# Transportation Forum: To Mobility And Beyond

**Sunday, July 5, 2020**

**1:30 PM to 4:15 PM**

**Session 2: The Federal Role**

**Background Materials**

**Compiled by Chris Bell**

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## Chapter 1: Introduction

Transportation takes us from one place to another place. Walking was the original way we got around and it remains something most of us do every day. For those of us who are blind or have low vision, however, walking outside of our home has become ever more complicated and sometimes even risky. In cities and suburbia alike, there is more traffic of varying designs and sizes jockeying for a limited amount of space which we must sometimes share to go about our business. Quiet cars and complex intersections, usually lacking an accessible pedestrian signal, make safely crossing the street an ever more hazardous undertaking. Our sidewalks, where they exist, are not a place of safe refuge, either. An increasing number of electric bicycles travel unheard on our sidewalks and are often left lying in our path for us to trip over and injure ourselves. Where there are no sidewalks, sharing the side of a road with bicycles and motor vehicles of all kinds is even more dangerous. Living in a rural area, may seem physically safer but transportation choices are limited and sometimes even non-existent, severely circumscribing our economic and social possibilities. ADA paratransit is available where fixed bus routes exist, but paratransit has many shortcomings. Transportation Network Companies such as Lyft and Uber offer a more flexible option but at a greater and often exclusionary cost. And then there is the economic impact of Covid-19 on federal, state, and local governments, with potential disruption in the availability of transportation services, and other unforeseen consequences, at least in the near term. This Transportation Forum will discuss all of these issues from a variety of perspectives including how to effectively advocate for the needs of our community, with the goal of developing a priority listing of key policies for ACB to promote in the next few years.

## Chapter 2: Glossary of Terms

Transportation barriers and possible solutions are often clothed in technical terminology and acronyms. To aid in your understanding of our discussion, we offer the following explanation of frequently-used transportation terminology.

### A

#### ACB Pedestrian Safety Handbook

A 2012 publication of the American Council of the Blind containing detailed information about how to navigate intersections, sidewalks, and streets. <https://www.acb.org/content/pedestrian-safety-handbook>

#### Accessible

Describes a site, building, facility, or portion thereof that complies with the ADA Accessibility Guidelines. (ADAAG 3.5)

#### Accessible Path of Travel

Walks and sidewalks; curb ramps and other interior or exterior pedestrian ramps; clear floor paths through lobbies, corridors, rooms, and other improved areas.

#### Accessible Pedestrian Signal (APS)

A device that communicates information about pedestrian signal timing in non-visual format such as audible tones, speech messages, and/or vibrating surfaces.

#### Accessible Pedestrian Signal Detector

A device designated to assist the pedestrian who has visual or physical disabilities in activating the pedestrian phase.

#### Accessible Route

A continuous unobstructed path connecting all accessible elements and spaces of a building or facility. Interior accessible routes may include corridors, floors, ramps, elevators, lifts, and clear floor space at fixtures. Exterior accessible routes may include parking access aisles, curb ramps, crosswalks at vehicular ways, walks, ramps, and lifts. (ADAAG 3.5)

#### Accessible Space

Space that complies with the ADAAG. (ADAAG 3.5)

#### Alteration

An alteration is a change to a building or facility that affects or could affect the usability of the building or facility or part 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. (ADAAG 3.5)

Further, each facility or part of a facility altered by, on behalf of, or for the use of, a public entity in a manner that affects or could affect the usability of the facility or part of the facility shall, to the maximum extent feasible, be altered in such manner that the altered portion of the facility is readily accessible to and usable by individuals with disabilities, if the alteration was commenced after January 26, 1992. (28 CFR §35.151(b))

#### Alternate Pedestrian Access Routes

The provision of alternate pedestrian access routes when a pedestrian circulation path is temporarily closed.

Alternate pedestrian access routes must be provided when a pedestrian circulation path is temporarily closed by construction, alterations, maintenance operations, or other conditions. The alternate pedestrian access route must comply with the referenced MUTCD standards. The MUTCD standards require alternate pedestrian routes to be accessible and detectable, including warning pedestrians who are blind or have low vision about sidewalk closures.

### B

#### Bicycle Facilities

A general term denoting improvements and provisions that accommodate or encourage bicycling, including parking and storage facilities, and shared roadways not specifically defined for bicycle use.

#### Bicycle Lane

A portion of a roadway that has been designated for preferential or exclusive use by bicyclists by pavement markings and, if used, signs.

#### Bikeway

A generic term for any road, street, path, or way that in some manner is specifically designated for bicycle travel, regardless of whether such facilities are designated for the exclusive use of bicycles or are to be shared with other transportation modes.

### C

#### Crosswalk Lines

White pavement marking lines that identify a crosswalk.

#### Cycle Length

The time required for one complete sequence of signal indications.

#### Cycle Tracks

A cycle track is an exclusive bike facility that combines the user experience of a separated path with the on-street infrastructure of a conventional bike lane. A cycle track is physically separated from motor traffic and distinct from the sidewalk.

### D

#### Demand Response (DR)

A transit mode comprised of passenger cars, vans or small buses operating in response to calls from passengers or their agents to the transit operator, who then dispatches a vehicle to pick up the passengers and transport them to their destinations.

#### Designated Bicycle Route

A system of bikeways designated by the jurisdiction having authority with appropriate directional and informational route signs, with or without specific bicycle route numbers.

#### Designated Crosswalk

(a) That part of a roadway at an intersection included within the connections of the lateral lines of the sidewalks on opposite sides of the highway measured from the curbs or in the absence of curbs, from the edges of the traversable roadway, and in the absence of a sidewalk on one side of the roadway, the part of a roadway included within the extension of the lateral lines of the sidewalk at right angles to the center line.

(b) Any portion of a roadway at an intersection or elsewhere distinctly indicated as a pedestrian crossing

by pavement marking lines on the surface, which might be supplemented by contrasting pavement texture, style, or color.

#### Detectable

Having a continuous edge within 6 inches of the surface so that pedestrians who have visual disabilities can sense its presence and receive usable guidance information.

#### Detectable Warning Surfaces

Detectable warning surfaces consist of small truncated domes built in or applied to a walking surface that are detectable underfoot. On pedestrian access routes, detectable warning surfaces indicate the boundary between a pedestrian route and a vehicular route where there is a flush rather than a curbed connection for pedestrians who are blind or have low vision.

#### Dial-A-Ride

Services that consist of curb-to-curb, shared ride services available through appointments.

### E

#### Engineering Judgment

The evaluation of available pertinent information, and the application of appropriate principles, provisions, and practices as contained in this Manual and other sources, for the purpose of deciding upon the applicability, design, operation, or installation of a traffic control device. Engineering judgment shall be exercised by an engineer, or by an individual working under the supervision of an engineer, through the application of procedures and criteria established by the engineer. Documentation of engineering judgment is not required.

#### Engineering Study

The comprehensive analysis and evaluation of available pertinent information, and the application of appropriate principles, provisions, and practices as contained in this Manual and other sources, for the purpose of deciding upon the applicability, design, operation, or installation of a traffic control device. An engineering study shall be performed by an engineer, or by an individual working under the supervision of an engineer, through the application of procedures and criteria established by the engineer. An engineering study shall be documented.

#### Equivalent Facilitation

Providing equal or greater access through a means not in compliance with an accessibility standard

#### Existing Facility

A facility which has not been altered.

### F

#### Facility

All or any portion of buildings, structures, site improvements, complexes, equipment, roads, walks, passageways, parking lots, or other real or personal property located on a site. (28 CFR §35.104; ADAAG 3.5)

#### Fixed Route Services

Public transit services provided on a repetitive, fixed-schedule basis along a specific route, with busses stopping to pick up passengers at and deliver them to specific locations.

#### Floating Bus Stop

A bus stop that is placed away from the curb so a pedestrian must cross a lane in order to board the bus.

### I

#### Interval

The part of a signal cycle during which signal indications do not change.

#### Interval Sequence

The order of appearance of signal indications during successive intervals of a signal cycle.

#### Island

A defined area between traffic lanes for control of vehicular movements, for toll collection, or for pedestrian refuge. It includes all end protection and approach treatments. Within an intersection area, a median or an outer separation is an island.

### L

#### Leading Pedestrian Interval

A leading pedestrian interval (LPI) is a 3- to 10-second pedestrian-only phase within a signalized intersection timing schedule that gives pedestrians a “head start” over cars going in the same direction or turning across the pedestrians’ paths. It is displayed by an advance walk indication for the crosswalk during which parallel and turning traffic continue to face a red signal.

### M

#### Manual on Uniform Traffic Control Devices (MUTCD)

The 2009 edition containing nationwide technical standards for all traffic control devices including accessible

pedestrian signals (APS). <https://mutcd.fhwa.dot.gov/mutcd_80_bday.htm#contentof>

#### Maximum Extent Feasible

In alteration projects, an ADA-required accessibility improvement must be installed to the maximum extent feasible; that is, to the maximum extent technically, or physically, feasible. (ADAAG 4.1.6(1)(j)

#### Modular Bus Stops (MBS)

MBS are:

(a) Floating boarding islands/bus stops, which leave room for bicyclists to safely pass between them and the pedestrian sidewalk.

(b) Bulbs that jut out from sidewalks, allowing buses to stop without leaving their lanes.

(c) Bus stop boarding platforms with an integrated bike lane.

### P

#### Path

An exterior or interior way of passage from one place to another for pedestrians, including, but not limited to, walks, hallways, courtyards, stairways, and stair landings. (ADAAG 3.5)

#### 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, streets, and parking areas), an entrance to the facility, and other parts of the facility. An accessible "path of travel" may consist of walks and sidewalks; curb ramps and other interior or exterior pedestrian ramps; clear floor paths through lobbies, corridors, rooms, and other improved areas; parking access aisles; elevators and lifts; or a combination of these elements; and also includes the restrooms, telephones, and drinking fountains serving the altered area.

#### Pedestrian

A person on foot, in a wheelchair, on skates, or on a skateboard.

#### Pedestrian Access Routes

A pedestrian access route is a continuous and unobstructed path of travel provided for pedestrians with disabilities within or coinciding with a pedestrian circulation path in the public right-of-way.

#### Pedestrian Change Interval

An interval during which the flashing UPRAISED HAND (symbolizing DONT WALK) signal indication is displayed.

#### Pedestrian Clearance Time

The time provided for a pedestrian crossing in a crosswalk, after leaving the Pedestrian access routes must be provided within:

* Sidewalks and other pedestrian circulation paths located in the public right-of-way;
* Pedestrian street crossings and at-grade rail crossings, including medians and pedestrian refuge islands; and
* Overpasses, underpasses, bridges, and similar structures that contain pedestrian circulation paths.
* curb or shoulder, to travel to the far side of the traveled way or to a median.

#### Pedestrian Facilities

A general term denoting improvements and provisions made to accommodate or encourage walking.

#### Pedestrian Hybrid Beacon

A special type of hybrid beacon used to warn and control traffic at an unsignalized location to assist pedestrians in crossing a street or highway at a marked crosswalk.

#### Pedestrian Signal Head

A signal head, which contains the symbols WALKING PERSON (symbolizing WALK) and UPRAISED HAND (symbolizing DONT WALK), that is installed to direct pedestrian traffic at a traffic control signal.

#### Permissive Mode

A mode of traffic control signal operation in which left or right turns are permitted to be made after yielding to pedestrians, if any, and/or opposing traffic, if any. When a CIRCULAR GREEN signal indication is displayed, both left and right turns are permitted unless otherwise prohibited by another traffic control device. When a flashing YELLOW ARROW or flashing RED ARROW signal indication is displayed, the turn indicated by the arrow is permitted.

#### Program Accessibility

Providing access to state and local facilities of a particular program through means other than by making a facility accessible, such as by holding a program in an accessible location rather than in its usual location.

#### Protected Intersections

Are junctions that maintain the physical separation of motor vehicles from pedestrians and cyclists with the judicious use of corner refuge islands, forward stop bars, setback bicycle and pedestrian crossings, and bicycle- and pedestrian-friendly signaling.

#### Protected Mode

A mode of traffic control signal operation in which left or right turns are permitted to be made when a left or right GREEN ARROW signal indication is displayed.

#### Public Entity

(a) Any State or local government;

(b) Any department, agency, special purpose district, or other instrumentality of a State or States or local government. (42 U.S.C. §12131)

#### Public Facility

A facility or portion of a facility constructed by, on behalf of, or for the use of a public entity subject to title II of the ADA and 28 CFR Part 35 or 49 CFR §§ 37.41, 37.43. (28 CFR §35.104)

#### Public Use

Describes interior or exterior rooms or spaces that are made available to the general public. Public use may be provided at a building or facility that is privately or publicly owned.

#### Pushbutton

A button to activate a device or signal timing for pedestrians, bicyclists, or other road users.

#### Pushbutton Information Message

A recorded message that can be actuated by pressing a pushbutton when the walk interval is not timing and that provides the name of the street that the crosswalk associated with that particular pushbutton crosses and can also provide other information about the intersection signalization or geometry.

#### Pushbutton Locator Tone

A repeating sound that informs approaching pedestrians that a pushbutton exists to actuate pedestrian timing or receive additional information and that enables pedestrians who have visual disabilities to locate the pushbutton.

#### The Public Right-of-Way

Consists of everything between right-of-way limits, including travel lanes, medians, planting strips, sidewalks, and other facilities. (9-12-06)

#### Public Rights-of-Way Guidelines (PROWAG)

Draft Guidelines published in 2011 by the U.S. Access Board containing proposed accessibility standards for the public-rights-of-way (streets and sidewalks). <https://www.access-board.gov/guidelines-and-standards/streets-sidewalks/public-rights-of-way>

### R

#### Raised Pavement Marker

A device mounted on or in a road surface that has a height generally not exceeding approximately 1 inch above the road surface for a permanent marker, or not exceeding approximately 2 inches above the road surface for a temporary flexible marker, and that is intended to be used as a positioning guide and/or to supplement or substitute for pavement markings.

#### Raised Pedestrian Crosswalks

Raised pedestrian crosswalks serve as traffic calming measures by extending the sidewalk across the road and bringing motor vehicles to the pedestrian level. They have a trapezoid-shaped cross-section to slow motorists at the pedestrian crossing where the slowing will be most effective.

#### Right-of-Way Assignment

The permitting of vehicles and/or pedestrians to proceed in a lawful manner in preference to other vehicles or pedestrians by the display of a sign or signal indications.

#### Roundabout

A circular intersection with yield control at entry, which permits a vehicle on the circulatory roadway to proceed, and with deflection of the approaching vehicle counter-clockwise around a central island.

### S

#### Shared Roadway

A roadway that is officially designated and marked as a bicycle route, but which is open to motor vehicle travel and upon which no bicycle lane is designated.

#### Shared Turn Signal Face

A signal face, for controlling both a turn movement and the adjacent through movement, that always displays the same color of circular signal indication that the adjacent through signal face or faces display.

#### Shared-Use Path

A bikeway outside the traveled way and physically separated from motorized vehicular traffic by an open space or barrier and either within the highway right-of-way or within an independent alignment. Shared-use paths are also used by pedestrians (including skaters, users of manual and motorized wheelchairs, and joggers) and other authorized motorized and non-motorized users.

#### Sidewalk

That portion of a street between the curb line, or the lateral line of a roadway, and the adjacent property line or on easements of private property that is paved or improved and intended for use by pedestrians.

#### Signal Phase

The right-of-way, yellow change, and red clearance intervals in a cycle that are assigned to an independent traffic movement or combination of movements.

### T

#### Tactile Pedestrian Device

An accessible pedestrian signal feature that communicates, by touch, information about pedestrian timing using a vibrating surface.

### U

#### Undue Burden

In determining whether financial and administrative burdens are undue in making decisions program-wide in the transition plan, a public agency must consider all of that public agency's resources available for use in the funding and operation of the service, program, or activity. (29 CFR Part 35, App. A, discussion of §35.150, ¶ 6)

#### W

#### Walk Interval

An interval during which the WALKING PERSON (symbolizing WALK) signal indication is displayed.

#### Warrant

A warrant describes a threshold condition based upon average or normal conditions that, if found to be satisfied as part of an engineering study, shall result in analysis of other traffic conditions or factors to determine whether a traffic control device or other improvement is justified. Warrants are not a substitute for engineering judgment. The fact that a warrant for a particular traffic control device is met is not conclusive justification for the installation of the device.

## Chapter 3: The Federal Context

Transportation is one area where the role of the federal government is quite limited. The ADA and Section 504 of the Rehabilitation Act do impact some transportation policies and practices but, for the most part, transportation decisions are made at the local level. Funding is the biggest contribution of the federal government. For example, federal funding to states for highway infrastructure alone is approximately $46 billion annually. In addition, the Federal Transportation Administration grants states over $13 billion annually for state and local mass transit projects.

The U.S. Department of Transportation (DOT) has several ADA/Section 504 rules regarding all aspects of transportation mandating equal access by individuals with disabilities. It’s sub-agencies, the Federal Highway Administration (FHWA) and the Federal Transit Administration (FTA) provide funding to states and local governments for highway, sidewalk and street infrastructure and mass transit, respectively. Both the FHWA and FTA have ADA and Section 504 standards which their state and local grantees must follow.

