common at the time the ADA was written.

Ramps have some advantages over lifts. There is a simpler design, simpler maintenance, and ease of manual operation by the driver if the primary power fails. So because of their simpler design and operation, there are fewer specifications for ramps than for lifts. But it's just as important to be familiar with these requirements. The circular goes into this.

But probably the most important is, again, you have got the same 600-pound design load that you do for lifts. There is a requirement for a two-inch high edge barrier on either side of the ramp. Those are things that sometimes get overlooked.

Securement systems are another issue that comes up frequently. The ADA requires all buses and vans to be equipped with securement devices capable of accommodating wheelchairs and mobility aids as well as a separate lap belt and shoulder harness for use by wheelchair users.

The securement system must limit the movement of an occupied wheelchair to no more than two inches in any direction, under normal vehicle operating conditions.

The regulations don't specify a particular type of securement device, but any device must meet the performance standards outlined in Part 38.

It's also important to understand that while these performance standards may enable the securement system to provide a degree of safety, in the event of a collision or similar incidents, they are not intended to function as automotive safety devices and are not regulated as such by the national highway traffic safety administration. Their purpose is to prevent an occupied wheelchair from moving more than two inches in any direction under normal operating conditions.

There are performance standards for how much force that each component of the securement system has to be able to restrain, depending on the gross vehicle weight rating of the vehicle. You can read more about that in the circular. And of course, the specific requirements are found in Subpart B of the ADA regulations.

It's also important to understand that the seat belt and shoulder harness not be used in lieu of the securement system. That is one of the specific prohibitions that you find in Part 38, regarding use.

It's very important to make sure that the wheelchair is restrained independently before attempting to use the lap and the shoulder belt.

Another issue that comes up frequently is priority seating, and priority seating signs. One of the things that gets overlooked a lot is that in designating priority seating, an entity won't realize that there is a requirement on buses that at least one set of forward facing seats be designated as priority seats. A lot of times they will have perimeter seating in the front of the bus, and they'll designate the side facing seats as priority seating and they will have no forward-facing priority seating on the bus.

But that is a requirement for at least one set of forward facing seats to be designated as priority seating. The language on the sign doesn't need to quote the regulations verbatim. It is sufficient to say something like, you see an example on the screen, Federal law requires these seats be made available to seniors and persons with disabilities.

Moving on to rapid rail vehicles, one of the issues that gets overlooked frequently is the platform to rail car gap. This of course depends on the status of the vehicle and the station. We have got a handy table in the circular table 4.2, that depicts the various standards depending on whether it's a new rail car operating in a new station, a new rail car operating in a key station or an existing station, or a retrofitted rail car operating in a new or key station.

The gaps can be slightly different, as you can see, depending on that. I guess the most important thing to realize is that these are maximums. A lot of times what will happen is an entity will specify, say it's a new rail car and it's a system that has only key and existing stations, and they will specify a platform to rail car gap of three inches horizontally. Then the wheels will wear, the rails will wear and before you know it, it is out of compliance.

It's important to specify the smallest gap that you can possibly get, so that you don't have it wearing out of compliance and causing issues. Of course, in some cases even these gaps are going to be too great for certain people with disabilities to cross, in which case they would be eligible for complimentary paratransit. The smaller you make your gap, the less likely it is that people will have to continue to depend on complimentary paratransit for their primary transportation. . . .

We are now up to considerations for rapid rail vehicles, and we are on the priority seating slide. . . . Again, the signage for the priority seating does not need to quote the regulations verbatim. It is sufficient to say Federal law requires these seats be made available to seniors and persons with disabilities.

There is also no requirement for rapid rail for securement systems or for a specific securement location, as there are on buses.

The regulations simply require sufficient clearance to permit at least two wheelchairs or mobility aids to reach clear space areas measuring 30 by 48 inches. Again, no requirement for a specific securement area and no requirement for a securement system aboard rail vehicles.

The clear spaces are not specified in the regulations. They can be areas where standees would normally be or something like that. But it's important to make sure that you have sufficient clearance.

Pausing for people to catch up. Another consideration for rapid rail vehicles is between-car barriers. Unless there are platform screens of the type that you often see in airport people mover applications, the regulations require rapid rail trains to have devices or systems that prevent, deter,

or warn passengers from accidentally stepping off the platforms into the gaps between rail cars.

