



**U.S. Department of
Transportation**
Office of the Secretary
of Transportation

GENERAL COUNSEL

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**49 CFR §§37.41-43; 37.9(a), (d);
49 CFR Part 37, App. A (810.5.3)**

DECEMBER 14, 2011

QUESTION:

WHEN A RAIL OPERATOR CONSTRUCTS A NEW STATION PLATFORM OR ALTERS AN EXISTING STATION PLATFORM, DOES 49 CFR PART 37 REQUIRE THE RAIL OPERATOR ENSURE THAT THE PLATFORM IS AT LEAST 8 INCHES ABOVE TOP OF RAIL, EVEN IF THE RAILROAD OPERATOR WILL PROVIDE ACCESSIBILITY CONSISTENT WITH THE REQUIREMENTS OF SECTION 37.42?

ANSWER:

- Public entities, such as Amtrak and commuter operators, must construct a new facility for use in designated public transportation so that it is readily accessible to and usable by persons with disabilities (see sec. 37.41(a)). Likewise, when a public entity alters an existing facility or a part of such a facility, the entity must make the alterations in such a way that the altered part of the facility is readily accessible to and usable by persons with disabilities (see sec. 37.43(a)(1)). This latter requirement also specifically applies to alterations of an intercity or commuter rail station by its owner, the “responsible person” for the station, or a person in control of the station (see sec. 37.43(a)(3)).
- A transportation facility is considered to be accessible if it meets the Americans with Disabilities Act Accessibility Guidelines (ADAAG; see 36 CFR Part 1191, including Appendices B and D), as modified by Appendix A to Part 37.
- Appendix A to Part 37 (see section 801.5.3) provides that low-level platforms in rail stations must be at least 8 inches above top of rail (ATR). We note that there may be rare situations in which meeting this requirement is impracticable (e.g., there is a highway grade crossing intersecting the platform). FRA and/or FTA will address such unusual situations on a case-by-case basis, as needed.
- Because of these requirements, when an intercity or commuter railroad constructs or alters a platform, it must ensure the platform is at least 8 inches ATR. Note that alterations to parts of a station other than the platform do not trigger this requirement.

- In addition to this basic facility accessibility requirement, section 37.42 requires a railroad that alters a station platform and does not provide level boarding to ensure that passengers with disabilities can board any accessible car of a train available to other passengers at that station, using means including car-borne lifts, station-based lifts, or mini-high platforms. Meeting this requirement does not exempt the railroad from the separate requirement to ensure that an altered or newly constructed platform is at least 8 inches ATR.
- While a platform 8 inches above ATR generally does not provide level boarding, a platform at this height does facilitate boarding by ambulatory passengers, including passengers (e.g., elderly persons) who might have difficulty ascending a vertical distance greater than the normal vertical gap between an 8-inch ATR platform and the first step of a railroad car.

The General Counsel of the Department of Transportation has reviewed this document and approved it as consistent with the language and intent of 49 CFR Part 37.