##

## Chapter 4: Federal Highway Administration (FHWA) ADA and Section 504 Questions and Answers

<https://www.fhwa.dot.gov/civilrights/programs/ada/ada_sect504qa.cfm>

The questions and answers outlined in this document are to be applied to Federal, State, and local governmental agencies; hereafter called “public agencies” or “agencies.”

### Public Agencies covered by ADA and Section 504

1. [What authority requires public agencies to make public right of way accessible for all pedestrians with disabilities?](https://www.fhwa.dot.gov/civilrights/programs/ada/ada_sect504qa.cfm#q1)
2. [What do these statutes require public agencies to do?](https://www.fhwa.dot.gov/civilrights/programs/ada/ada_sect504qa.cfm#q2)
3. [Does the ADA require public agencies to provide pedestrian facilities?](https://www.fhwa.dot.gov/civilrights/programs/ada/ada_sect504qa.cfm#q3)
4. [What is FHWA's responsibility for assuring access for persons with disabilities?](https://www.fhwa.dot.gov/civilrights/programs/ada/ada_sect504qa.cfm#q4)
5. [What public agencies must provide accessible pedestrian walkways for persons with disabilities?](https://www.fhwa.dot.gov/civilrights/programs/ada/ada_sect504qa.cfm#q5)
6. [Can a public agency make private individuals or businesses responsible for ADA and Section 504 mandated pedestrian access?](https://www.fhwa.dot.gov/civilrights/programs/ada/ada_sect504qa.cfm#q6)
7. [What United States Department of Justice (USDOJ) and United States Department of Transportation (USDOT) regulations govern accessibility requirements?](https://www.fhwa.dot.gov/civilrights/programs/ada/ada_sect504qa.cfm#q7)
8. [What is FHWA's authority to implement ADA and Section 504 requirements?](https://www.fhwa.dot.gov/civilrights/programs/ada/ada_sect504qa.cfm#q8)
9. [What is the public right of way?](https://www.fhwa.dot.gov/civilrights/programs/ada/ada_sect504qa.cfm#q9)

### Transition plans

1. [What authority requires public agencies to make transition plans?](https://www.fhwa.dot.gov/civilrights/programs/ada/ada_sect504qa.cfm#q10)
2. [What should a transition plan include?](https://www.fhwa.dot.gov/civilrights/programs/ada/ada_sect504qa.cfm#q11)
3. [How does the transition plan relate to a public agency's transportation planning process?](https://www.fhwa.dot.gov/civilrights/programs/ada/ada_sect504qa.cfm#q12)
4. [What public agencies must make a transition plan?](https://www.fhwa.dot.gov/civilrights/programs/ada/ada_sect504qa.cfm#q13)
5. [When should the FHWA review an agency's transition plan?](https://www.fhwa.dot.gov/civilrights/programs/ada/ada_sect504qa.cfm#q14)
6. [When and how should a transition plan be updated?](https://www.fhwa.dot.gov/civilrights/programs/ada/ada_sect504qa.cfm#q15)

### Projects Covered by the ADA and Section 504

1. [What projects must provide pedestrian access for persons with disabilities?](https://www.fhwa.dot.gov/civilrights/programs/ada/ada_sect504qa.cfm#q16)
2. [What projects constitute an alteration to the public right of way?](https://www.fhwa.dot.gov/civilrights/programs/ada/ada_sect504qa.cfm#q17)
3. [What activities are not considered to be alterations?](https://www.fhwa.dot.gov/civilrights/programs/ada/ada_sect504qa.cfm#q18)

### Timing of Accessibility Improvements

1. [Does a project altering a public right of way require simultaneous accessibility improvements?](https://www.fhwa.dot.gov/civilrights/programs/ada/ada_sect504qa.cfm#q19)
2. [When does the scope of an alteration project trigger accessibility improvements for people with disabilities?](https://www.fhwa.dot.gov/civilrights/programs/ada/ada_sect504qa.cfm#q20)
3. [Do maintenance activities require simultaneous improvements of the facility to meet ADA standards?](https://www.fhwa.dot.gov/civilrights/programs/ada/ada_sect504qa.cfm#q21)
4. [When should accessible design elements be incorporated into projects in the public right of way?](https://www.fhwa.dot.gov/civilrights/programs/ada/ada_sect504qa.cfm#q22)

### Cost

1. [How does cost factor into a public agency's decision in its transition plan concerning which existing facilities must comply with ADA and Section 504 pedestrian access requirements?](https://www.fhwa.dot.gov/civilrights/programs/ada/ada_sect504qa.cfm#q23)
2. [For a new project planned outside of the transition plan, with ADA accessibility improvements required to make the facility readily accessible and useable by individuals with disabilities, can cost be a reason not to complete an ADA-required accessibility improvement?](https://www.fhwa.dot.gov/civilrights/programs/ada/ada_sect504qa.cfm#q24)
3. [For an alteration project planned outside of the transition plan, with ADA accessibility improvements required within the scope of the project, can cost be a reason to decide what ADA-required improvements will be completed?](https://www.fhwa.dot.gov/civilrights/programs/ada/ada_sect504qa.cfm#q25)
4. [What role does the "maximum extent feasible" standard play for ADA accessibility requirements in altered projects?](https://www.fhwa.dot.gov/civilrights/programs/ada/ada_sect504qa.cfm#q26)
5. [What should a public agency do when it does not control all of the public right of way required to provide access for persons with disabilities?](https://www.fhwa.dot.gov/civilrights/programs/ada/ada_sect504qa.cfm#q27)
6. [Can a public agency delay compliance with the ADA and Section 504 on alteration projects through a systematic approach to schedule projects?](https://www.fhwa.dot.gov/civilrights/programs/ada/ada_sect504qa.cfm#q28)

### Elements of Accessible Design

1. [What are the elements of an accessible design?](https://www.fhwa.dot.gov/civilrights/programs/ada/ada_sect504qa.cfm#q29)

### Funding

1. [What sources of funding may be used to comply with ADA and Section 504 requirements?](https://www.fhwa.dot.gov/civilrights/programs/ada/ada_sect504qa.cfm#q30)

### Maintenance

1. [What obligation does a public agency have regarding snow removal in its walkways?](https://www.fhwa.dot.gov/civilrights/programs/ada/ada_sect504qa.cfm#q31)
2. [What day-to-day maintenance is a public agency responsible for under the ADA?](https://www.fhwa.dot.gov/civilrights/programs/ada/ada_sect504qa.cfm#q32)

### Criteria

1. [What accessibility training is available?](https://www.fhwa.dot.gov/civilrights/programs/ada/ada_sect504qa.cfm#q33)
2. [Where is information on the criteria to be used in developing accessible facilities?](https://www.fhwa.dot.gov/civilrights/programs/ada/ada_sect504qa.cfm#q34)

### Public Agencies covered by ADA and Section 504

1. *What authority requires public agencies to make public right-of-way accessible for all pedestrians with disabilities?*

Public rights-of-way and facilities are required to be accessible to persons with disabilities through the following statutes: Section 504 of the Rehabilitation Act of 1973 (Section 504) (29 U.S.C. §794) and Title II of the Americans with Disabilities Act of 1990 (ADA) (42 U.S.C. §§ 12131-12164). The laws work together to achieve this goal. (9-12-06)

1. *What do these statutes require public agencies to do?*

These statutes prohibit public agencies from discriminating against persons with disabilities by excluding them from services, programs, or activities. These statutes mean that the agency must provide pedestrian access for persons with disabilities to the agency's streets and sidewalks, whenever a pedestrian facility exists. Regulations implement this require­ment by imposing standards for accessible features such as curb cuts, ramps, continuous sidewalks, and detectable warnings. (9-12-06)

1. *Does the ADA require public agencies to provide pedestrian facilities?*

No. However, when a public agency provides a pedestrian facility, it must be accessible to persons with disabilities to the extent technically feasible.

1. *What is FHWA's responsibility for assuring access for persons with disabilities?*

FHWA is responsible for ensuring access for persons with disabilities in four areas:

* 1. For surface transportation projects under direct FHWA control (e.g., Federal Lands projects): FHWA is responsible for ensuring that project planning, design, construction, and operations adequately address pedestrian access for people who have disabilities.
	2. For Federally funded surface transportation projects that provide pedestrian facilities within the public right-of-way: FHWA is responsible for ensuring that the public agencies' project planning, design, and construction programs provide pedestrian access for persons with disabilities. FHWA-funded projects outside of the public right-of-way, such as Transportation Enhancement projects, must also adhere to these requirements.
	3. For pedestrian facilities within the public right-of-way, or any other FHWA enhancement project, regardless of funding source: FHWA is responsible for investigating complaints. 28 CFR §§ 35.170 – 35.190.
	4. FHWA should provide or encourage accessibility training for Federal, State, and local agencies and their contractors.

FHWA does not have ADA oversight responsibilities for projects outside of the public right-of-way that do not use Federal surface transportation program funds. (9-12-06)

1. *What public agencies must provide accessible pedestrian walkways for persons with disabilities?*

All State and local governmental agencies must provide pedestrian access for persons with disabilities in compliance with ADA Title II. 42 U.S.C. §12131(1). Federal, State, and local governments must provide pedestrian access for persons with disabilities in compliance with Section 504 standards. 29 U.S.C. §794(a). (9-12-06)

1. *Can a public agency make private individuals or businesses responsible for ADA and Section 504 mandated pedestrian access?*

No. The public agency is responsible for providing access for persons with disabilities. Private entities with joint responsibility for a public right-of-way, such as a private tenant on public property, are responsible for accessibility for persons with disabilities on the public right-of-way under Title II of ADA. The lease or other document creating this legal relation­ship should commit the private party to ensuring accessibility. In addition, public/private partnership relationships for the public right-of-way retain accessibility obligations to persons with disabilities under Title II. If the private entity eventually takes over the right-of-way in its entirety, then the private entity becomes responsible for accessibility for persons with disabilities under the private entity's obligations under Title III of the ADA. (9-12-06)

1. *What United States Department of Justice (DOJ) and United States Department of Transportation (DOT) regulations govern accessibility requirements?*

The DOJ ADA regulation is 28 CFR Part 35. The DOT Section 504 regulation at 49 CFR Part 27 governs public agencies, with the ADA incorporated at 49 CFR §27.19. Additional regulations drafted specifically for recipients of the Federal Transit Administration are at 49 CFR Part 37. (9-12-06)

1. *What is FHWA's authority to implement ADA and Section 504 requirements?*

The DOJ regulations designate the DOT as the agency responsible for overseeing public agencies' compliance with the ADA. 28 CFR §35.190(b)(8). The DOT has delegated to the FHWA the responsibility to ensure ADA compliance in the public right-of-way and on projects using surface transportation funds. (9-12-06)

1. *What is the public right-of-way?*

The public right-of-way consists of everything between right-of-way limits, including travel lanes, medians, planting strips, sidewalks, and other facilities. (9-12-06)

### Transition plans

1. *What authority requires public agencies to make transition plans?*

The ADA requires public agencies with more than 50 employees to make a transition plan. 28 CFR §35.150(d). (9-12-06)

1. *What should a transition plan include?*

The transition plan must include a schedule for providing access features, including curb ramps for walkways. 28 CFR §35.150(d)(2). The schedule should first provide for pedes­trian access upgrades to State and local government offices and facilities, transporta­tion, places of public accommodation, and employers, followed by walkways serving other areas. 28 CFR §35.150(d)(2). The transition plan should accomplish the following four tasks:

* 1. identify physical obstacles in the public agency's facilities that limit the accessibility of its programs or activities to individuals with disabilities;
	2. describe in detail the methods that will be used to make the facilities accessible;
	3. specify the schedule for taking the steps necessary to upgrade pedestrian access to meet ADA and Section 504 requirements in each year following the transition plan; and
	4. indicate the official responsible for implementation of the plan. 28 CFR §35.150(d)(3). (9-12-06)
1. *How does the transition plan relate to a public agency's transportation planning process?*

The ADA transition plan is intended to identify system needs and integrate them with the State's planning process. The transition plan and its identified needs should be fully integrated into the public agency's Statewide Transportation Improvement Program (STIP) and metropolitan Transportation Improvement Program (TIP). Agencies should incorporate accessibility improvements into the transportation program on an ongoing basis in a variety of ways:

* 1. Any construction project that is programmed must meet accessibility requirements when built.
	2. Accessibility improvements identified in the transition plan that are not within the scope of an alteration project should be incorporated into the overall transportation planning process. This can be accomplished through the development of stand-alone accessibility projects.
	3. As a means to identify ADA compliance needs, during scheduling maintenance activities, the agencies should identify ADA accessibility needs and incorporate them into the overall transportation planning process. (9-12-06)
1. *What public agencies must make a transition plan?*

The ADA requires any public agency with more than 50 employees to make a transition plan setting forth the steps necessary to make its facilities accessible to persons with disabilities. 28 CFR §35.150(d). (9-12-06)

1. *When should the FHWA review an agency's transition plan?*

DOT Section 504 regulation requires FHWA to monitor the compliance of the self-evaluation and transition plans of Federal-aid recipients (49 CFR §27.11). The FHWA Division offices should review pedestrian access compliance with the ADA and Section 504 as part of its routine oversight activities as defined in their stewardship plan. (9-12-06)

1. *When and how should a transition plan be updated?*

An agency's transition plan should have been completed by January 26, 1992, and should be based on updates of the self-evaluation conducted to comply with the requirements of Section 504. 28 CFR §35.105. The plan should be updated periodically to ensure the ongoing needs of the community continue to be met. The transition plan should be coordinated appropriately with the STIP and the TIP. Changes to the plan shall be made available to the public for comment. The public agency should specifically target any local community groups representing persons with disabilities for comment, to ensure that the agency is meeting the local priorities of the persons with disabilities in that community. If a public agency has never completed a transition plan, the Division should inform the public agency to complete a transition plan now and review that public agency's completed transition plan.

The ADA deadline for completing the improvements listed in the transition plans was January 26, 1995. For those State and localities that have not completed their self-evaluation and transition plans, it is critical that they complete this process. (9-12-06)

### Projects Covered by the ADA and Section 504

1. *What projects must provide pedestrian access for persons with disabilities?*

Any project for construction or alteration of a facility that provides access to pedestrians must be made accessible to persons with disabilities. 42 U.S.C. §§ 12131 - 12134; 28 CFR §§ 35.150, 35.151; **Kinney v. Yerusalim**, 9 F.3d 1067 (3d Cir. 1993), cert. denied, 511 U.S. 1033 (1994). (9-12-06)

1. *What projects constitute an alteration to the public right-of-way?*

An alteration is a change to a facility in the public right-of-way that affects or could affect access, circulation, or use. Projects altering the use of the public right-of-way must incorporate pedestrian access improvements within the scope of the project to meet the requirements of the ADA and Section 504. These projects have the potential to affect the structure, grade, or use of the roadway. Alterations include items such as reconstruction, rehabilitation, widening, resurfacing ([see USDOJ-FHWA technical assistance dated 6-28-13 for additional clarification](https://www.fhwa.dot.gov/civilrights/programs/doj_fhwa_ta.cfm)), signal installation and upgrades, and projects of similar scale and effect (6-28-2013).

1. *What activities are not considered to be alterations?*

The DOJ does not consider maintenance activities, such as filling potholes, to be alterations. The DOJ does consider resurfacing beyond normal maintenance to be an alteration. DOJ's ADA Title II Technical Assistance Manual, § II-6.6000, 1993, [USDOJ-FHWA Technical Assistance dated 6-28-2013](https://www.fhwa.dot.gov/civilrights/programs/doj_fhwa_ta.cfm).

The FHWA has determined that maintenance activities include actions that are intended to preserve the system, retard future deterioration, and maintain the functional condition of the roadway without increasing the structural capacity. These activities include, but are not limited to, joint repair, pavement patching (filling potholes), shoulder repair, signing, striping, minor signal upgrades, and repairs to drainage systems. (6-28-2013)

### Timing of Accessibility Improvements

1. *Does a project altering a public right-of-way require simultaneous accessibility improvements?*

Yes. An alteration project must be planned, designed, and constructed so that the accessibility improvements within the scope of the project occur at the same time as the alteration. 29 CFR § 35.151; **Kinney v. Yerusalim**, 9 F.3d 1067 (3d Cir. 1993), cert. denied, 511 U.S. 1033 (1994).