The regulations don't prescribe a particular type of between-car barrier, but they say such systems include but are not limited to pantograph gates, chains, and motion detectors or other suitable devices. We reproduced a picture from the circular showing a rapid rail train with between-car barriers.

Those are an important component of your rapid rail system. Again, platform to rail car gaps are another crucial consideration, that sometimes get overlooked. We have again reproduced a table that we made for the circular, Table 4-3, that summarizes the allowable platform to light rail car gap. So, this would be where light rail vehicles are operating in a level boarding mode, and again, the table shows what the allowable platform to rail car gap tolerances are for new light rail vehicles in new stations, new and existing stations, new vehicles in key stations, and retrofitted vehicles in new or key stations, and again it's important to make sure that you understand that these are maximum platform to rail car gaps.

And it's important to specify the smallest gap that you can achieve, so that the most people possible can independently board and disembark from the system, because that helps cut down on paratransit use.

Because light rail systems often operate on city streets, pedestrian malls or other areas where level boarding is not practicable, this is where the street cars come in, the regulations allow for the use of various devices to board in and alight wheelchair users and others who can't climb steps. Regulations permit the use of cardboard ramps, lifts, bridge plates, mini-high platforms or wayside lifts. Again this is where it's not feasible to meet the platform to rail car gap or where you are operating in city streets, pedestrian malls or other areas where level boarding is not practicable.

Between-car barriers are another issue that comes up frequently when dealing with light rail systems. The regulations state that where vehicles operate in a high platform level boarding mode, devices or systems shall be provided to prevent, deter or warn individuals from inadvertently stepping off the platform between cars.

While the regulations don't define what constitutes a high platform, the regulatory language links high platform to level boarding mode and must be considered in conjunction with other key parts of the regulations, which clearly point to the relationship between platform height and entrance to the vehicle floor.

In a level boarding environment without between-car barriers, the hazard of falling to the trackbed exists when trains operate with more than one car. This represents a risk to the transit agency should somebody mistake the gap between cars for an open doorway. The regulations don't prescribe a particular type of between-car barrier, but they do state that suitable devices would include pantograph gates, chains, motion detectors, and other suitable devices. The purpose of this provision is to prevent an individual, again, from mistaking the gap between cars for an open vehicle door. It does say prevent, deter or warn, not prevent, deter and warn. It is sufficient that it just provides a deterrent.

It's also important to understand that even though the requirement for between-car barriers appears in the section of the regulations on vehicles, it doesn't actually specify that the

between-car barriers be vehicle mounted. What some transit systems have done, if you look at the pictures at the bottom of the slide, the center picture shows a system that's deployed a platform-mounted between-car barrier system.

That's acceptable. It does require a certain degree of precision when pulling the train into the stations. But the point is, it doesn't necessarily have to be car-mounted as you see on the extreme right and left at the bottom pictures of the slide.

Again, priority seating is a consideration for light rail vehicles. This is the requirements are similar to those for rapid rail. The signage doesn't need to quote the regulations verbatim. The requirement for wheelchair locations is sufficient to permit at least two wheelchairs or mobility aids to reach clear space areas measuring 30 by 48 inches.

Again there is no requirement for securement systems aboard light rail or any type of rail transit system. They may coincide with areas where standees may otherwise stand. . . .

Okay. So again, the regulations for commuter rail vehicles establish the allowable gap between the platform and commuter rail cars. We have again reproduced here a table that we developed for the circular that summarizes the various horizontal and vertical gap tolerances that are allowed for new commuter rail cars in new stations, new commuter rail cars in existing stations, new commuter rail cars in key stations or retrofitted cars in new or key stations.

One little wrinkle in these requirements is that the savvy among you will note that the Department recently issued requirements for commuter rail platforms in section 37.42 of the regulations, that establish platform to rail car coordination for level boarding that accounts for the fact that clearance envelopes for freight traffic often don't permit the type of close coordination required for unassisted boarding.

So the horizontal and vertical gaps that you see in the table are intended for unassisted boarding. The department recognized that that is not always going to be feasible in a commuter rail environment.

The Department set requirements for platforms that allow for a horizontal gap of ten inches on tangent track, 13 inches on curves and vertical gap of five and a half inches or less.

