



## Rail Law Alert – FTA Announces Guidance re: Compliance with ADA

10.05.15

### FTA Announces Extensive Guidance Covering Compliance with Americans with Disabilities Act

The Americans with Disabilities Act of 1990 (ADA) prohibits discrimination against people with disabilities in employment, transportation, public accommodation, communications, and governmental activities. Public transportation agencies receiving federal funding are required to comply with the ADA, and, as applicable, with Department of Transportation (DOT) and Federal Transit Administration (FTA) regulations implementing the ADA.

On October 5, 2015, FTA issued a notice of availability of a circular detailing its requirements for grantees under the ADA. Americans With Disabilities Act: Final Circular, 80 Fed. Reg. 60,224 (Oct. 5, 2015). Circular 4710.1 becomes effective November 4, 2015. The final draft of Circular 4710.1 comes after FTA issued various sections of the draft circular in several phases starting in October 2012 (see 77 Fed. Reg. 60,170 (Oct. 2, 2012); 79 Fed. Reg. 9,585 (Feb. 19, 2014); 79 Fed. Reg. 67,234 (Nov. 12, 2014)). The final Circular reflects a number of changes to clarify positions and respond to public input on draft chapters of the circular. In releasing Circular 4710.1, FTA emphasizes that it is merely providing additional guidance regarding compliance with ADA, and is not creating new requirements for grantees. In the Circular, FTA has endeavored to clearly differentiate between existing regulatory requirements and non-mandatory best practices.

Several sections of Circular 4710.1 are particularly relevant for owners and operators of passenger rail systems, either because they apply generally to all FTA funding recipients or because they deal specifically with passenger transportation by rail. These include:

- Regulatory Scope and Applicability. Chapter One provides an overview of FTA and DOT regulations concerning the ADA and the scope of FTA's jurisdiction over various modes such as commuter rail and rapid and light rail. Chapter One provides a table indicating which regulations apply to each mode, and also includes discussion of the applicability of grantees' ADA requirements to contractors.
- Generally Applicable ADA Requirements. Chapter Two discusses the general ADA requirements with which each grantee must comply, including the extent to which accommodation must be made, grounds for denying access, permissibility of reasonable modifications, and duties to maintain equipment required for accommodation.
- Guidance on Accessible Facilities. Chapter Three covers ADA requirements governing passenger transportation facilities, including rail stations and platforms. It includes discussion of the regulations and standards that are applicable to both new and modified facilities. This chapter provides extensive guidance on passenger rail platforms, which was recently the subject of DOT regulatory revisions.
- Rail Vehicle Acquisition. Chapter Four, concerning vehicle acquisition, includes guidance on the accessibility requirements for rapid, light, and commuter rail car acquisitions.
- Equivalent Facilitation. Chapter Five discusses DOT's interpretation of the provision under ADA permitting equivalent facilitation using alternative designs or technologies that do not strictly comply with ADA standards but that provide equal or greater accessibility. Grantees must seek FTA permission to provide equivalent facilitation. Chapter Five includes a list of dos and don'ts for requesting equivalent facilitation.



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- Fixed Route Service Requirements. Chapter Six provides an overview of ADA requirements for fixed-route services, including priority seating, boarding and disembarkment time, stop announcements, and route identification.
- FTA Oversight and Monitoring. Chapter Twelve provides guidance regarding FTA's oversight and enforcement of ADA requirements.