The ADA does not stipulate how to perform simultaneous accessibility improvements. For example, a public agency may select specialty contractors to perform different specialized tasks prior to completion of the alteration project or concurrently with an ongoing project. (9-12-06)

1. *When does the scope of an alteration project trigger accessibility improvements for people with disabilities?*

The scope of an alteration project is determined by the extent the alteration project directly changes or affects the public right-of-way within the project limits. The public agency must improve the accessibility of only that portion of the public right-of-way changed or affected by the alteration. If a project resurfaces the street, for accessibility purposes the curbs and pavement at the pedestrian crosswalk are in the scope of the project, but the sidewalks are not. Any of the features disturbed by the construction must be replaced so that they are accessible. All remaining access improvements within the public right-of-way shall occur within the schedule provided in the public agency's planning process. (9-12-06)

1. *Do maintenance activities require simultaneous improvements of the facility to meet ADA standards?*

No. Maintenance activities do not require simultaneous improvements to pedestrian accessibility under the ADA and Section 504. However, in the development of the maintenance scope of work identified accessibility needs should be incorporated into the transition process. (9-12-06)

1. *When should accessible design elements be incorporated into projects in the public right-of-way?*

FHWA encourages the consideration of pedestrian needs in all construction, reconstruction, and rehabilitation projects. If a public agency provides pedestrian facilities, those facilities must be accessible to persons with disabilities. A public agency is not relieved of its obligation to make its pedestrian facilities accessible if no individual with a disability is known to live in a particular area. This is true regardless of its funding source. DOJ's ADA Title II Technical Assistance Manual, § II-5.1000, 1993. (9-12-06)

### Cost

1. *How does cost factor into a public agency's decision in its transition plan concerning which existing facilities must comply with ADA and Section 504 pedestrian access requirements?*

For existing facilities requiring accessibility improvements as scheduled in the transition plans, the public agency must provide accessibility improvements unless the cost of the upgrades is unduly burdensome. The test for being unduly burdensome is the proportion of the cost for accessibility improvements compared to the agency's overall budget, not simply the project cost. 28 CFR Part 35, App. A, discussion at §35.150, 4 – 7.

The decision that pedestrian access would be unduly burdensome must be made by the head of a public agency or that official's designee, accompanied by a written statement of the reasons for the decision. 28 CFR §35.150(a)(3). (9-12-06)

1. *For a new project planned outside of the transition plan, with ADA accessibility improvements required to make the facility readily accessible and useable by individuals with disabilities, can cost be a reason not to complete an ADA-required accessibility improvement?*

No. Cost may not be a reason to fail to construct or delay constructing a new facility so that the facility is readily accessible to and useable by persons with disabilities under the ADAAG standards. 28 CFR §35.151(a); see DOJ Technical Assistance Manual for Title II of the ADA, II-6.3100(3). (9-12-06)

1. *For an alteration project planned outside of the transition plan, with ADA accessibility improvements required within the scope of the project, can cost be a reason to decide what ADA-required improvements will be completed?*

No. Cost may not be a reason for a public entity to fail to complete an ADA-required improvement within the scope of an alteration project under the ADAAG standards. A public agency must complete any ADA-required accessibility improvements within the scope of an alteration project to the maximum extent feasible. 28 CFR §35.151(b); DOJ Technical Assistance Manual for Title II of the ADA, II-6.3100(4). (9-12-06)

1. *What role does the “maximum extent feasible” standard play for ADA accessibility requirements in altered projects?*

In an alteration project, the public agency must incorporate the ADA accessibility standards to the maximum extent feasible. 28 CFR §35.151(b). The feasibility meant by this standard is physical possibility only. A public agency is exempt from meeting the ADA standards in the rare instance where physical terrain or site conditions restrict constructing or altering the facility to the standard. ADA Accessibility Guidelines 4.1.6(1)(j).

Cost is not a factor in determining whether meeting standards has been completed to the maximum extent feasible. DOJ's ADA Title II Technical Assistance Manual, § II-6.3200(3)-(4), 1993. No particular decision making process is required to determine that an accessibility improvement is not technically feasible, but the best practice is to document the decision to enable the public agency to explain the decision in any later compliance review. (9-12-06)

1. *What should a public agency do when it does not control all of the public right-of-way required to provide access for persons with disabilities?*

The public agency should work jointly with all others with interests in the highway, street, or walkway to ensure that pedestrian access improvements occur at the same time as any alteration or new project. The ADA encourages this cooperation by making each of the public agencies involved subject to complaints or lawsuits for failure to meet the ADA and Section 504 requirements. 28 CFR §§ 35.170 – 35.178. (9-12-06)

1. *Can a public agency delay compliance with the ADA and Section 504 on alteration projects through a systematic approach to schedule projects?*

No. All pedestrian access upgrades within the scope of the project must occur at the same time as the alteration. **Kinney v. Yerusalim**, 9 F.3d 1067 (3d Cir. 1993), cert. denied, 511 U.S. 1033 (1994). (9-12-06)

### Elements of Accessible Design

1. *What are the elements of an accessible design?*

Public agencies have the choice of whether to follow the standards in the ADA Accessibility Guidelines (ADAAG) or the Uniform Federal Accessibility Standards (UFAS). 28 CFR §35.151(c); (appendix A to 28 CFR Part 36). FHWA encourages public agencies to use ADAAG. Under the ADAAG standards, an accessible design to a highway, street, or walkway includes accessible sidewalks and curb ramps with detectable warnings. 28 CFR §35.151(c) and (e) (curb ramps), ADAAG 4.3-4.5 (accessible routes), 4.7 (curb ramps with detectable warnings), 4.29 (detectable warnings). Continuously maintained sidewalks are required by the case of **Barden v. City of Sacramento**, 292 F.3d 1073 (9th Cir. 2002), cert. denied, 123 S.Ct. 2639 (2003).

Accessible pedestrian signals and signs must be considered, with a reasonable and consistent plan to facilitate safe street crossings. 28 CFR §35.151(c); 23 U.S.C. §217(g)(2). (9-12-06)

### Funding

1. *What sources of funding may be used to comply with ADA and Section 504 requirements?*

|  |
| --- |
| Federal Funding Opportunities for Pedestrian Projects and Programs |
| **ACTIVITY** | **NHS** | **STP** | **HSIP** | **RHC** | **TE** | **CMAQ** | **RTP** | **FTA** | **TrE** | **BRI** | **402** | **PLA** | **TCSP** | **FLH** | **BYW** | **SRTS** |
| Pedestrian plan |   | \* | \* |   |   | \* |   |   |   |   |   | \* | \* |   |   |   |
| Paved shoulders | \* | \* | \* | \* | \* | \* |   |   |   | \* |   |   | \* | \* | \* |   |
| Shared-use path/trail | \* | \* | \* |   | \* | \* | \* |   |   | \* |   |   | \* | \* | \* | \* |
| Recreational trail |   |   |   |   |   |   | \* |   |   |   |   |   |   | \* |   |   |
| Spot improvement program |   | \* | \* |   | \* | \* |   |   |   |   |   |   | \* |   |   | \* |
| Maps |   | \* |   |   | \* | \* |   |   |   |   | \* |   | \* |   |   | \* |
| Trail/highway intersection | \* | \* | \* |   | \* | \* | \* |   |   |   |   |   | \* | \* | \* | \* |
| Sidewalks, new or retrofit | \* | \* | \* | \* | \* | \* |   | \* | \* | \* |   |   | \* | \* | \* | \* |
| Crosswalks, new or retrofit | \* | \* | \* | \* | \* | \* |   | \* | \* |   |   |   | \* | \* | \* | \* |
| Signal improvement | \* | \* | \* | \* | \* | \* |   |   |   |   |   |   | \* |   |   | \* |
| Curb cuts and ramps | \* | \* | \* | \* | \* | \* |   |   |   |   |   |   | \* |   |   | \* |
| Traffic calming |   | \* | \* | \* |   |   |   |   |   |   |   |   | \* |   |   | \* |
| Safety brochure/book |   | \* |   |   | \* | \* |   |   |   |   | \* |   | \* |   |   | \* |
| Training | \* | \* | \* |   | \* | \* | \* |   |   |   | \* |   | \* |   |   | \* |

|  |  |
| --- | --- |
| **NHS** National Highway System | **TrE** Transit Enhancements |
| **STP** Surface Transportation Program | **BRI** Bridge (HBRRP) |
| **HSIP** Highway Safety Improvement Program | **402** State and Community Traffic Safety Program |
| **RHC** Railway-Highway Crossing Program | **PLA** State/Metropolitan Planning Funds |
| **TE** Transportation Enhancement Activities | **TCSP** Transportation and Community and System Preservation Program |
| **CMAQ** Congestion Mitigation/Air Quality Program | **FLH** Federal Lands Highways Program |
| **RTP** Recreational Trails Program | **BYW** Scenic Byways |
| **FTA** Federal Transit Capital, Urban & Rural Funds | **SRTS** Safe Routes to School |

1. Each program has its own specific requirements and provisions. Further details on these sources of funding may be found in the following memo: *Flexible Funding for Highways and Transit and Funding for Bicycle & Pedestrian Programs,* February 6, 2006, at [www.fhwa.dot.gov/hep/guidance/flexfund.cfm](https://www.fhwa.dot.gov/hep/guidance/flexfund.cfm). (9-12-06)

### Maintenance

1. *What obligation does a public agency have regarding snow removal in its walkways?*

A public agency must maintain its walkways in an accessible condition, with only isolated or temporary interruptions in accessibility. 28 CFR §35.133. Part of this maintenance obligation includes reasonable snow removal efforts. (9-12-06)

1. *What day-to-day maintenance is a public agency responsible for under the ADA?*

As part of maintenance operations, public agencies' standards and practices must ensure that the day-to-day operations keep the path of travel on pedestrian facilities open and usable for persons with disabilities, throughout the year. This includes snow removal, as noted above, as well as debris removal, maintenance of accessible pedestrian walkways in work zones, and correction of other disruptions. ADAAG 4.1.1(4). Identified accessibility needs should be noted and incorporated into the transition plan. (9-12-06)

### Criteria

1. *What accessibility training is available?*

FHWA has the following training courses available:

* 1. National Highway Institute: Pedestrian Facility Design, Course Number 142045. See [www.nhi.fhwa.dot.gov/course-search](https://www.nhi.fhwa.dot.gov/course-search), and search for Course 142045.
	2. Association of Pedestrian and Bicycle Professionals/FHWA: Designing Pedestrian Facilities for Accessibility. See [www.apbp.org](https://www.fhwa.dot.gov/exit.cfm?link=http://www.apbp.org/).
	3. Resource Center Civil Rights Team: Designing Pedestrian Facilities for Accessibility.
1. *Where is information on the criteria to be used in developing accessible facilities?*

The following list of documents contains resources from several agencies and organizations

#### US Access Board:

The Access Board is the Federal agency responsible for developing ADA design standards. The following publications on accessible pedestrian design are available on the Board's Web site at [www.access-board.gov](https://www.access-board.gov/):

* 1. Accessibility Guidelines (ADAAG)
	2. Notice of Availability of Draft Public Rights-of-Way Guidelines
	3. Accessibility Guidelines Accessible Public Rights-of-Way Design Guide
	4. Pedestrian Access to Roundabouts
	5. Detectable Warnings: Synthesis of US and International Practice
	6. Accessible Pedestrian Signals
	7. Advisory Committee Report: *Building a True Community*
	8. Accessible Public Rights-of-Way
	9. Interfacing Accessible Pedestrian Signals and Traffic Signal
	10. Controllers

Call 1-800-872-2253, 1-800-993-2822 (TDD) to order the US Access Board Video, *Accessible Sidewalks: Design Issues for Pedestrians with Disabilities*

* 1. Program 1: Pedestrians who use wheelchairs
	2. Program 2: Pedestrians who have ambulatory impairments
	3. Program 3: Pedestrians who have low vision
	4. Program 4: Pedestrians who are blind

#### The Federal Highway Administration:

Pedestrian documents and reports are available at [www.fhwa.dot.gov/environment/bicycle\_pedestrian/publications/index.cfm](https://www.fhwa.dot.gov/environment/bicycle_pedestrian/publications/index.cfm).

Research and best practices design publications on pedestrian accessibility:

* 1. *Designing Sidewalks and Trails for Access, Part I, A Review of Existing Guidelines,* [www.fhwa.dot.gov/bicycle\_pedestrian/publications/sidewalks/](https://www.fhwa.dot.gov/bicycle_pedestrian/publications/sidewalks/index.htm) (electronic formats only: hard copies out of print).
	2. *Designing Sidewalks and Trails for Access, Part II, Best Practices Guide,* [www.fhwa.dot.gov/bicycle\_pedestrian/publications/sidewalk2/index.cfm](https://www.fhwa.dot.gov/bicycle_pedestrian/publications/sidewalk2/index.cfm) (electronic formats only: hard copies out of print, HTML version incorporates all the changes listed in the errata sheet: [www.fhwa.dot.gov/environment/bicycle\_pedestrian/publications/sidewalk2/errata.cfm](https://www.fhwa.dot.gov/environment/bicycle_pedestrian/publications/sidewalk2/errata.cfm)).
	3. Design Guidance Accommodating Bicycle and Pedestrian Travel:
	4. A Recommended Approach, A DOT Policy Statement on Integrating Bicycling and Walking into Transportation Infrastructure.
	5. *Manual on Uniform Traffic Control Devices (MUTCD)* provides the standards for traffic control devices and includes guidance on Accessible Pedestrian Signals, Chapter 4E. and Temporary Traffic Control Elements, Chapter 6D. The MUTCD is available at <https://mutcd.fhwa.dot.gov/>.
	6. [Detectable Warnings Memorandum](https://www.fhwa.dot.gov/environment/bicycle_pedestrian/resources/dwm04.cfm) (July 30, 2004).
	7. [Detectable Warnings Memorandum](https://www.fhwa.dot.gov/environment/bicycle_pedestrian/resources/dwm.cfm) (May 6, 2002): FHWA and the US Access Board encourage the use of the latest recommended design for truncated domes.

#### Accessible Pedestrian Signals

* 1. [Synthesis and Guide to Best Practices Web site](https://www.fhwa.dot.gov/exit.cfm?link=http://www.walkinginfo.org/aps/home.cfm) - this Web site provides overall information on installation criteria and design considerations.
	2. [Synthesis and Guide to Best Practices Article](https://www.fhwa.dot.gov/exit.cfm?link=http://gulliver.trb.org/publications/nchrp/nchrp_rrd_278.pdf) - this article provides the latest recommended technical specifications for installing accessible pedestrian signals.
	3. FHWA Pedestrian and Bicycle Safety - includes pedestrian and bicycle safety resources. [http://safety.fhwa.dot.gov/ped\_bike/](https://safety.fhwa.dot.gov/ped_bike/).
	4. FHWA Pedestrian and Bicycle Safety Research - provides information on issues and research related to improving pedestrian and bicyclist safety. [www.tfhrc.gov/safety/pedbike/index.htm](https://www.fhwa.dot.gov/research/topics/safety/pedbike/).

#### Other DOT Web sites

* 1. U.S. Department of Transportation Accessibility Web site - The Department is committed to building a transportation system that provides access for all Americans. See [www.dot.gov/accessibility](https://www.transportation.gov/accessibility).
	2. [Bureau of Transportation Statistics](https://www.fhwa.dot.gov/exit.cfm?link=http://www.bts.gov) (BTS), Freedom to Travel, ([www.bts.gov/publications/freedom\_to\_travel/](https://www.bts.gov/publications/freedom_to_travel/)), a report on the travel issues for people who have disabilities.

#### Institute of Transportation Engineers

* 1. [Alternative Treatments for At-Grade Pedestrian Crossings](https://www.fhwa.dot.gov/exit.cfm?link=http://www.ite.org/cgi-bin/searcht.cgi?wh=S%5bamp%5dkw=Alternative+Treatments+for+At-Grade+Pedestrian+Crossings%5bamp%5dsw=1) (an informational report which documents studies on crosswalks and warrants used by various entities).
	2. ITE's Web site, [www.ite.org/accessible/](https://www.fhwa.dot.gov/exit.cfm?link=http://www.ite.org/accessible/), has information on accessible intersection design, *Electronic Toolbox for Making Intersections More Accessible for Pedestrians Who are Blind or Visually Impaired*

#### Informational Web sites

* 1. Accessible Design for the Blind: information and research on making travel safer and accessible for pedestrians with disabilities,
	2. [accessforblind.org/](http://wwwcf.fhwa.dot.gov/exit.cfm?link=http://accessforblind.org/).
	3. The Pedestrian/Bicycle Information Center (sponsored by FHWA):
		+ [www.walkinginfo.org](https://www.fhwa.dot.gov/exit.cfm?link=http://www.walkinginfo.org/)
		+ [www.bicyclinginfo.org](https://www.fhwa.dot.gov/exit.cfm?link=http://www.bicyclinginfo.org/)

##

## Chapter 5: Accessible Pedestrian Signals (APS)

(from Chapter 4 of ACB Pedestrian Safety Handbook).

### Using APS effectively

(adapted from Barlow, J.M., and Franck, L. (2005) Crossroads: Modern interactive intersections and Accessible Pedestrian Signals. Journal of Visual Impairment and Blindness. Vol. 99, (10), 599-610.)

As stated earlier, it is important to recognize that the APS information supplements -- but does not replace -- traffic cues. APS provide information only about the status of the signal, so the APS Walk sound tells you that the Walk signal is on, NOT that it is safe to cross. Cars can still be turning across the crosswalk, or running a red light. The APS Walk signal sound can be compared to the "on your mark" instruction at the beginning of a race. It means that the signal has changed, but it is still important to "get set" (check the traffic). Then, after that, if all sounds right, you can “GO” (begin to cross).