That is what you need to get for level boarding in the commuter rail environment. But those gaps are obviously too wide for unassisted boarding by people with disabilities. So it's important to realize that where you cannot meet the three inches by plus or minus 5/8 inches in example for new vehicles in new stations, you are going to have to provide some sort of a ramp or bridge plate for people to span that ten-inch gap on tangent track. See section 3.8 of the circular for more on that.

Again, priority seating, the signage doesn't need to quote the regulations verbatim. The interior circulation must be sufficient to permit at least two wheelchairs or mobility aids to reach clear space areas measuring 30 by 48 inches.

Again, between-car barriers are a bit less of an issue for commuter rail than they are for light rail and rapid rail. But where a commuter rail station provides high-platform level boarding, the regulations require commuter rail cars that do not have between-car bellows to have devices or systems to prevent deter or warn passengers from accidentally stepping off the platform into the

gaps between the rail cars.

Most of the commuter rail applications that we are aware of do have between-car bellows, those are, like flexible corridors connecting one end of the rail car to another. We looked high and low for pictures that depicted the between car bellows to use on the slide, but we couldn't find one that was suitable for use. But again, if you don't have between-car bellows, you need between-car barriers and the regulations give examples of pantograph gates, chains, motion detectors, or other suitable devices, and again the idea is to prevent, deter, or warn passengers from accidentally stepping off of the platform into the gap between cars by mistaking it for an open doorway.

I'd be remiss if I didn't pause for a moment to talk about the one-car-per-train rule. This is one of the few affirmative requirements of the DOT ADA regulations. Basically one car per train represented a deadline by which every rail system in existence prior to the ADA had to achieve at least one accessible car per train by a date certain. That date certain was July 26, 1995. So, whether it was by acquiring new rail cars, by modifying existing rail cars, by reconfiguring the train, whatever, through some means by July 26, 1995, every existing rail system had to have at least one accessible car per train.

That does not mean that only one car per train must be accessible in perpetuity. Because as we noted at the outset, all new vehicles must be accessible, all used vehicles must be accessible, and all remanufactured vehicles must be accessible.

So over time, the entire train becomes accessible. But where this becomes relevant today is especially in the commuter rail world where there is an awful lot of used commuter rail cars that are hanging around, and you do a nationwide search, you come up with some, maybe all you can find are inaccessible rail cars and you want to start up a commuter rail system, even though you buy all of those existing inaccessible rail cars for your new commuter rail system, you still have to ensure that one way or another, at least one car for each of those trains that you have is going to be accessible to and usable by persons with disabilities, including wheelchair users.

So one car per train was a deadline. One of the things that you can do to ensure that your vehicles are in fact ADA compliant, is when you prepare the specifications for bid packages, spell out specifically the accessibility requirements in detail. If all you provide is a general statement that the vehicles must meet all ADA requirements, you are sort of leaving it up to all of the bidders and vendors to understand what that means. And they may not all have the same idea.

So it's important to specify what the requirements are per the regulations for each vehicle types, spell them out. Spelling out the specific requirements also ensures that other specifications don't conflict with ADA requirements.

For example, if a bid package specifies particular seating arrangement, but doesn't specify the dimensions of the minimum required wheelchair area, potential bidders may overlook that requirement as they attempt to maximize the number of seats.

And also by incorporating the required specifications into bid packages, those preparing the packages will gain a working understanding of the requirements necessary to ensure that the vehicles meet the regulatory requirements.

In order to improve the accessibility of the fixed route system and make service easier for

all passengers to use, transit agencies may choose to develop specifications that exceed the minimum requirements. For example, while the regulation requires buses more than 22 feet long to have at least two wheelchair securement locations, an agency may choose to purchase some buses with say three-or-more securement locations, for use in areas where the routes serve a particularly large concentration of riders who use wheelchairs, for example.

FTA recommends obtaining public input to ensure as many persons with disabilities as possible can use the new vehicles. Once a vendor is selected, it's important to confirm that the vendor understands the complete bid package, and at the appropriate time in the procurement cycle conduct a factory inspection of the vehicles. We recommend that even though that is a requirement where FTA funding is used, that even if you are not using FTA funding, you follow that as a best practice.

Of course, upon final delivery, conduct a final inspection prior to acceptance, also using a checklist to ensure that the vendors is providing the vehicles as specified.

What about other types of vehicles? There are, we have talked about buses and vans, we have talked about light, rapid and commuter rail vehicles. But there are some systems out there and some people who may want to use other types of modes of transportation.