#### Crossing at an intersection using an APS:

When using an APS at an unfamiliar intersection, take your time and become familiar with the APS and intersection before crossing. Here are some suggestions for familiarizing yourself to the APS:

Approach the intersection and stop at the curb or curb ramp or street edge, maintaining your initial alignment and check your alignment for crossing by listening to traffic. Even if you hear a pushbutton locator tone before you get to the street, continue to the curb or edge of the street first.

Determine your starting location for crossing, and identify tactile and audible cues to use to realign after pressing the pushbutton.

Listen and evaluate the intersection. Determine traffic patterns and the geometry of the intersection and listen for a pushbutton locator tone, or a tone or spoken Walk indication.

Remember the difference between a pushbutton locator tone and walk indication and listen to see what is there. Pushbutton locator tones are going to be repetitive, at once per second, like a grandfather clock - throughout the Flashing Don’t Walk and Don’t Walk. If there is a pushbutton for each crosswalk on the corner, you may hear two locator tones sounding. Sometimes the locator tones will be in sync with each other and sometimes out of sync. Check the tactile arrow to be sure a pushbutton controls the signal for the street you want to cross

Listen through a cycle to confirm the sounds and the street they apply to. Bear in mind that if the audible Walk indications seem to be available at every change of the light, you are probably at a “fixed time” location, and a button press will not be necessary. However, sometimes you still have to push a pushbutton for the major street crossing, even when audible indications sound every cycle for the minor street crossing.

When crossing any major roadway, whether you hear an APS or not, you should probably search for a pushbutton. As is noted in Modern Intersections chapter the pushbutton can have a significant effect on the amount of time available to cross a street. (Use a systematic search pattern to maintain orientation. It’s easy to get turned around and end up facing the wrong street, if you don’t pay close attention at this point.

Because dog guides are trained to avoid obstacles, they may be reluctant to approach poles that support pedestrian pushbuttons. It may be more efficient for the handler to use a cane to search initially before teaching the dog to locate the pole.

Once the APS is located, explore the device and its functioning. Locate the tactile arrow and confirm that the arrow is pointing in the direction of the street that you intended to cross.

The arrows should be, but are not always, aligned with the direction of travel on the crosswalk, and so might provide another cue for alignment. You may be able to align the outside of your arm with the pushbutton and flat face of the APS to help with the direction to cross.

Hold the pushbutton down for one to three seconds to see if more information is provided (see info on pushbutton information messages and audible beaconing under Other Features in this chapter).

Listen to the APS and traffic for a full cycle to make sure that the tones or speech walk indication corresponds to the traffic information.

Press the pushbutton when the perpendicular traffic starts to move in order to allow time for you to return to your predetermined spot at the curb, realign, and prepare to cross. Be ready to cross.

When you hear the Walk indication, (On Your Mark!) confirm that traffic on the perpendicular street is stopping or stopped, and listen for initial parallel traffic movements, if available (Get Set!).

Cross the street (Go!), using typical alignment techniques (paying attention to traffic, maintaining a straight line of travel, and so forth) and continue to listen for turning cars. In many cases, cars can turn right and left across the crosswalk during the pedestrian phase. Although drivers are supposed to yield to pedestrians, they often do not.

The pushbutton locator tone on the destination curb may be audible as you approach the last lane of the street, but may not be audible from the middle of the street.

#### More information

Information on Accessible Pedestrian Signals can be found at [www.apsguide.org](http://www.apsguide.org/).

#### Bibliography:

Accessible Pedestrian Signals: A Guide to Best Practice, [www.apsguide.org](http://www.apsguide.org/).

Barlow, J.M., and Franck, L. (2005) “Crossroads: Modern interactive intersections and Accessible Pedestrian Signals”. Journal of Visual Impairment and Blindness. Vol. 99, (10), 599-610.)

Scott, A.C., Barlow, J. M., Bentzen, B.L., Bond, T.L.Y. and Grubbe, D. (2008) Accessible Pedestrian Signals at complex intersections: Effects on blind pedestrians. Transportation Research Record: Journal of the Transportation Research Board, No. 2073, 94–103.

### (b) [Resolution 2019-06](https://acb.org/resolutions2019#res-06) - Requirement for Accessible Pedestrian Signals When There Is the Use of Leading Pedestrian Interval (LPI) Signalization at an Intersection

Whereas, pedestrians ages 65 and older accounted for 20% of all pedestrian deaths in 2016; and

Whereas, the incidence of vision impairment increases with age and people in their 80s are more than twice as likely to have a vision impairment as people in their 70s, according to the National Center for Health Statistics; and

Whereas, according to recently published research (Varma et al., 2016), the number of older persons experiencing visual impairment, including visual impairment due to uncorrected refractive error, is projected to double by 2050; and

Whereas, the increasing complexity of the design of intersections in conjunction with new modes of wheeled transportation, including but not limited to, quiet cars with engine stop-start (ESS) technology, electric vehicles, electric bicycles, and motorized scooters, create greater difficulties and an increasing risk of death or injury to pedestrians who are blind or have low vision when using sidewalks or crossing intersections; and

Whereas, traffic signals for pedestrians have only visual Walk and Don’t Walk signs activated with a push button on a traffic pole and are not mandated to be equipped with accessible pedestrian signals (APS) in the Federal Highway Administration Manual on Uniform Traffic Control Devices (MUTCD); and

Whereas, traffic signals frequently are being programmed with leading pedestrian interval (LPI) signalization to give pedestrians a head start to cross the intersection in order to reduce vehicle and pedestrian conflicts; and

Whereas, the MUTCD Section 4E.06 Pedestrian Intervals and Signal Phases guidance (#6) states, “If a leading pedestrian interval is used, it should be at least 3 seconds in duration and should be timed to allow pedestrians to cross at least one lane of traffic or, in the case of a large corner radius, to travel far enough for pedestrians to establish their position ahead of the turning traffic before the turning traffic is released”; and

Whereas, the MUTCD Section 4E.06 support (#3) states, “If a leading pedestrian interval is used without accessible features, pedestrians who are visually impaired can be expected to begin crossing at the onset of the vehicular movement when drivers are not expecting them to begin crossing”; and

Whereas, the MUTCD Section 4E.06 guidance (#5) states, “If a leading pedestrian interval is used, the use of accessible pedestrian signals (see Sections 4E.09 through 4E.13) should be considered”; and

Whereas, there is LPI signalization research for pedestrians who are blind or have low vision, which finds: 1) intersections with complex signalizations, including LPI, can benefit from APS; and 2) Ongoing analyses of data have suggested that APS decreased the delay in starting to cross, increased the number of crossings that participants began independently and within the walk interval, increased the number of crossings that were completed before the signal changed, and reduced the number of requests for assistance; and

Whereas, the only effective means of providing equal access to LPI signalization is to mandate the installation of APS devices, and this will require amending the MUTCD, through the National Committee on Uniform Traffic Control Devices (NCUTCD);

Now, therefore, be it resolved by the American Council of the Blind in convention assembled on the 11th day of July, 2019 at the Joseph A. Floreano Rochester Riverside Convention Center in Rochester, N.Y. that ACB staff, in consultation with the Environmental Access Committee (EAC), begin the process of requesting amendments to the MUTCD by submitting a written statement to the NCUTCD urging that the next edition of the manual include a mandate for the installation of APS at sites whenever and wherever a pedestrian traffic signal uses LPI signalization; and

Be it further resolved that researchers, certified orientation and mobility specialists, the EAC and other relevant subject matter experts be consulted throughout this process; and

Be it further resolved that this organization urge the U.S. Access Board to revise its proposed Public Right-of-Way Accessibility Guidelines (PROWAG) to require the installation of APS whenever and wherever pedestrian traffic signals are in use, through an ADA Transition Plan, giving priority to intersections using LPI signalization.

Adopted.

Ray Campbell, Secretary

### Web Links

[Home](http://accessforblind.org/)

[Travel skills](http://accessforblind.org/travel-skills-and-techniques-of-people-who-are-blind-or-visually-impaired/)

[Accessible Pedestrian Signals](http://accessforblind.org/aps/)

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[Projects](http://accessforblind.org/about-adb/projects/)

#### [The Access Board](http://www.access-board.gov/)

The Access Board is an independent Federal agency devoted to accessibility for people with disabilities.

#### [ADA Accessibility Requirements](http://www.access-board.gov/publications/ADAFactSheet/A13.html)

ADA Fact Sheet from the Access Board

#### [AER Online](http://aerbvi.org/)

The latest information on the Association for Education and Rehabilitation of the Blind and Visually Impaired.

#### [Beneficial Designs](http://www.beneficialdesigns.com/)

Beneficial Designs develops assistive and adaptive technology, performs rehabilitation research, contract design, legal consultation, standards development, and serves as a rehabilitation information resource.

#### [The Center for Universal Design](http://www.design.ncsu.edu/cud/)

A national research, information, and technical assistance center that evaluates, develops, and promotes universal design in housing, public and commercial facilities, and related products.

#### [ITE Electronic Toolbox](http://www.ite.org/accessible/)

Documents for Making Intersections More Accessible for Pedestrians Who are Blind or Visually Impaired

#### [Manual on Uniform Traffic Control Devices](http://mutcd.fhwa.dot.gov/)

Standards for the application and installation of traffic signals, signs and pavement markings that regulate, warn, and guide the vehicle and pedestrian users of the public right of way.

#### [Planning and Funding Accessible Pedestrian Facilities](http://www.ite.org/accessible/accessibleped.asp)

ITE’s page of potential funding sources for making an intersection accessible.

### Publications on the Web

#### [Accessible Pedestrian Signals: A Guide to Best Practice](http://www.trb.org/news/blurb_detail.asp?id=9102)

TRB’s National Cooperative Highway Research Program (NCHRP) Web-Only Document 117A: Accessible Pedestrian Signals: A Guide to Best Practice is designed to serve as a companion resource document to a one-day training course on accessible pedestrian signals. For information on the training program, contact S.A. Parker of TRB at **SAParker@nas.edu.** An appendix to Web-Only Document 117A includes an accessible pedestrian signals intersection prioritization tool and instructions on how to use the tool. Details on the research used to develop the training course and tool was published as NCHRP Web-Only Document 117B.

#### [Accessible Rights-of-Way: A Design Guide](http://www.access-board.gov/prowac/guide/PROWguide.pdf)

This design guide has been developed to provide uniform guidance to State and local governments on how to design and construct accessible public pedestrian facilities until such time as the Access Board, DOJ, and DOT issue final requirements.

#### [Addressing Barriers to Blind Pedestrians at Signalized Intersections](http://www.ite.org/accessible/#Addressing%20Barriers)

An ITE Journal article presents the results of a survey of Orientation and Mobility Specialists regarding the problems students with visual impairments experience at signalized intersections.

#### [Building a True Community](http://www.access-board.gov/prowac/commrept/prowreport.pdf)

This report is a recommendation for a new set of Federal guidelines (to be implemented as standards under the Americans with Disabilities Act) that define the details necessary to make the streetscapes in public rights-of-way accessible to all users.

#### [Detectable Warnings: Synthesis of U.S. and International Practices](http://www.access-board.gov/research/DWSynthesis/report.htm)

This synthesis summarizes the state-of-the-art regarding the design, installation and effectiveness of detectable warning surfaces used in the U.S. and abroad.

#### [Designing Sidewalks and Trails for Access Part I of II: Review of Existing Guidelines and Practices](http://www.fhwa.dot.gov/environment/bikeped/access-1.htm)

This project is an extensive literature review in which existing guidelines and recommendations for developing sidewalks and trails were compiled and analyzed.

#### [Designing Sidewalks and Trails for Access Part II of II: Best Practices Design Guide](http://www.fhwa.dot.gov/environment/bicycle_pedestrian/publications/sidewalk2/)

This document provides recommendations on how to design sidewalks, street crossings, intersections, shared use paths, and recreational pedestrian trails. (Out of print, available online only)

#### [Determining Recommended Language for Speech Messages used by Accessible Pedestrian Signals](http://www.ite.org/accessible/APS_speech.pdf)

The objective of the research in this report was to develop recommendations for the structure and content of walk messages and pushbutton messages for directly audible APSs.

#### [FHWA Memo on ADAAG Detectable Warnings (Truncated Domes)](http://www.fhwa.dot.gov/environment/bikeped/dwm.htm)

The FHWA memo addresses a number of questions raised by people from various agencies concerning the use of detectable warnings, specifically truncated domes, when constructing or altering curb ramps.

#### [Guidelines for Accessible Pedestrian Signals: Final Report](http://www.trb.org/news/blurb_detail.asp?ID=9121)

TRB’s National Cooperative Highway Research Program (NCHRP) Web-Only Document 117B: Guidelines for Accessible Pedestrian Signals (Final Report) provides details on research used to develop a one-day training course on accessible pedestrian signals (APS) and to produce an APS intersection prioritization tool. For additional information on the training program, contact S.A. Parker of TRB at**SAParker@nas.edu.** A companion resource document on the training course on APS and the intersection prioritization tool was produced as NCHRP Web-Only Document 117A.

#### [Interfacing Accessible Pedestrian Signals (APS) with Traffic Signal Control Equipment](http://www.access-board.gov/research/APS/report.htm)

The primary objective of this research was to provide detailed accessible pedestrian signal (APS) product information specifically focused on the interfacing of APS devices and traffic signal controllers. Information on the various traffic signal controllers used today is also provided. The information is intended for traffic engineers, traffic signal technicians, and others who are implementing APS technologies.

#### [Public Rights-of-Way Accessibility Guidelines (Draft)](http://www.access-board.gov/PROWAC/draft.htm)

Under the ADA, the Access Board has developed and continues to maintain design guidelines for accessible buildings and facilities known as the ADA Accessibility Guidelines (ADAAG). ADAAG covers a wide variety of facilities and establishes minimum requirements for new construction and alterations.

### ****PowerPoint Presentations:****

[**Accessible Pedestrian Signal Features – New Possibilities for Access in the US**](http://accessforblind.org/aps_presentations.html)

[**Detectable Warnings**](http://accessforblind.org/dw_presentations.html)

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Accessible Design for the Blind is committed to making travel safer for pedestrians with disabilities through research, consultation, education and advocacy.

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## Chapter 6: Federal Transit Administration ADA Circular ADA FTA C 4710.1

### 8.1 Introduction

In crafting the Americans with Disabilities Act (ADA), Congress recognized that even when a fixed route transit system is fully accessible, there will be some individuals whose disabilities prevent them from using the system. Congress therefore created a “safety net” to ensure that these individuals have transportation available to them on the same basis as individuals using fixed route systems. This chapter explains how the U.S. Department of Transportation (DOT) ADA regulations in 49 CFR Part 37 apply to complementary paratransit service in terms of required service criteria, types of service options, operational performance, and other factors. ADA paratransit eligibility is discussed separately in Circular Chapter 9. FTA reminds readers to consult the general requirements in Circular Chapter 2, which apply to all types of services, including complementary paratransit. This Circular does not alter, amend, supersede, or otherwise affect the DOT ADA regulations themselves or replace the need for readers to reference the detailed information in the regulations. FTA recommendations and examples of optional practices are included throughout the Circular and do not represent requirements. FTA recognizes there are many different ways agencies can implement the regulatory requirements and ensure the delivery of compliant service. FTA encourages transit agencies to engage riders with disabilities when making decisions about local transit service.

8.2 Requirement for Complementary Paratransit Service Requirement

“Paratransit means comparable transportation service required by the ADA for individuals with disabilities who are unable to use fixed route transportation systems” (§ 37.3). “Except as provided in paragraph (c) of this section, each public entity operating a fixed route system shall provide paratransit or other special service to individuals with disabilities that is comparable to the level of service provided to individuals without disabilities who use the fixed route system” (§ 37.121(a)). “To be deemed comparable to fixed route service, a complementary paratransit system shall meet the requirements of §§ 37.123–37.133 of this subpart. The requirement to comply with § 37.131 may be modified in accordance with the provisions of this subpart relating to undue financial burden” (§ 37.121(b)). “Requirements for complementary paratransit do not apply to commuter bus, commuter rail, or intercity rail systems” (§ 37.121(c)).

#### Discussion

Complementary paratransit service must be provided by any public entity operating fixed route service that is not otherwise exempt from the regulations. This paratransit service must be “comparable” to the fixed route service. To be considered comparable, it must meet the service criteria in §§ 37.123–37.133 discussed below. The requirement for complementary paratransit service applies to all fixed route bus and rail transit service except for commuter bus, commuter rail, and intercity rail (Amtrak) services, which are specifically exempt. Commuter rail service and Amtrak can be easily identified based on their definitions

Determining whether a bus service is actually commuter bus is less straightforward because it requires an assessment of the service’s characteristics. Section 37.3 provides the following definitions:

* “Commuter rail transportation means short-haul rail passenger service operating in metropolitan and suburban areas, whether within or across the geographical boundaries of a state, usually characterized by reduced fare, multiple ride, and commutation tickets and by morning and evening peak period operations. This term does not include light or rapid rail transportation.”
* “Intercity rail means transportation provided by Amtrak.”
* “Commuter bus service means fixed route bus service, characterized by service predominantly in one direction during peak periods, limited stops, use of multi-ride tickets, and routes of extended length, usually between the central business district and outlying suburbs. Commuter bus service may also include other service, characterized by a limited route structure, limited stops, and a coordinated relationship to another mode of transportation.”

As highlighted in Circular Chapter 6, a bus route might have some but not all of the characteristics of commuter bus service found in the § 37.3 definition. A case-by-case assessment by the transit agency is needed to determine whether a specific bus route meets the definition of commuter service. (See Circular Section 6.8.1.) During a complaint investigation or other oversight activity, FTA may require an agency to substantiate how a particular service meets the definition of commuter bus. (See FTA response to Complaint 14-0067 for an example of an FTA analysis of whether a particular service met the definition.)

8.3 Types of Service 8.3.1 Origin-to-Destination Service Requirement

“Origin-to-destination service means providing service from a passenger’s origin to the passenger’s destination. A provider may provide ADA complementary paratransit in a curb-to-curb or door-to-door mode. When an ADA paratransit operator chooses curb-to-curb as its primary means of providing service, it must provide assistance to those passengers who need assistance beyond the curb in order to use the service unless such assistance would result in a fundamental alteration or direct threat” (§ 37.3). “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 personnel assistance that enables all complementary paratransit riders to travel from their origins to their destinations. In 2005, DOT published “Origin-to-Destination Service” guidance that elaborates on the meaning of origin-to-destination service. In 2015, DOT’s Reasonable Modification of Policy final rule added the above definition of origin-to-destination service to the regulations. It also introduced Appendix E to Part 37 (Reasonable Modification Requests), which includes several examples specific to origin-to destination service. (See Circular Section 2.10.) Base Level of Service Transit agencies, through the public participation process, may set a “base level” of service for complementary paratransit, 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 provide assistance to ensure the service actually gets riders from their point of origin to their destination point. To meet this origin-to-destination requirement, agencies will 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. However, assistance must also be provided if riders do not request it in advance. Riders may not know ahead of time what barriers exist at drop-off points. The § 37.169 reasonable modification requirements include making provisions for situations in which an advance request and determination are not feasible. As noted in Circular Section 2.10.2, these situations are likely to be more difficult to handle than advance requests, but agencies are required to respond to them regardless. An optional good practice is to include such information in a rider’s file for future trips. Such information may also be obtained during the eligibility determination process. (See Circular Section 9.4.) Transit agencies may set policies to ensure safety for drivers and other riders. 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 appropriate staff understand these policies and receive appropriate training consistent with § 37.173 to properly carry out these policies. (See Circular Section 2.9.)

#### Origin-to-Destination Examples

Appendix E to Part 37 introduces examples of the types of rider requests that, in most cases, will be reasonable or not. The examples cover the two basic elements of origin-to-destination service: first, the vehicle getting to the customer’s location and, second, the operator leaving the vehicle and assisting the customer. The following examples, quoted directly from Appendix E, apply specifically to the § 37.129(a) origin-to destination service requirement: Snow and Ice. Except in extreme conditions that rise to the level of a direct threat to the driver or others, a passenger’s request for a paratransit driver to walk over a pathway that has not been fully cleared of snow and ice should be granted so that the driver can help the passenger with a disability navigate the pathway. For example, ambulatory blind passengers often have difficulty in icy conditions, and allowing the passenger to take the driver’s arm will increase both the speed and safety of the passenger’s walk from the door to the vehicle.

#### Pick Up and Drop Off Locations with Multiple Entrances

A paratransit rider’s request to be picked up at home, but not at the front door of his or her home, should be granted, as long as the requested pickup location does not pose a direct threat. Similarly, in the case of frequently visited public places with multiple entrances (e.g., shopping malls, employment centers, schools, hospitals, airports), the paratransit operator should pick up and drop off the passenger at the entrance requested by the passenger, rather than meet them in a location that has been predetermined by the transportation agency, again assuming that doing so does not involve a direct threat.

#### Private Property

Paratransit passengers may sometimes seek to be picked up on private property (e.g., in a gated community or parking lot, mobile home community, business or government facility where vehicle access requires authorized passage through a security barrier). Even if the paratransit operator does not generally have a policy of picking up passengers on such private property, the paratransit operator should make every reasonable effort to gain access to such an area (e.g., work with the passenger to get the permission of the property owner to permit access for the paratransit vehicle). The paratransit operator is not required to violate the law or lawful access restrictions to meet the passenger’s requests.

#### Opening Building Doors

For paratransit services, a passenger’s request for the driver to open an exterior entry door to a building to provide boarding and/or alighting assistance to a passenger with a disability should generally be granted as long as providing this assistance would not pose a direct threat, or leave the vehicle unattended or out of visual observation for a lengthy period of time.

Hard-to-Maneuver Stops

A passenger may request that a paratransit vehicle navigate to a pickup point to which it is difficult to maneuver a vehicle. A passenger’s request to be picked up in a location that is difficult, but not impossible or impracticable, to access should generally be granted as long as picking up the passenger does not expose the vehicle to hazards that pose a direct threat (e.g., it is unsafe for the vehicle and its occupants to get to the pickup point without getting stuck or running off the road).

#### Navigating an Incline or Around Obstacles

A paratransit passenger’s request for a driver to help him or her navigate an incline (e.g., a driveway or sidewalk) with the passenger’s wheeled device should generally be granted. Likewise, assistance in traversing a difficult sidewalk (e.g., one where tree roots have made the sidewalk impassible for a wheelchair) should generally be granted, as should assistance around obstacles (e.g., snowdrifts, construction areas) between the vehicle and a door to a passenger’s house or destination should generally be granted. These modifications would be granted subject, of course, to the proviso that such assistance would not cause a direct threat, or leave the vehicle unattended or out of visual observation for a lengthy period of time.

#### Extreme Weather Assistance

A passenger’s request to be assisted from his or her door to a vehicle during extreme weather conditions should generally be granted so long as the driver leaving the vehicle to assist would not pose a direct threat, or leave the vehicle unattended or out of visual observation for a lengthy period of time. For example, in extreme weather (e.g., very windy or stormy conditions), a person who is blind or vision-impaired or a frail elderly person may have difficulty safely moving to and from a building.

#### Unattended Passengers

Where a passenger’s request for assistance means that the driver will need to leave passengers aboard a vehicle unattended, transportation agencies should generally grant the request as long as accommodating the request would not leave the vehicle unattended or out of visual observation for a lengthy period of time, both of which could involve direct threats to the health or safety of the unattended passengers. It is important to keep in mind that, just as a driver is not required to act as a PCA for a passenger making a request for assistance, so a driver is not intended to act as a PCA for other passengers in the vehicle, such that he or she must remain in their physical presence at all times.

#### 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 agency is responsible for ensuring 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. Transit agencies may meet the § 37.129(a) requirement by providing the trip in one vehicle or may establish transfer points within their complementary paratransit service area for efficiency or convenience. If an agency requires riders to transfer between two vehicles to complete the complementary paratransit trip within that agency’s jurisdiction, then the agency is required to have an employee (driver or other individual) wait with any riders who cannot be left unattended. Not doing so would require the rider to travel with an attendant in order to travel safely, which would violate the § 37.5(e) prohibition against requiring an individual with disabilities to be accompanied by an attendant. (See Circular Section 2.2.5.) The requirement for attended transfers does not apply when an agency is dropping off a rider to be picked up by another provider to be taken outside the agency’s jurisdiction.

### 8.3.2 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

The regulations permit transit agencies to use “feeder service” to transport certain complementary paratransit riders to and from the fixed route services. This includes using complementary paratransit to take individuals to bus stops if there are barriers in the pedestrian environment that prevent them from getting to stops or stations. It also includes taking individuals to nearby accessible stops or stations if the ones closest to them are not accessible. 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 for applicable trips. Appropriately placed conditions on an individual’s eligibility 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. Such an approach may involve evaluating individual riders and their trip requests to determine when feeder service is appropriate. Important considerations in evaluating whether using feeder service is appropriate for a particular trip include:

* Rider’s functional abilities – A rider’s functional abilities to independently complete the fixed route portion of the trip, based on the current assessment of the rider, must be confirmed.
* The total length of the trip – Providing feeder service for a very short trip can result in total travel time that could become a capacity constraint, i.e., excessive in length when compared to a comparable fixed route trip. (See Circular Section 8.5.5.)
* Distance between the alighting stop on the fixed route and the destination – As discussed in Appendix D to § 37.129, Given the more complicated logistics of such arrangements, and the potential for a mistake that would seriously inconvenience the passenger, the transit provider should consider carefully whether such a “double feeder” system, while permissible, is truly workable in its system (as opposed to a simpler system that used feeder service only at one end of a trip when the bus let the person off at a place from which he or she could independently get to the destination). There may be some situations in which origin to destination service is easier and less expensive.
* The headways of the fixed route service – Attempting feeder service with a route that runs infrequently could lead to an excessively long trip if the planned connection is missed.
* Amenities at the transfer point – If a rider 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 the rider needs to contact the paratransit dispatch center about a connection issue.

### 8.4 Complementary Paratransit Service Criteria

Comparability is defined and measured by the following characteristics:

* Hours and days of service (§ 37.131(e))
* Service area (§ 37.131(a))
* Response time (trip reservations) (§ 37.131(b))
* Fares (§ 37.131(c))
* Operating without regard to trip purpose (§ 37.131(d))
* Absence of capacity constraints (§ 37.131(f))

The regulations discussed in this section establish minimum levels of service. Transit agencies may set policies and performance standards that exceed these minimum service levels. (See Circular Section 8.7.) The discussion below explains each of the service characteristics and provides guidance on ensuring the related requirements are met.

### 8.4.1 Hours and Days of Service Requirement

“The complementary paratransit service shall be available throughout the same hours and days as the entity’s fixed route service” (§ 37.131(e)).

#### Discussion

As discussed in Appendix D to § 37.131, This criterion says simply that if a person can travel to a given destination using a given fixed route at a given time of day, an ADA paratransit eligible person must be able to travel to that same destination on paratransit at that time of day. This criterion recognizes that the shape of the service area can change.

#### Setting Hours and Days of Service

If riders can take a particular trip between two points on an agency’s fixed route system at a specific time of day, § 37.131(e) requires the same trip to be available on complementary paratransit. A transit agency’s complementary paratransit service area, therefore, may change by time of day and day of week when certain fixed routes are not in service. The service area may also expand and contract as individual bus routes or rail lines begin and end operation each day. An agency that runs a bus route from 5 a.m. until 9 p.m., for example, must provide complementary paratransit service, at minimum, from 5 a.m. until 9 p.m. corresponding to that route. A rider’s pickup time for paratransit is also dictated by the fixed route hours. For example, if the earliest time a rider could depart from a particular fixed route stop is at 6:45 a.m., comparable paratransit trips could be provided starting at 6:45 a.m. (subject to the requirement to negotiate pickup times under § 37.131(b)(2)). (See Circular Section 8.4.5.) If a transit agency runs fixed route service on weekends and holidays it must provide complementary paratransit on those days as well.

#### End of Service Day Considerations

To ensure that complementary paratransit drivers can complete their drop-offs no later than the latest fixed route drop-off, establishing latest-available return-trip pickup times that reflect the likely travel times for requested trips is appropriate. For example, to ensure that the last drop-offs for complementary paratransit coincide with a last fixed route drop-off time of 10 p.m., transit agencies might limit the latest paratransit return-trip pickup times to 9:30 p.m. This would provide sufficient travel time (assuming the estimated trip time is approximately 30 minutes) to complete the last drop-off by 10 p.m.

#### Flexibility in Setting Service Hours

For simplicity of operations, many transit agencies choose to not be overly precise in setting complementary paratransit service hours. Instead of taking a route-by-route approach and having dynamically changing service areas throughout the day and week, many agencies provide complementary paratransit throughout the overall service area whenever one or more fixed routes are operating. Others expand and contract their service areas more broadly by time of day and day of week, as follows:

* Service areas for weekday daytime
* Service areas for weekday nighttime
* Service areas for Saturday
* Service areas for Sunday Weekday daytime service areas are typically the largest and Sunday service areas are typically the smallest.

Such arrangements are appropriate as long as each of the service areas encompass all locations within 3/4 mile of all bus routes and rail stations that are in service during that time of day or day of week, and transit agencies provide service throughout such service areas from the time the earliest routes begin service until the last routes end. For example, if a weekday nighttime service area were generalized as between 7 p.m. and 11 p.m., then no fixed routes would operate past 11 p.m. on weekday evenings.

8.4.2 Service Area – Fixed Route Bus Requirement

“Service Area—(1) Bus. (i) The entity shall provide complementary paratransit service to origins and destinations within corridors with a width of three-fourths of a mile on each side of each fixed route. The corridor shall include an area with a three-fourths of a mile radius at the ends of each fixed route.

(ii) Within the core service area, the entity also shall provide service to small areas not inside any of the corridors but which are surrounded by corridors. (iii) Outside the core service area, the entity may designate corridors with widths from threefourths of a mile up to one and one half miles on each side of a fixed route, based on local circumstances. (iv) For purposes of this paragraph, the core service area is that area in which corridors with a width of three-fourths of a mile on each side of each fixed route merge together such that, with few and small exceptions, all origins and destinations within the area would be served” (§ 37.131(a)).

#### Discussion

FTA considers the 3/4-mile requirement as a straight-line distance (“as the crow flies” for bus service). In addition to meeting the requirement to provide service within 3/4 mile of each side of each fixed route and a 3/4-mile radius of the ends of each fixed route, this requirement obligates transit agencies to also provide service throughout a “core service area.” This refers to the portion of agencies’ service areas where many bus routes intersect and/or overlap so that their respective 3/4-mile corridors cover virtually all destinations. For smaller agencies, the core service areas are usually downtown districts served by multiple bus routes. For larger agencies, the core service areas may encompass entire downtowns or suburban activity centers. Inside the fixed route bus core service areas, § 37.131(a)(1)(ii) requires the complementary paratransit service to also include any small areas not inside any of the corridors but which are surrounded by corridors. “Core service area” is further explained in Appendix D to § 37.131: Another concept involved in this service criterion is the core service area. Imagine a bus route map of a typical city. Color the bus routes and their corridors blue, against the white outline map. In the densely populated areas of the city, the routes (which, with their corridors attached, cut 1 1/2 mile swaths) merge together into a solid blue mass. There are few, if any, white spots left uncovered, and they are likely to be very small. Paratransit would serve all origins and destinations in the solid blue mass. But what of the little white spots surrounded by various bus corridors? Because it would make [no] sense to avoid providing service to such small isolated areas, the rule requires paratransit service there as well. So color them in too.

#### Figure 8-1 – Bus Route Service Area

Figure 8-1 illustrates a delineated service area with a core service area included.

For purposes of determining the complementary paratransit service area for bus rapid transit (BRT) service, BRT is considered as a fixed route bus service and the above requirements apply.

### 8.4.3 Service Area – Rail Requirement

“Rail. (i) For rail systems, the service area shall consist of a circle with a radius of 3⁄4 of a mile around each station. (ii) At end stations and other stations in outlying areas, the entity may designate circles with radii of up to 1 1⁄2 miles as part of its service area, based on local circumstances” (§ 37.131(a)(2)).

#### Discussion

The minimum rail service area for complementary paratransit—excluding commuter and intercity rail, which are exempt from the requirement—is defined as circles of 3/4-mile radius from the center of each station, as shown in Figure 8-2. FTA considers the 3/4-mile requirement as a straight-line distance (a radius around rail stations or “air miles”). This requirement obligates transit agencies to provide complementary paratransit trips from any point within one station circle to any point within the station circle of another station (e.g., from point 1 to point 2 in Figure 8-2), but not between two points within the same station circle (e.g., from point 3 to point 4 or from point 5 to point 6 in Figure 8-2). Appendix D to § 37.131 provides the following explanation of service area around rail stations: Around each station on the line (whether or not a key station), the entity would draw a circle with a radius of 3⁄4 mile. Some circles may touch or overlap. The series of circles is the rail system’s service area. (We recognize that, in systems where stations are close together, this could result in a service area that approached being a corridor like that of a bus line.) The rail system would provide paratransit service from any point in one circle to any point in any other circle. The entity would not have to provide service to two points within the same circle, since a trip between two points in the vicinity of the same station is not a trip that typically would be taken by train. Nor would the entity have to provide service to spaces between the circles.

#### Figure 8-2 – Rail Station Service Area

8.4.4 Jurisdictional Boundaries and Restricted Properties Requirement

“Notwithstanding any other provision of this paragraph, an entity is not required to provide paratransit service in an area outside the boundaries of the jurisdiction(s) in which it operates, if the entity does not have legal authority to operate in that area. The entity shall take all practicable steps to provide paratransit service to any part of its service area” (§ 37.131(a)(3)).