Believe it or not, these are also covered by the DOT ADA regulations. Subpart H of Part 38 covers accessibility standards for other modes. It talks about what requirements apply for things like automated guideway transit, high-speed rail, monorails, and trams. These are all covered in chapter 11 of the circular.

If you are going to use a monorail system, for example, it's important to understand that there are accessibility requirements, even though it's not one of the traditional typical modes, you would look in Subpart H of the regulations, of course, and there is more information in circular chapter 11 on how to deal with that.

Let's say you want to be a little more innovative. The regulations do contain a mechanism for accommodating innovation in accessible design, called equivalent facilitation. It amounts to official approval to depart from the specific scoping and technical requirements contained in Part 38 of the regulations.

It's important to understand that it's not a waiver. It requires whatever innovation you have invented to provide equal or greater accessibility. A formal determination by FTA is required, and every determination of equivalent facilitation is made on a case by case basis. I use the example of a mousetrap. Regulations tell you how to build a regulation mousetrap. But let's say you have got a design for a better mousetrap.

You can use that, but before you can, you have to bring it to us and show us that it catches mice as well as or better than a regulation mousetrap. If we agree, we will give you a piece of paper that says, go ahead and use it. And you are free to put that in use.

Everyone building a better mousetrap has to make their own case, however. You can't simply say, I'm doing the same thing as that guy over there, in fact I'm copying his design, so I want you to approve my mousetrap design as well.

You have got to make your own case for equivalent facilitation. We will get to why in a

moment.

The process for equivalent facilitation looks something like this. The entity that has come up with the innovative way of accessing transportation vehicles develops their equivalent facilitation request with public participation. It's important to understand that the request be developed with public participation. It's not sufficient to simply go to a public meeting and say we are doing this innovative thing and that is what we are going to do and we would like your support. It has to be developed in consultation with the people that are going to use it in order to make sure that it's truly equivalent.

You would then submit your request for a determination of equivalent facilitation to FTA, with specific data supporting your case for equal or better access, documentation of the public participation process, and any other evidence supporting the fact that your mousetrap catches mice as well as or better than a regulation mousetrap.

We would analyze the data and if we agree, we would return a formal determination in writing on a case by case basis, saying that, yes, you can use your better mousetrap design. We agree that it's better and you can use it.

So why all this bureaucracy? There are two reasons for it. The first is that it prevents equivalent facilitation from becoming a back door means of amending the regulations. If we simply said yes, this is a better mousetrap and everybody should go ahead and start using it, we would basically be changing the requirements for accessibility in the regulations outside of the regulatory process.

And the administrative procedures act details a very specific process that any rulemaking has to go through. There has to be notice and comment. There has to be a notice of proposed rulemaking, review of the comments before a final rule can come out. It's a very long and drawn out process. But that is the process that has to be gone through in order to amend the regulations.

So we need to prevent this from becoming a way to short circuit all of that, because that wouldn't be legal.

The other reason is that believe it or not, it actually protects you, the transit entity, in the end. Under Department of Justice ADA regulations, for example, there is no formal process for determining equivalent facilitation. If you build a better mousetrap you can go ahead and start using it.

The difficulty is that should somebody come along and challenge your mousetrap, say this doesn't catch mice as well as a regulation mousetrap, in fact it doesn't catch any mice at all, you are left to defend yourself in a court of law against that allegation that what you are doing is not as accessible as or better than what is in the regulations.

And you have got to make your own case. Here, you are making your case to us. We are issuing a determination that says whether or not we agree, so should somebody come along and challenge your equivalent facilitation, your alternate method of doing things, then you have a piece of paper that you can show them that says, yes, the Federal government agreed this is equal to or better than what the regulations require, and then they can come to us, and we can handle that sort of thing, probably better than an individual transit agency can.

It just takes the burden off of you and puts it on us, should there be a question as to whether it's really equivalent or not.

So I hope that explains the reason for all of the bureaucracy in this case, there is a method to the madness.

Some suggestions for equivalent facilitation requests. Do provide your actual test results. We have had examples where, well, this gets to the next point, sometimes it's helpful to perform testing with a realistic mock-up and with a cross section of potential passengers with disabilities with varying types of disabilities who use different types of mobility aids. We have had a couple of entities come to us with an innovative light rail ramp design, and they have actually mocked up the front section of a light rail vehicle with the proper platform to rail car gap and everything else, with their ramp design, and they have gotten a cross section of people with disabilities to go on and off the light rail vehicle multiple times, so they can collect data and show us that, yes, this design is equal to or better than what is required in the regulations.