#### Discussion

The service areas encompass all points within the 3/4-mile range; where service areas extend beyond political boundaries of a transit agency’s jurisdiction, this requirement obligates the agency to provide service to and from such points, except when legal prohibitions prevent service, as discussed below. For example, “Transit Agency X” provides bus and rail service within 3/4 mile of the border with another state or county, but its vehicles do not have the legal authority to operate across the border. In this situation, § 37.131(a)(3) does not obligate the agency to provide complementary paratransit service in the neighboring state or county, even to locations within 3/4 mile of one of its fixed route services operating near the border. However, political boundaries alone do not constitute legal bars. Similarly, transit agency jurisdictional boundaries and taxing jurisdictions do not by themselves constitute legal bars. As discussed in Appendix D to § 37.131, There may be a part of the service area where part of one of the corridors overlaps a political boundary, resulting in a requirement to serve origins and destinations in a neighboring jurisdiction which the entity lacks legal authority to service. The entity is not required to serve such origins and destinations, even though the area on the other side of the political boundary is within a corridor. This exception to the service area criterion does not automatically apply whenever there is a political boundary, only when there is a legal bar to the entity providing service on the other side of the boundary. The rule requires, in this situation, that the entity take all practicable steps to get around the problem so that it can provide service throughout its service area. The entity should work with the state or local governments involved, via coordination plans, reciprocity agreements, memoranda of understanding or other means to prevent political boundaries from becoming barriers to the travel of individuals with disabilities.

#### Access to Private or Restricted Properties

Appendix E to Part 37 (Reasonable Modification Requests) includes the following example with respect to service to restricted properties: Private Property. Paratransit passengers may sometimes seek to be picked up on private property (e.g., in a gated community or parking lot, mobile home community, business or government facility where vehicle access requires authorized passage through a security barrier). Even if the paratransit operator does not generally have a policy of picking up passengers on such private property, the paratransit operator should make every reasonable effort to gain access to such an area (e.g., work with the passenger to get the permission of the property owner to permit access for the paratransit vehicle). The paratransit operator is not required to violate the law or lawful access restrictions to meet the passenger’s requests. A public or private entity that unreasonably denies access to a paratransit vehicle may be subject to a complaint to the U.S. Department of Justice or U.S. Department of Housing and Urban Development for discriminating against services for persons with disabilities.

### 8.4.5 Trip Reservations and Response Time Requirement

“The entity shall schedule and provide paratransit service to any ADA paratransit eligible person at any requested time on a particular day in response to a request for service made the previous day. Reservations may be taken by reservation agents or by mechanical means. (1) The entity shall make reservation service available during at least all normal business hours of the entity’s administrative offices, as well as during times, comparable to normal business hours, on a day when the entity’s offices are not open before a service day. (2) The entity may negotiate pickup times with the individual, but the entity shall not require an ADA paratransit eligible individual to schedule a trip to begin more than one hour before or after the individual’s desired departure time. (3) The entity may use real-time scheduling in providing complementary paratransit service. (4) The entity may permit advance reservations to be made up to 14 days in advance of an ADA paratransit eligible individual’s desired trips. When an entity proposes to change its reservations system, it shall comply with the public participation requirements equivalent to those of § 37.137 (b) and (c)” (§ 37.131(b)).

#### Discussion

These requirements cover a transit agency’s obligations to receive and negotiate complementary paratransit trip requests, and to confirm the pickup times, all of which are critical elements of scheduling paratransit service. The following discussion explains how to apply these response time requirements and presents optional good practices in trip scheduling. Next-Day Service For any day that a transit agency operates complementary paratransit, § 37.131(b) obligates it to allow individuals to reserve trips on the day before. For example, individuals can request a Wednesday trip by calling during normal business hours on Tuesday. Agencies may not require customers to reserve trips 24 hours in advance, a policy that Appendix D to § 37.131 describes as “inadequate.” Transit agencies must also ensure that customers can reserve trips on a next-day basis even when the administrative office is closed and fixed route may not be running (e.g., on holidays). As discussed in Appendix D to § 37.131, “on days prior to a service day on which the administrative offices are not open at all (e.g., a Sunday prior to a Monday service day), the reservation service would also be open 9 to 5.” As explained below and in Appendix D, agencies may use voicemail to accept these reservations. If a transit agency’s normal business hours for its administrative offices are 8 a.m. to 5 p.m. from Monday to Friday and it operates service Monday through Sunday, § 37.131(b) requires the agency—whether with reservation staff or other staff (e.g., dispatch)—to accept trip requests from 8 a.m. to 5 p.m. Sunday through Saturday. Further, § 37.131(b) requires agencies to permit callers who request trips during these hours to be able to reserve trips for any time during the next service day. If an agency operates service past midnight—or operates service 24 hours a day—this also means allowing callers to call during normal business hours (i.e., during administrative office hours) the day before the trip to request a trip at any time the next day, including a trip that would begin just after midnight. As noted in § 37.131(b)(4), while next-day service is the base requirement, agencies have the option to adopt a policy permitting advance reservations up to 14 days before a rider’s desired trip. If an agency adopts such a policy (e.g., allowing reservations 7 days before a desired trip) and later decides it wants to change the advance reservation policy (e.g., scaling back the number of days to 3), it must follow the specific public participation requirements outlined in § 37.137 (b) and (c).

#### Use of Voicemail for Trip Reservations

Section 37.131(b) permits the use of “mechanical means” (e.g., voicemail) to accept trip requests, but doing so may affect a transit agency’s ability to negotiate the pickup time with the rider. Most larger agencies with high call volumes on all days have made arrangements to have staff available to accept trip requests every day, including on holidays. Some smaller agencies use voicemail for trip requests when the complementary paratransit office is closed and few calls are made (e.g., Sundays and holidays). When a transit agency uses voicemail to accept trip requests, meeting the § 37.131(b) requirements means honoring all valid trip requests, i.e., providing the requested trips just as if the callers had spoken to a reservationist. For example, a caller who reaches an agency’s voicemail on a Monday holiday and requests a trip for Tuesday at 9 a.m. can expect the agency to provide the requested trip on Tuesday at 9 a.m. in a manner consistent with the agency’s operating policies (i.e., the on-time or pickup window, discussed below). In this example, if the agency finds it necessary to negotiate the pickup time or window, any call back must be made within a reasonable amount of time from the rider’s message. If the eligible rider cannot be reached, the agency is required to provide the trip at the time requested. Determining the amount of time that is reasonable for a customer to have to wait for the call back is a local decision to be made in consultation with the community served.

#### Negotiating a Pickup Time with the Rider

Per § 37.131(b)(2), while a transit agency may negotiate pickup times with the individual, it may not require an ADA paratransit eligible individual to schedule a trip to begin more than 1 hour before or after the individual’s desired departure time. For example, if a rider requests a trip with a 9 a.m. pickup time, the regulations permit the agency to offer a pickup time between 8 a.m. and 10 a.m. This negotiation window, however, is subject to the rider’s practical travel needs. A true negotiation considers the rider’s time constraints. While some trips have inherent flexibility (e.g., shopping or recreation), other trips have constraints with respect to when they can begin (e.g., not before the end of the individual’s workday or not until after an appointment is over). For example, a rider may end his or her workday at 4 p.m. and request a 4 p.m. pickup. While § 37.131(b)(2) permits the agency to offer a pickup an hour before the requested time, doing so is not appropriate because the rider would still be working. In such instances, offering a pickup any time between 4 p.m. and 5 p.m. would be appropriate and consistent with the negotiation requirement. Some transit agencies accept trip requests and do not create run schedules until the evening before the day of service when all requests have been received (commonly called batch scheduling with call-backs). In these instances, call-backs are typically made the evening before the day of service to inform riders of the exact scheduled time. Agencies that use this method of scheduling must have procedures that allow riders to negotiate the times offered consistent with § 37.131(b)(2).

#### Pickup Windows

For practical purposes, FTA permits transit agencies to establish a reasonable “window” around the negotiated pickup time during which the vehicle may arrive and still be regarded as “on time,” to account for day-to-day variability in the operation of complementary paratransit. (See Circular Section 8.5.3.) Most agencies use pickup windows, which are typically 20–30 minutes in length and are also known as on-time windows. Some agencies place the full window after negotiated times, while others “bracket” windows around negotiated times (e.g., -15/+15 window). Either approach is allowable. FTA considers pickup windows longer than 30 minutes in total to be unacceptable, because they require riders to wait an unreasonably long time for service.

An optional good practice when confirming trips during reservation calls is to restate the beginning and end of the pickup window instead of just the negotiated time. This step reminds riders to be ready throughout the window. For example, for a caller with a negotiated 9 a.m. pickup, a transit agency using a -15/+15 window would confirm the trip as follows: “We are confirming your trip from (origin) to (destination) on (date). The driver will arrive any time between 8:45 a.m. and 9:15 a.m.” instead of saying, “Your pickup is at 9 a.m.” This reinforces with the rider the concept that vehicles may arrive at any time during the window.

#### Changing the Negotiated Pickup Time

Once a transit agency communicates the agreed-upon pickup time (and ideally the pickup window) with the rider, the negotiation is complete. Any changes in estimated times of arrival (ETAs) within the pickup window represent internal scheduling adjustments and require no further communication with the rider. The agency may make changes that affect the ETA, such as adding another shared-ride to the same run, but only within the agreed-upon pickup window. In other words, if a passenger agreed upon a 1 p.m. pickup time, and the pickup window is -15/+15 minutes, the vehicle could arrive as early as 12:45 p.m. or as late as 1:15 p.m. The agency may make changes to the associated run schedule on which the trip has been placed that move the ETA within that 30-minute window, but may not make changes to the negotiated trip time that cause the trip’s pickup window to change. In other words, the ETA may move to 1:10 p.m. as a result of changes to the run on which the trip was placed, but the negotiated time remains 1 p.m. and the pickup window—the time during which the rider has already been told the vehicle will arrive—remains 12:45–1:15 p.m. However, if during the scheduling process it becomes necessary to change the pickup time enough to shift the pickup window forward or backward, the transit agency is obligated to renegotiate the pickup time with the rider. Meeting the § 37.131(b) response time requirement means conducting such renegotiations with the rider no later than the day before the scheduled travel day. Although there is no specific time by which an agency is obligated to contact the rider, FTA recommends doing so at a reasonable time up to the evening before the trip and to publicize such practices in rider guides and on websites. Agencies that have this practice generally place the calls to riders by 7 p.m. of the evening before the trip. Scheduling practices that routinely fail to protect the pickup window indicate a capacity constraint, which is prohibited. Any negotiations are subject to rider acceptance; if the rider refuses, the agency is obligated to provide the trip as previously negotiated. Furthermore, if the agency cannot reach the rider, the agency is obligated to provide the trip as previously negotiated to avoid an agency missed trip or an inappropriately charged no-show penalty to the rider.

#### Trip Requests with Appointment Times

While the regulations use the phrase “desired departure time,” riders are not always in a position to identify on their own or agree to an appropriate pickup time that will meet their time constraints. Certain trips are appointment driven (e.g., medical appointments, work events, and concerts), where arriving at a specific time is especially important. The desired departure time for riders in these cases becomes whatever time will get them to their destination on time. Transit agencies are in the best position to estimate how long a particular trip will take, considering factors such as how many other passengers will be on the vehicle and their destinations. On fixed route, most people check the schedule to see when the bus gets to the stop near their destination and work backwards to determine when they need to be at the bus stop to catch that particular bus. This level of precision is not always possible on complementary paratransit. A discussion of the rider’s need to arrive on time for an appointment, therefore, will sometimes be part of the negotiation between the transit agency and the rider during the trip scheduling process. For example, a rider may say, “I need to be at my doctor’s office for a 10 a.m. appointment.” In response, it would be appropriate for the agency to offer a pickup time based on expected travel time and service characteristics that lead to a drop-off time at or before 10 a.m. An agency’s negotiation and scheduling process must account for the fact that, for some riders taking some trips, arrival time is more important than departure time, and allow those riders to request either a desired pickup time or a desired drop-off time. “Going” trips with appointments are then scheduled to the stated appointment times while “return” trips are scheduled to the desired pickup time. For trips with requested drop-off times, this means scheduling the trips so that the riders will arrive at or before the requested time. This does not mean, however, that the transit agency has to allow riders to also specify the pickup times for these trips. In short, when scheduling by appointment time, a rider may request either a pickup time or a drop-off time for a given trip, but not both. Transit agencies have an implicit obligation to get riders to appointments on time (not late) and an explicit obligation to monitor performance to ensure that complementary paratransit service is operated without any operational pattern or practice that significantly limits the availability of service to ADA paratransit eligible persons. If trip reservation procedures and subsequent poor service performance cause riders to arrive late at appointments and riders are discouraged from using the service as a result, this would constitute a capacity constraint. (See Circular Section 8.5.6.)

#### Will-Call Trip Requests and No-Strand Policies

 As a service to riders who may not be able to predict their desired pickup time for return trips—often due to medical appointments—some transit agencies permit complementary paratransit riders to leave their exact pickup time for their return trips open (i.e., “will-call”). When riders know the time they will be ready for pickup, they contact the agency, which then dispatches a vehicle. Because will-call service is optional, agencies may apply trip purpose restrictions (e.g., limiting will-call availability to medical appointments) and charge higher fares. In addition, a number of transit agencies have a “no strand” policy, to ensure a rider is not left stranded when he or she misses a scheduled pickup for any reason. Under this optional policy, the agency provides a return trip later than a previously scheduled return trip (but typically within regular service hours).

### 8.4.6 Fares Requirement

“The fare for a trip charged to an ADA paratransit eligible user of the complementary paratransit service shall not exceed twice the fare that would be charged to an individual paying full fare (i.e., without regard to discounts) for a trip of similar length, at a similar time of day, on the entity’s fixed route system. (1) In calculating the full fare that would be paid by an individual using the fixed route system, the entity may include transfer and premium charges applicable to a trip of similar length, at a similar time of day, on the fixed route system. (2) The fares for individuals accompanying ADA paratransit eligible individuals, who are provided service under § 37.123(f) of [Part 37], shall be the same as for the ADA paratransit eligible individuals they are accompanying. (3) A personal care attendant shall not be charged for complementary paratransit service. (4) The entity may charge a fare higher than otherwise permitted by this paragraph to a social service agency or other organization for agency trips (i.e., trips guaranteed to the organization)” (§ 37.131(c)).

#### Discussion

Under § 37.131(c), the fare for a trip charged to an ADA paratransit eligible rider cannot exceed twice the fare that would be charged to an individual paying full fare (i.e., without regard for discounts) for a similar trip on the agency’s fixed route system. The question then becomes what is a “similar trip” on fixed route. Appendix D to § 37.131 explains: To calculate the proper paratransit fare, the entity would determine the route(s) that an individual would take to get from his or her origin to his or her destination on the fixed route system. At the time of day the person was traveling, what is the fare for that trip on those routes? Applicable charges like transfer fees or premium service charges may be added to the amount, but discounts (e.g., the half-fare discount for off-peak fixed route travel by elderly and handicapped persons) would not be subtracted. The transit provider could charge up to twice the resulting amount for the paratransit trip. The system operates the same regardless of whether the paratransit trip is being provided in place of a bus or a rail trip the user cannot make on the fixed route system. FTA has found that monthly passes (e.g., those providing unlimited rides) on fixed route are considered “discounts,” which are not used to calculate the maximum complementary paratransit fare. Transit agencies may determine locally whether to apply a flat fare or a varied fare for paratransit. For agencies with fare structures that vary by time of day or by distance, the § 37.131(c) maximum complementary paratransit fare provisions permit agencies to charge up to twice the fixed route fare. For simplicity and ease of administering fare policies, some agencies charge a flat fare for all complementary paratransit trips regardless of the time of day or distance travelled. In such instances, however, the flat fare cannot exceed twice the lowest non-discounted fixed route fare; otherwise, the complementary paratransit fare for the shortest trips and/or those during off-peak times would not meet the § 37.131(c) provisions. For example, if an agency’s fixed route fare ranges from $1.50 to $3.50 (with some trips costing $2.50), charging up to $3, $5, and $7, respectively, for comparable paratransit trips is appropriate. However, if the agency charges a flat complementary paratransit fare, then the fare cannot exceed $3.

#### Determining Fares Where Multiple Fixed Route Paths Exist

Appendix D to § 37.131 discusses instances where fixed route riders can make trips between two points using different routes: Where bus and rail systems are run by the same provider (or where the same bus provider runs parallel local and express buses along the same route), the comparison would be made to the mode on which a typical fixed route user would make the particular trip, based on schedule, length, convenience, avoidance of transfers, etc. This situation is most common for transit agencies that operate both rail and bus service or operate routes with limited stops (not commuter bus) and local bus service, when there may be origin-destination pairs served by a combination of bus-only, bus-rail, and rail-only itineraries. For example, in a hypothetical large metropolitan system, fixed route riders might have alternative routing options via bus or via rapid rail that connect two points. During peak periods, the bus option is less costly (approximately $2) and requires a transfer. Because the bus is operating in traffic and the trip requires a transfer, it takes 50 minutes to complete. The rail trip, which requires no transfer, costs approximately $4.50, but takes half the time. In setting the fare for the complementary paratransit trip, this means considering which trip typical riders would make. In such instances, FTA recommends documenting in detail the methodology used for determining the fare for these types of trips. Services provided by commuter bus or rail systems, which are not subject to complementary paratransit requirements, and services provided by other entities are not part of the basis for calculating comparable complementary paratransit fares.

#### Free-Fare Zones

Some transit agencies offer free trips on their fixed route system within a specific geographic area or on a specific route or set of routes. In cases where complementary paratransit riders are traveling between origins and destinations that are both within 3/4 mile of a zero-fare route, and the typical fixed route user would make use of this zero-fare route to make a comparable trip, applying the § 37.131(c) maximum fare provisions means the complementary paratransit fare for this trip is also zero. FTA recommends that agencies with free-fare zones that wish to determine whether a typical fixed route user would in fact take advantage of the free-fare option compare the following elements in their analysis:

* Regular fixed route fare (outside of free-fare zone)
* Frequency of the free service versus alternative service
* Need for transfers on the free versus alternative service
* Walking distances to and from the free service versus the alternative

Such an analysis would demonstrate that fixed route riders might walk to the nearest boarding point in the free-fare zone instead of boarding the nearest fixed route vehicle and transferring to the free-fare service. It might also demonstrate that individuals crossing the free-fare zone will typically use the regular fixed route system, while individuals traveling between points along the free-fare zone are more likely to use the free-fare service. This analysis would enable a transit agency to determine whether it may charge a fare for a given complementary paratransit trip from origins to destinations that are both within 3/4 mile of the free-fare zone. In some cities, other entities such as downtown business districts or convention authorities assume the responsibility for paying the fixed route fare on a specific route or within a designated zone. Since from the perspective of the passenger, the fare is free, complementary paratransit fares within the designated zone would also be free, subject to the analysis outlined above. Therefore, FTA encourages transit agencies to consider including a requirement that the other entity also pay for complementary paratransit in any such arrangements they make.

#### Fares for Personal Care Attendants and Companions

When a personal care attendant (PCA) accompanies a complementary paratransit rider, the PCA must not be charged a fare. Transit agencies may charge a companion rider the same fare they charge the complementary paratransit rider, but a PCA must ride fare free. (See Circular Section 9.8.) The requirement for agencies to transport PCAs without charging a fare only applies to complementary paratransit and not to fixed route or general public demand responsive services. Negotiated Fares for Agency Trips Social service agencies and other organizations often have responsibilities for client transportation, and some of their clients may be ADA paratransit eligible. FTA encourages transit agencies and social service agencies to enter into coordinated service arrangements for these trips in such arrangements. Social service agencies often pay transit agencies for providing their clients with guaranteed rides to their programs. When providing agency trips, § 37.131(c)(4) states that “the entity may charge a fare higher than otherwise permitted by this paragraph to a social service agency or other organization for agency trips (i.e., trips guaranteed to the organization).” In other words, the negotiated reimbursement is not subject to the maximum complementary paratransit fare of twice the fixed route fare.

Appendix D to § 37.131 provides the following example: If an agency wants 12 slots for a trip to the mall on Saturday for clients with disabilities, the agency makes the reservation for the trips in its name, the agency will be paying for the transportation, and the trips are reserved to the agency, for whichever 12 people the agency designates, the provider may then negotiate any price it can with the agency for the trips. Agency trips may also include services that exceed the complementary paratransit requirements, including dictated rather than negotiated pickup times, direct travel between origins and destinations with no intervening pickups or drop-offs, service to and from points outside of the complementary paratransit service area, or service to individuals who are not ADA paratransit eligible. When complementary paratransit riders travel to or from a social service agency or a program, such trips are not necessarily “agency trips” unless these trips are prearranged and funded as agency trips. Similarly, the fact that a social service agency employee assists a rider in making a trip reservation does not make the trip an agency trip. Appendix D also states: We distinguish this situation from one in which an agency employee, as a service, calls and makes an individual reservation in the name of a client, where the client will be paying for the transportation.

### 8.4.7 Operating Without Regard to Trip Purpose Requirement

“The entity shall not impose restrictions or priorities based on trip purpose” (§ 37.131(d)). Discussion Just as individuals may ride a fixed route service for any purpose, complementary paratransit riders can also ride the complementary paratransit system for any purpose. Prioritizing one type of trip (e.g., work trips) over another (e.g., shopping trips) in the final scheduling and dispatching processes is prohibited. As discussed in Appendix D § 37.131, This is a simple and straightforward requirement. There can be no restrictions or priorities based on trip purpose in a comparable complementary paratransit system. When a user reserves a trip, the entity will need to know the origin, destination, time of travel, and how many people are traveling. The entity does not need to know why the person is traveling, and should not even ask. The regulations permit a transit agency to set limitations based on trip purpose for any services it provides beyond the requirements. For example, an agency may limit subscription service or will-call trips to certain trip purposes. (See Circular Section 8.6.)

### 8.5 Avoiding Capacity Constraints Requirement

“The entity shall not limit the availability of complementary paratransit service to ADA paratransit eligible individuals by any of the following: (1) Restrictions on the number of trips an individual will be provided; (2) Waiting lists for access to the service; or (3) Any operational pattern or practice that significantly limits the availability of service to ADA paratransit eligible persons. (i) Such patterns or practices include, but are not limited to, the following: (A) Substantial numbers of significantly untimely pickups for initial or return trips; (B) Substantial numbers of trip denials or missed trips; (C) Substantial numbers of trips with excessive trip lengths. (ii) Operational problems attributable to causes beyond the control of the entity (including, but not limited to, weather or traffic conditions affecting all vehicular traffic that were not anticipated at the time a trip was scheduled) shall not be a basis for determining that such a pattern or practice exists” (§ 37.131(f)). Discussion As one of the most important complementary paratransit service requirements, § 37.131(f) prohibits a transit agency from operating complementary paratransit service in a manner that significantly limits the availability of the service through a “pattern or practice” of actions, commonly referred to as capacity constraints. Operational problems outside the control of the agency do not count as part of a pattern or practice under this provision.

### 8.5.1 Prohibition Against Limiting the Number of Trips

Policies that limit the number of trips, such as “no more than four trips per day,” would violate § 37.131(f)(1). It is appropriate for a transit agency, however, to consider in-vehicle times and pickup windows of two closely spaced trips by the same riders so they do not overlap. For example, a rider might request two trips: a pickup from home to travel to a store at 10 a.m. and a pickup at that store to go to a bank at 11 a.m. If the pickup window is 0/+30 minutes and the estimated travel time from home to the store is 35 minutes, an on-time pickup at 10:30 a.m. would deliver the rider to their first destination at 11:05 a.m., after the start of the second pickup window. For this particular origin-destination pair, an agency could justify not accepting the two trip requests separated by only 60 minutes. An appropriate trip policy in this instance would require the two trip requests to be at least 90 minutes apart (to allow a small amount of time at the destination).

### 8.5.2 Prohibition Against Waiting Lists

In the context of complementary paratransit operations, some reservation practices amount to waiting lists, which are prohibited by § 37.131(f)(2). Placing callers’ names on a list when the schedules are full and informing them they will be contacted if space becomes available would constitute a prohibited waiting list. Similarly, telling callers the schedules are full and suggesting they call back at a later time to see if space becomes available would be a waiting list. Accepting a trip request during a reservation call and scheduling the trip later internally is not the same as placing a trip request on a prohibited waiting list. It may not always be possible for an agency to identify a scheduling solution during the course of a reservations call. In these instances, as long as the call-taker accepts the trip request and confirms the requested time with the rider, this is not a waiting list. Transit agencies that use this approach refer to these trips as “confirmed but unscheduled.” (See Circular Section 8.4.5.)

### 8.5.3 Untimely Service – Prohibited Operational Practices

As stated in § 37.131(f)(3)(i)(A), “substantial numbers of significantly untimely pickups for initial or return trips” are considered a capacity constraint and not permitted. The regulations do not provide an explicit threshold for what constitutes a “substantial number” or define “significantly untimely.” Timely pickups and arrivals are fundamental elements of any transportation service. Poor on-time performance for complementary paratransit, whether for pickups or drop-offs (if scheduling to appointment times), may discourage riders from using such services and may discourage other individuals with disabilities from applying to become eligible riders.

#### Pickup Windows and Timely Service

As discussed in Circular Section 8.4.5, many transit agencies use pickup windows to enable shared-ride scheduling and manage the daily variability of complementary paratransit service. FTA considers pickups on time as long as drivers arrive at pickup locations within these established windows. For example, for a pickup window of 9–9:30 a.m., pickups at 9:01, 9:10, or 9:30 a.m. are all considered on time. Many agencies have established a policy requiring drivers to wait at least 5 minutes for riders to board the vehicle after arriving at the pickup address. In such cases, it is important that such policies also require drivers to wait until the start of the pickup window to begin a 5-minute countdown and to wait until the full 5 minutes have elapsed before departing without the rider. For example, when the pickup window begins at 11 a.m. and the vehicle arrives at 10:55 a.m., the driver would wait for the rider at least until 11:05 a.m. before departing.

#### On-Time, Early, and Late Pickups

When assessing the timeliness of service, it is important to distinguish among on-time, early, and late pickups, as follows:

* On time – FTA considers pickups as on time when a driver arrives at the pickup location within the established pickup window.
* Early – FTA considers pickups early if a driver arrives and departs with the rider before the established pickup window begins.
* Late – FTA considers pickups late if a driver arrives after the end of the established pickup window and the rider boards the vehicle.

#### Assessing On-Time Performance

To maintain good service quality, most transit agencies establish a standard for on-time pickups, such as “X percent of pickups will be on-time (i.e., within the 30-minute window) or early.” In addition, some agencies have a standard related to very early pickups, such as “no more than Y percent of pickups will be more than Z minutes before the start of the on-time window.” In order to ensure that a pattern or practice of substantial numbers of untimely pickups is not occurring, FTA expects transit agencies to document and analyze on-time performance. Analyzing on-time performance enables agencies to make appropriate operational changes when performance falls below an established standard. Ensuring that the number of significantly untimely pickups is not substantial means accurately recording arrival times in relation to scheduled pickup times and compiling this information for analysis. (Missed trips need their own separate analysis, which is discussed in Circular Section 8.5.4.) When calculating on-time performance, transit agencies often combine early pickups together with ontime pickups when documenting on-time performance. While such an approach is appropriate for analysis purposes, it is not appropriate to pressure or require riders to board and depart earlier than the established pickup window. To avoid this, some agency policies direct drivers to wait “around the corner” and to not attempt a pickup until the start of the window. For analysis purposes, transit agencies typically report this combined metric as “early arrivals plus on-time arrivals” and separately track the number and rate of early pickups, late pickups, and on-time pickups. FTA recommends that agencies review their scheduling practices and overall capacity whenever the analysis shows a high number and rate of early pickups (e.g., the vehicle consistently arrives before the start of a rider’s pickup window). In addition, for the on-time performance analysis, FTA considers instances when drivers arrive on time and follow transit agency policies (e.g., wait the full 5 minutes), and riders are still no-shows, as on-time arrivals. Operational problems attributable to causes beyond a transit agency’s control, such as weather or traffic conditions that could not be anticipated at the time the trip was scheduled, are not a basis for determining that capacity constraints exist. However, scheduling practices that fail to take into account regularly occurring traffic conditions (i.e., known peak-period traffic delays) could result in prohibited capacity constraints.

### 8.5.4 Trip Denials and Missed Trips – Prohibited Operational Practices

A transit agency cannot have substantial numbers of trip denials and missed trips, as they are also considered capacity constraints and are not permitted under § 37.131(f)(3)(i)(B).

#### Trip Denials

Trip denials result when agencies do not accept trip requests. Avoiding denials means properly planning service, allocating resources, and managing operations in order to meet 100 percent of expected demand. Examples of trip denials include:

* A rider requests a next-day trip and the transit agency says it cannot provide that trip.
* A rider requests a next-day trip and the transit agency can only offer a trip that is outside of the 1hour negotiating window. This represents a denial regardless of whether the rider accepts such an offer.
* A rider requests a round-trip and the agency can only provide one leg of the trip. If the rider does not take the offered one-way trip, both portions of the trip are denials.

Counting the number of denials means accounting for all trips that the rider is unable to take because of a denial. For example, say a transit agency denies a rider the outbound portion of a requested round-trip and only offers a return trip. If the rider then elects not to travel at all, this represents two denials. However, if an agency denies a “going” trip and the rider accepts a return trip, then this is counted as one denial. The preamble to DOT’s September 2011 amendment to its ADA regulations offered the following statement with respect to counting trip denials and missed trips: The Department believes that when a denied or missed trip makes a subsequent requested trip impossible, two opportunities to travel have been lost from the point of view of the passenger. In the context of a statute and regulation intended to protect the opportunities of passengers with disabilities to use transportation systems in a nondiscriminatory way, that is the point of view that most matters. To count denials otherwise would understate the performance deficit of the operator. The complementary paratransit operator obviously would not need to count as a denial a trip that was actually made (e.g., trip from Point A to Point B missed, passenger gets to Point B in a taxi, and complementary paratransit operator carries him from Point B back to Point A). In order to ensure that a pattern or practice of substantial numbers of trip denials is not occurring, FTA expects transit agencies to document and analyze trip denials. FTA recommends including such details as the rider’s identification, date of request, date and time of requested trip(s), origin and destination, and reason for denial. Reviewing the characteristics of these denials can help an agency determine their underlying causes in order to take steps necessary to prevent future denials.

#### Missed Trips

Missed trips, which are caused by agencies and not by riders, result from trips that are requested, confirmed, and scheduled, but do not take place because:

* The vehicle arrives and leaves before the beginning of the pickup window without picking up the rider and without any indication from the rider that he or she no longer wants to make the trip. Note that a rider is not obligated to board until the beginning of the pickup window or—for transit agencies that have a 5-minute wait-time policy—from the start of the pickup window until 5 minutes have elapsed.
* The vehicle does not wait the required time within the pickup window, there is no contact with the rider, and the vehicle departs without the rider. Note that if during the wait time the rider indicates he or she no longer wants to take the trip, this is typically recorded as a “cancel at the door.”
* The vehicle arrives after the end of the pickup window and departs without picking up the rider (either because the rider is not there or declines to take the trip because it is now late).
* The vehicle does not arrive at the pickup location. Based on reviews conducted by the FTA Office of Civil Rights, transit agencies experiencing high rates of missed trips due to late arrivals often need to add capacity.

As discussed above, riders are not obligated to board the vehicle before the start of pickup windows. In addition, in cases when vehicles arrive after the end of pickup windows, riders can choose to board vehicles, but if they refuse trips because they are late, FTA considers these as missed trips and not noshows or “late cancellations” on the part of riders. (See Circular Section 9.12.) When riders do not board as scheduled, communication between drivers and dispatchers can often resolve issues. Dispatchers can verify the pickup location (through a combination of an automated vehicle location system and driver information), the vehicle arrival time, and the negotiated pickup time and associated on-time window. After confirming the information, dispatchers can then be confident in directing drivers and in documenting such events in their records. To help minimize the likelihood of both missed trips and passenger no-shows, dispatchers (and supervisors) can instruct drivers who arrive early to wait the full wait time (established by each transit agency) within the on-time window. Finally, it is important to ensure that dispatchers differentiate and record no-shows and missed trips appropriately. Given the prohibition against a pattern or practice of a substantial number of missed trips, FTA expects transit agencies to document and analyze missed trips. Such analyses can identify potential geocoding errors or problems in the underlying maps used for scheduling trips. Analysis of actual vehicle arrival and departure times, as well as dispatcher notes, will also help to ensure that the documentation of events is accurate. When missed trips arise from improper actions by drivers and dispatchers (e.g., dispatchers of a transit agency with a 5-minute wait time policy advise, “Wait 3 minutes, then you can leave,” or drivers leave early without first contacting dispatchers), the appropriate remedy is typically proper training or retraining (see Circular Section 2.9), any applicable disciplinary action, and subsequent performance monitoring.

### 8.5.5 Excessive Trip Lengths – Prohibited Operational Practices

The length of complementary paratransit trips (also called travel time, trip duration, on-board time, or invehicle time) is another important measure of service. A pattern or practice of substantial numbers of trips with excessive trip lengths is a form of capacity constraint per § 37.131(f)(3)(i)(C); excessively long trips may discourage riders from using complementary paratransit services. It is important to understand that “excessive” is in comparison to the time required to make a similar trip using the fixed route system; while a 1-hour travel time for a 5-mile complementary paratransit trip may seem excessive in the abstract, if the same trip takes an hour using the fixed route system, it is comparable, not excessive. Complementary paratransit service is by nature a shared-ride service. The standard of service is not intended to reflect that of a taxi service, which typically transports passengers directly to their destination.

#### Trip-Length Standards

To help minimize the number of excessively long trips, transit agencies typically establish a trip-length performance standard, defined in relation to the length of comparable fixed route trips (as presented below). As with other policies, public input is valuable to inform such a standard. FTA notes that transit agencies may consider all elements of fixed route trips between origins and destinations when determining comparability in paratransit travel time, including:

* Walking time to the stop/station from the origin address
* Waiting time
* In-vehicle time (for all trip segments)
* Transfer times (if any)
* Walking time from the final stop/station to the destination address Some agencies have adopted policies based on absolute maximum trip lengths.