So that really helps us get a picture of what you are talking about and how well it works. Do perform a statistical analysis on a large enough sample, it is not enough to get one guy. Get a few or many.

Include all of the information that the regulations require to make a complete request for a determination of equivalent facilitation.

Regulations require that the entity name, address and contact person be included. The specific provision of the standard to which you are proposing equivalent facilitation. So if it's section 38.5(b), I don't know off the top of my head what that is, but let's say that is something that you want to propose a departure from in your vehicle acquisition.

You would have to tell us that you are requesting a departure from 38.5(b). A complete and detailed description of the alternative method of compliance, other alternatives considered and a technical analysis to support a determination of equal or greater accessibility or usability.

And a complete description of the public participation process addressing all points listed in the regulation. We go into more detail on this in the circular.

Those are some of the things that you need to remember to do, should you decide to do something innovative that requires a determination of equivalent facilitation.

Some don'ts to avoid: Don't simply state that it's difficult to comply with the regulatory standards, because inability to comply is not a basis for a determination of equivalent facilitation.

Don't try to rely on evidence from another transit system or another entity who may be doing something similar. Everybody has to show their own work for reasons that I went through on the previous slide.

Don't combine requests for determination of equivalent facilitation for separate issues into one single request. Let's say you have got an innovative design for a platform to vehicle interface. It is important to submit one request under, for the platform, under the requirements for facilities, and one for the vehicle portion under the requirements for vehicles. There is actually two different sections of the regulation on equivalent facilitation, one for facilities and one for vehicles. It's important to make sure that you request equivalent facilitation under the right section.

Don't forget to include all of the information needed to make the request complete. We would hate to have to return something to you and cause delays simply because something was overlooked, that's required in order to make it complete.

Let's say you want to be really innovative and you have come up with a system of transportation that is unlike anything the world has ever seen before.

You may be tempted to think that you can decide what makes it accessible for yourself, come up with your own solutions. But you would be wrong because the regulations back in 1991 actually anticipated the development of new technologies and set forth requirements under subpart H of the regulation for new types of vehicles, modes and services.

So in cases like this, where you have come up with something that is completely brand-new, no one has ever seen it before, the Department of Transportation and the U.S. Access Board must work together to establish appropriate accessibility standards. That is done on a case by case basis, and you can find out more about that in section 38.171(c) of the regulations and in chapter 11 of the circular. If anyone has any questions about requirements for new types of vehicles, modes and services, we certainly encourage you to contact us here in the Office of Civil Rights.

That is a not so brief overview of what the FTA ADA circular has to say on transportation vehicle acquisition. I'm sure we have got some questions. I'll turn it over to Richie.

>> RICHIE NGUYEN: Yeah, we have a couple. Feel free to ask more questions in the Q&A box on the left. First question is, "Are rapid rail vehicles required to have forward facing priority seating?"

>> JOHN DAY: I believe the regulations are silent on that.

>> RICHIE NGUYEN: Do taxicab companies have any requirements?

>> JOHN DAY: There is a specific section in the regulations on taxicabs. And where a taxicab system is operating as a private entity primarily engaged in transportation, they would be covered by the demand responsive requirements, but there is an exception solely for taxicabs that says that where they operate and purchase only automobiles, they don't need to acquire accessible vehicles.

Now, we know that a lot of transit systems supplement demand responsive and paratransit service with taxicabs. And to the extent that you have got a contract or other arrangement with that taxi company, then there is a requirement assuming it's demand responsive service, which it almost always is, there is a requirement that you provide equivalent service to people with disabilities including wheelchair users.

So I wanted to make sure that's clear. There is no affirmative requirement on the part of the taxi company, so long as they are only operating automobiles, but when they enter into a contract or other arrangement with you, there is a requirement that applies to that service that they are filling, that either they or you may have to fill.

>> RICHIE NGUYEN: Okay. We have a question on equivalent facilitation. Can a 20-year-old approval of an equivalent facilitation still be used if amendments have been made?

>> JOHN DAY: I'm not aware of any process for amending a determination of equivalent

facilitation.