Such standards do not properly reflect comparability to the length of time a specific trip would take on fixed route. For example, having a standard that no complementary paratransit trip can exceed 90 minutes is not appropriate for comparing short trips taken on the fixed route system. Some agencies also allow complementary paratransit ride times to be up to a multiple of the fixed route ride time (e.g., twice as long). Such standards are not reasonable or appropriate for longer trips. Allowing rides on complementary paratransit to be up to 2 hours for trips that took 1 hour by fixed route would be outside the bounds of comparability. FTA encourages standards that are variable and consider trip distances and associated travel times on fixed route. Many transit agencies using scheduling software set system parameters to address trips of varying length (rather than just set single, global settings). To account for in-vehicle time and transfer times that may vary by day of week and time of day, FTA encourages transit agencies to use performance standards that account for such variations. Many agencies now have online trip planners that estimate the varying travel times for specific trips. However, the calculation of trip lengths for comparable fixed route trips can be time consuming, even when aided by an online trip planner. FTA suggests analyzing a sample of complementary paratransit trip lengths periodically (weekly or monthly), focusing on trips longer than a certain duration (e.g., more than 45 or 60 minutes). As with on-time performance, operational problems that are attributable to causes beyond the control of the transit agency are not a basis for determining that a pattern or practice of excessive trip length exists. However, effective complementary paratransit operations account for recurring factors such as known peak-period traffic conditions. FTA encourages transit agencies to establish travel time performance standards, such as “at least X percent of complementary paratransit trips shall have travel times equal to or less than comparable fixed route travel times,” and expects agencies to closely monitor trip length performance. By monitoring and analyzing trip lengths, agencies can be aware of service issues and, if necessary, make operational adjustments to improve performance.

### 8.5.6 Other Potential Limits to Paratransit Service Availability

While § 37.131(f)(3)(i) lists three examples of patterns or practices that significantly limit the availability of service, the regulations specifically prohibit “any operational pattern or practice that significantly limits the availability of service to ADA paratransit eligible persons” (§ 37.131(f)(3)). Other capacity constraints, including untimely drop-offs, poor telephone performance, and general practices that can discourage use of complementary paratransit, are discussed in this section.

#### Untimely Drop-Offs

All travelers using a transportation provider to travel to a time-sensitive appointment want to have confidence in the provider’s reliability. This is also true for complementary paratransit. Frequently arriving late to appointments could discourage use of the service. As such, FTA considers a pattern or practice of untimely drop-offs for trips with stated appointment times as a capacity constraint. As in pickup performance, monitoring on-time performance for trips with requested drop-offs is necessary. If the analysis indicates a pattern of late drop-offs, agencies can then make appropriate operational changes. FTA encourages establishing policies to drop off riders no more than 30 minutes before appointment times and no later than appointment times. Some transit agencies schedule drop-offs no later than 5 minutes before appointment times to allow riders time to get from vehicles to appointments.

#### Poor Telephone Performance

Despite the increasing use of other technologies, the telephone remains the primary means for complementary paratransit riders to request trips and to check on the status of a ride. Poor telephone performance can limit the availability of complementary paratransit service to ADA paratransit eligible riders and has the potential to constitute a capacity constraint under § 37.131(f)(3)(i). Properly functioning telephone systems for complementary paratransit have sufficient capacity to handle calls from riders, along with the appropriate staffing to answer calls in a timely manner; they do not have busy signals or excessively long hold times. For trip reservations, interactive voice response systems or online transactions offer alternatives to personal communications, but telephone calls with transit agency employees often remain the best communication method for many riders. Telephone conversations are especially helpful when riders have a complicated request or are checking on the status of a trip. (See Circular Section 2.8.3.) Promptly responding to trip-status calls for late pickups, commonly known as “where’s my ride?” calls, is especially important. Riders may not be in a suitable position to remain on hold while waiting for a response from transit agency representatives. Besides making reservations and checking on trip status, complementary paratransit riders may call transit agencies to:

* Cancel or revise previous reservations
* Confirm times for future trips
* Obtain information on eligibility and other service issues

While these calls may be less time sensitive than trip-status calls, good customer service also includes having the capacity to answer and respond to such requests in a timely manner.

Long secondary hold times can also be a constraint. Calls may be answered, but then put back on hold or transferred to another line where a long hold occurs. Tracking such secondary holds can be difficult and is typically done through first-hand observations of the service.

#### Setting Telephone Hold-Time Standards

To evaluate their telephone performance, many transit agencies have established performance standards for telephone hold times. An optional good practice is to define a minimum percentage (e.g., X percent) of calls with hold times shorter than a specific threshold (e.g., 2 minutes) and a second (higher) percentage (e.g., Y percent) of calls with hold times shorter than a longer threshold (e.g., 5 minutes). FTA discourages the use of performance standards based on average hold times over a defined period because doing so can mask poor performance at certain times. If using average hold times, however, it is important to narrow the period within which the averages are calculated. Measuring averages over an entire day, week, or month can obscure any issues. FTA recommends measuring averages over hourly periods. The standard using average hold times would then be set as a minimum percentage (e.g., X percent) of hours for which the average hold times are shorter than one threshold (e.g., 1 minute), and a second (higher) percentage (e.g., Y percent) of hours for which the average hold times are shorter than a second (higher) threshold (e.g., 3 minutes). When transit agencies direct calls to different lines depending on the purpose of the call (e.g., reservation lines and dispatch lines), applying these standards to all public lines provides transit agencies with a complete view of their phone service. Another optional good practice is for agencies to track performance for each telephone line separately.

#### Automatic Call Distribution Systems

Larger transit agencies use an automatic call distribution (ACD) system to measure the number and length of calls placed on hold. Besides assigning incoming calls to reservationists, such systems can measure hold times and the length of calls by time of day. These measurements enable agencies to analyze call patterns to determine the percentage of calls that exceeded the standard and identify when these calls took place. Based on this analysis, agencies can make suitable adjustments to reduce hold times. Smaller transit agencies—or the contractors who accept calls on their behalf—may not have ACD technology. Instead, they may have telephone systems that forward incoming calls to available open lines. When using this approach, FTA encourages agencies to use other methods to determine if calls are placed on hold. A simple way to test telephone capacity is to place calls from outside locations during the busiest times to see if there are busy signals or if the calls are placed on hold. Agencies can also make first-hand observations in the reservation office and manually record hold times. If hold times are excessive at particular periods during the week, FTA recommends first determining if sufficient telephone capacity and workstations exist to handle peak volumes. If the technology is sufficient, transit agencies might then add reservationists or reassign reservationists’ hours to better match peak demand.

#### Taking Calls in Languages Other Than English

Transit agencies that receive federal funds also have obligations under Title VI of the Civil Rights Act of 1964 for ensuring individuals with limited English proficiency (LEP) can access their programs and activities. These obligations are described in FTA’s Title VI Circular 4702.1B, Chapter III-6. Because of these requirements, and in response to customer needs, some agencies employ reservationists who have been assessed for competency in English and a non-English language. An insufficient number of reservationists available to respond to calls in the caller’s language can lead to longer-than-average hold times for these LEP callers and therefore may constitute a capacity constraint affecting this group. An agency may also decide to subscribe to a remote interpreter service that provides real-time interpretation in multiple languages.

#### Limiting the Number of Trip Requests per Call

Some transit agencies have adopted the policy of limiting the number of trip reservations per call to reduce the amount of time reservationists spend with each caller. However, if riders want to make more trip reservations than a policy allows for a single call, they will simply make multiple calls. This places an unnecessary burden on riders and leads to higher call volumes. Often, multiple trip requests occur because riders are scheduling repeat trips for the next several days and subscription service is not available or is limited. If this is the case, FTA encourages agencies to consider making subscription service available, or expanding the amount of subscription service provided. (See Circular Section 8.6.)

#### Discouraging Use of the Service

Other practices that discourage individuals from applying for or using complementary paratransit may also constitute capacity constraints. Here are some examples of actions that potentially limit service:

* A transit agency omits the availability of complementary paratransit service from its public information.
* A transit agency operates demand responsive service for senior citizens in addition to its complementary paratransit service. For individuals who are 65 years or older, the agency only provides an application for its senior service when these individuals inquire about travel options.
* An individual lives in a private senior housing community that provides a van service on weekdays between 8 a.m. and 5 p.m.

When that individual calls a transit agency to learn about how to get transportation on weekends, the agency suggests that they reschedule the trip for a weekday when the van service is operating. At the same time, FTA encourages transit agencies to coordinate their complementary paratransit services with their other services available for individuals with disabilities, as well as transportation services provided and/or funded by other public agencies and private organizations. Similarly, FTA encourages agencies to inform current and potential complementary paratransit riders of the range of transportation options available in their service area. FTA especially encourages agencies to establish travel training programs that promote the use of fixed route services for individuals who have the ability to use the fixed route for a portion of their trips. Making sure people are aware of their transportation options so that they can make informed decisions is very different from discouraging complementary paratransit use.

### 8.5.7 Identifying and Addressing Patterns and Practices in Capacity Constraints

For any of the capacity constraints discussed earlier in this chapter, either due to policies or resulting from operational practices, FTA encourages transit agencies when monitoring their service delivery to consider performance, not only in terms of systemwide percentages and frequency, but to also in terms of potential patterns. Agencies can search for instances of patterns of poor service in the following areas:

* Certain portion(s) of the service area
* Certain destinations
* Certain day(s) of week or time(s) of day
* Ambulatory versus non-ambulatory riders (particularly when using a mix of accessible and inaccessible vehicles)
* Certain individuals Below are several examples of patterns of poor service quality that are not necessarily apparent at the system level.
* A transit agency’s on-time pickup performance might be very high on a systemwide basis. However, a more detailed analysis of performance may indicate that on-time performance on weekday mornings is significantly lower, or that trips for riders who need accessible vehicles have much lower rates of on-time performance. A reallocation of existing resources might remedy this problem, but in some cases this situation might require additional resources.
* A transit agency’s overall telephone hold time might be very good. However, particular hours during the week may have significantly longer average hold times. This may result from higher call volume and/or lower staffing levels during these hours. An agency can review these and other components of its complementary paratransit service for subsets of riders to identify potential patterns of poor service quality that could deny or limit service for them, and potentially discourage use of the service.

### 8.5.8 Circumstances Beyond a Transit Agency’s Control

As stated in § 37.131(f)(3)(ii), certain causes of poor complementary paratransit service are beyond a transit agency’s control and, therefore, are not causes for determining whether a pattern or practice exists. These situations include, for example, severe inclement weather, unpredictable traffic delays, and occasional vehicle breakdowns. Although it is not possible to plan for all conditions that disrupt service, FTA encourages agencies to plan for disruptions or delays as follows:

* Rain or snow may cause vehicles to fall behind schedule. However, if there is snow on the roads from a previous storm, transit agencies can adjust schedules to account for slower vehicle speeds.
* Some traffic conditions cannot be anticipated. However, transit agencies can base their run schedules on the assumption that vehicles travel at lower speeds during peak periods—just as fixed route schedules assume longer travel times during the morning and afternoon peaks—or can determine where and when heavy traffic is predictable and incorporate such delays into scheduling.
* While vehicle breakdowns cannot be anticipated, many transit agencies have readily available backup capacity that allows for rapid response when breakdowns occur, such as “floater” vehicles, backup drivers, or supervisors who can respond with spare vehicles. Agencies can also contract with other providers for backup service on an as-needed basis. An excessive number of breakdowns may be due to poor maintenance practices or running vehicles past their useful lives. Such instances are within transit agencies’ control and are not justifications for poor performance.

### 8.6 Subscription Service Requirement

“[Part 37] does not prohibit the use of subscription service by public entities as part of a complementary paratransit system, subject to the limitations in this section” (§ 37.133(a)). “Subscription service may not absorb more than fifty percent of the number of trips available at a given time of day, unless there is non-subscription capacity” (§ 37.133(b)). “Notwithstanding any other provision of [Part 37], the entity may establish waiting lists or other capacity constraints and trip purpose restrictions or priorities for participation in the subscription service only” (§ 37.133(c)).

#### Discussion

This requirement establishes the parameters for implementing subscription service as a method of efficient reservations and scheduling for trips with a repeated pattern—same origin and destination, same pickup or drop-off time, and same day(s). Riders subscribe to the service once and then transit agencies provide the repeated service. Some agencies require riders to make a minimum number of trips per week to qualify for subscription service. Typical uses for subscription service include:

* Traveling to work or school each weekday
* Traveling to dialysis or other medical appointments several times per week
* Traveling to religious services once per week After riders and transit agencies set up the subscription service, there is no need to make further arrangements until a rider’s travel needs change.

Subscription service is helpful both to transit agencies and the riders who receive it. For agencies, such service provides predictability for a portion of their service, so they can assign these trips to vehicle runs in advance. Because riders only have to call once, subscription trips make traveling easier for riders and can lower call volumes for agencies. While subscription service is generally beneficial, requests may need to be reviewed for efficiency. Some trips may run counter to the typical travel flows and may then not be able to be effectively grouped with other requests. In addition, placement of subscription trips on the most efficient runs may also change over time. An optional good practice is to have schedulers regularly review requests for subscription service and to actively manage subscription trips that have been accepted. Subscription trips are still complementary paratransit trips. Even if transit agencies choose to reserve and schedule certain trips in this way, trips reserved and scheduled on a subscription basis remain subject to the regulatory requirements pertaining to service performance (e.g., agencies must ensure trip lengths are comparable to the fixed route and pickups are timely).

8.6.1 Limits on Subscription Trips Under Certain Circumstances Section

37.133(b) allows a transit agency to provide subscription service as any proportion of its total complementary paratransit service as long as it has capacity for demand trips (i.e., non-subscription trips). However, when agencies experience capacity constraints on particular days or times, then subscription service may not absorb more than 50 percent of the number of trips available at a given time of day. For example, if an agency only has the capacity to provide 50 complementary paratransit trips between 8 a.m. and 9 a.m. Mondays, then the number of subscription trips during that period is limited to 25, since capacity constraints are present during that hour. Some agencies limit subscription service to 50 percent of available capacity even if they never experience capacity constraints.

8.7 Exceeding Minimum Requirements (Premium Service) Requirement

“Public entities may provide complementary paratransit service to ADA paratransit eligible individuals exceeding that provided for in this section. However, only the cost of service provided for in this section may be considered in a public entity’s request for an undue financial burden waiver under §§ 37.151– 37.155 of [Part 37]” (§ 37.131(g)).

#### Discussion

The following are examples of services that can be viewed as a form of premium service:

* Same-day trips
* “Will-call” trips
* Trips beyond the defined service area
* Trips before or after the established service hours

Because premium services are optional under § 37.131(g) and otherwise do not fall under the complementary paratransit requirements, transit agencies may charge higher fares for premium service trips. For example, agencies may charge higher fares for trips requested on the same day of service. The exact fare for this extra service is a local decision. In addition, transit agencies have the option to limit premium service to certain types of trips, where such a distinction would not be allowed for standard complementary paratransit service. For example:

* An agency provides out-of-area service, but only for trips associated with appointments to regional medical centers.
* An agency’s regular service hours on weekdays begin at 5 a.m., but its complementary paratransit service makes earlier pickups for riders going to dialysis treatment.

It is important to ensure that providing premium service does not lead to lower service quality for riders using the regular complementary paratransit service. For example, providing trips beyond the minimum service area is inadvisable if doing so might limit the service quality for trips within the 3/4-mile service area. FTA recommends that transit agencies obtain public input when developing premium services, particularly when imposing premium fares. For more information on exceeding minimum requirements, see FTA Bulletin “Premium Charges for Paratransit Services.”

### 8.8 Complementary Paratransit Plans

Most of the Part 37 Subpart F requirements for complementary paratransit plans and related updates in §§ 37.135–37.155 pertain to transit agencies’ transitions to compliance with the regulations, from issuance of the requirements in 1991 to full compliance by 1997. In 1996, DOT amended the regulations to eliminate the requirement for annual updates to complementary paratransit plans. While some agencies may continue to update their plans for their own internal planning purposes, the annual updates are no longer required under the regulations. Because the need to develop a complementary paratransit plan is now rare, this Circular does not discuss plan requirements in depth. There are three circumstances, however, where an agency may still be required to prepare a paratransit plan:

* An agency is starting up a new fixed route service that will require complementary paratransit service.
* A previously compliant transit agency has determined that it is falling short of compliance and reported the change in circumstances to FTA, as required.
* FTA determines or believes a transit agency may not be fully complying with all service criteria.

FTA notes that transit agencies are required to implement complementary paratransit service at the same time they introduce new fixed route service; implementation of complementary paratransit at a later date is not permitted.

#### Ongoing Public Participation Requirement

“Ongoing requirement. The entity shall create an ongoing mechanism for the participation of individuals with disabilities in the continued development and assessment of services to persons with disabilities. This includes, but is not limited to, the development of the initial plan, any request for an undue financial burden waiver, and each annual submission” (§ 37.137(c)).

#### Discussion

A transit agency must have ways to obtain feedback from the disability community on its paratransit service. Examples of ongoing participation mechanisms include citizen or rider committees and holding periodic meetings and workshops. This input is very important when transit agencies are considering modifications to complementary paratransit service policies, particularly when such modifications result in reductions in service. In addition, when considering fare increases or major reductions in service, there are § 5307 requirements for public comment on fare and service changes. The law requires transit agencies receiving § 5307 urbanized area formula grants to certify that they have “a locally developed process to solicit and consider public comment before raising a fare or implementing a major reduction of public transportation service” (49 U.S.C. § 5307(d)(1)(I)). A major reduction in fixed route service must also include consideration of the impact on complementary paratransit service.