Basically, it has to be a new request for every new procurement. If it's for a, if you had a request for determination of equivalent facilitation for a vehicle purchased 20 years ago, and you are purchasing new vehicles now, you are replacing the fleet or whatever, and you have got some innovative approach, then I would say submit a new request for a determination of equivalent facilitation.

>> RICHIE NGUYEN: On commuter rail vehicles built after 1995, if an operator is using a mini high application, do we need to allow passengers to board any of the cars in a five car set or just one?

>> JOHN DAY: Okay. The regulations for commuter rail in § 37.42 are based on the idea that everyone has access to every accessible car in the train.

Now, the regulations are written in terms of construction or alteration of platforms, not necessarily existing rail platforms, but I don't think it's too much of a leap, I wish I had my CFR here with me -- but the idea is that everyone has access to every accessible car on the train. Yeah, I would say the answer probably lies in Appendix D to 37.42. I think there is language in there that addresses that particular scenario. The regulations say in terms of double stopping in general, in general it's not necessary to double stop, unless all of the wheelchair locations on the car that aligns with the mini high platform are full. So that means that if your commuter rail car has two wheelchair locations on the car that aligns with the mini high platform, and you have got other accessible cars in the train, you can't just pull past and leave them sitting on the mini high platform. You have to double stop the train in that case, at a minimum.

>> RICHIE NGUYEN: We have an uber question, "Does uber have to abide by the same rules as taxis?"

>> JOHN DAY: That is something the U.S. Department of Justice is looking into, because they are private entities, that is within their purview.

>> RICHIE NGUYEN: That is all the questions, oh here we have another one. Great, keep them coming. Are there specific requirements or recommendations for preventative maintenance and annual inspections of lifts?

>> JOHN DAY: Not specifically. But the idea is that you shouldn't be dispatching a vehicle with an inoperative lift into service. So at least on fixed route, there is a requirement that there be a system of regular and frequent checks to make sure that the lift is working when the vehicle leaves to go out into service, and should it be discovered to be not working in service, that it be taken out of service before the start of the next service day, and kept out of service until the lift is fixed.

So there was very much comment 25 years ago on the proposed regulation that it not prescribe onerous maintenance and requirements and checks. So a performance standard was developed that basically means, hey, the lift has to work when the thing leaves the shop.

I think we have reached the end of the questions that we have so far. But we have been asked after the last webinar to keep the lines open for the full hour, so we will be here for another ten minutes, should additional questions come up.

Otherwise, thank you for participating.

>> RICHIE NGUYEN: We got a couple more questions. To clarify, regarding taxis and paratransit, where a paratransit agency contracts with a taxi company to supplement demand responsive service, the taxi company would have to supply a wheelchair accessible vehicle for service?

>> JOHN DAY: I think that would depend on the terms of the contract. In that case, they are using existing fleet, and they are not acquiring vehicles, I assume for demand responsive service. The key there is equivalent service, which we covered in our demand responsive webinar.

But basically, there is five criteria that determine whether or not service is equivalent to people with disabilities including wheelchair users, and among those are things like response time and fares and service area. So it should be just as easy and convenient for people with disabilities, including wheelchair users, to get a ride on your demand responsive system as a whole including the taxis, as it is for anybody else to get a ride. I hope that clarifies.

>> RICHIE NGUYEN: Okay. The Dodge Grand Caravan is being discontinued. Does FTA have a list of other small vans which can be inaccessible, no ramp or lift, assuming the agency provides equivalent service?

>> JOHN DAY: You have to look at the transit vehicle manufacturers list. Yes, the Caravan is being discontinued. But the Chrysler Pacifica will take its place. I expect that Braun and the other adaptive vehicle manufacturers will continue to make their conversions. I'm not too worried about that. (pause). We will stay on for about five more minutes, if there are any last minute questions about vehicle acquisition and ADA.

>> RICHIE NGUYEN: How does a transit agency determine if a lift's working parts meet the six times strength test?

>> JOHN DAY: I think that is something that you are going to have to specify in your vehicle acquisition bid specs. It's something that you are probably going to have to trust the manufacturer on, frankly. I don't foresee a transit system being able to do destructive testing of their lifts. But again, it's important to make sure that you are clear in your bid specifications what you mean by meets ADA requirements, and sometimes if those are overlooked, you might get something that doesn't comply. (pause). Those still on, it's 3:00. We are going to be ending the webinar now. Thank you for your participation.

(end of webinar at 3:00 p.m. EDT.)

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