

Accessibility for All: The Impact of ADA on Transportation Decision Making

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Overview

- Effects of transportation policy
- Access Board initiatives

A trip down memory lane



Special Efforts (1976-79)

- Good faith efforts must be made to provide transportation to individuals with disabilities that is reasonable in comparison to persons without disabilities and which meets a significant fraction of their needs in a reasonable time period

Full Access (1979-81)

- All new transit vehicles and train stations were required to be accessible; retrofitting of existing vehicles and stations were required so that within 10 years 50 percent of a bus fleet would be accessible and "key" rail stations would be accessible within 3-30 years depending on the type of station

Local Option (1981-86)

- After APTA v. Lewis struck down the full access regulations, DOT issued interim local option regulations that permitted local transit agencies to decide how to provide access (accessible fixed route service or paratransit service, or some combination of those approaches)

Comparability (1986-91)

- A 1982 GAO report showed that significant barriers remained. Only 30 of the 83 bus systems intended to reach full accessibility. Paratransit services were not providing sufficient access. Congress passed the Surface Transportation Assistance Act of 1983 and required DOT to issue new regulations establishing minimum criteria for accessible transportation services by recipients of federal funds.
- In 1986, DOT issued final comparable service regulations with three choices: purchase only buses with lifts; provide paratransit that meets certain service criteria subject to a 3% cost cap; or provide a combination of both forms of service. In *ADAPT v. Burnley*, the U.S. Court of Appeals for the 3rd Circuit ruled that the cost cap was arbitrary and transit systems must purchase accessible buses.



Americans with Disabilities Act (1990-present)

- The Americans with Disabilities Act (ADA) settled the policy debate about how to provide transportation to people with disabilities

Effects of transportation policies

POLICY ERA	PERCENTAGE
NO POLICY (prior to 1976)	4.4
SPECIAL EFFORTS (1976-79)	12.2
FULL ACCESS (1979-81)	61.5
LOCAL OPTION (1981-86)	43.3
COMPARABILITY (1986-91)	62.8
ADA (1991-current)	100

History of the ADA

- ADAPT played a major role in gaining passage of the ADA, particularly accessible transit; passage of the ADA meant victory for ADAPT in the struggle for lifts on buses



- Once the transit issue was won, ADAPT made attendant services its next issue. ADAPT now stands for **American Disabled For Attendant Programs Today**

Progress Has Been Made

- Today, 98 percent of fixed route buses are accessible
- 87% of the public supports the principle that new public transportation vehicles must be accessible (*Harris Poll; July 26, 2003*)

But...more work remains

- The ADA required Amtrak stations to be accessible by 2010.
- According to an August 2011 Amtrak report, 481 of Amtrak's stations come with an ADA obligation and by the end of 2011, 90% of the stations were to have barrier-free access between the train and the station platform
- But, much of this access will depend on hand operated mobile crank lifts that are not independently operable by people with disabilities.

But...more work remains

- In Washington, DC there are only 20 wheelchair accessible taxis
- In New York City there are about 230 out of a fleet of 13,237
- In London, England metropolitan legislation has required all new taxis to be wheelchair accessible since 1989



Air Carrier Access Act (1986)

- Prohibits discrimination in air transportation by domestic and foreign air carriers against qualified individuals with physical or mental impairments.
- DOT regulations (1990 et seq.) address a wide range of issues including boarding assistance and certain accessibility features in newly built aircraft and new or altered airport facilities.

Air Carrier Access Act

- Boeing's new 787 Dreamliner includes an accessible bathroom; the first 787 was delivered in September 2011



Air Carrier Access Act

- Carriers must permit one folding wheelchair to be stowed in a cabin closet, or other approved priority storage area, if the aircraft has such areas and stowage can be accomplished in accordance with FAA safety regulations.
- But a pending rule would institutionalize the practice of “seat-strapping”

Access Board Programs

- Guidelines and standards development
 - Architectural Barriers Act (1968)
 - Americans with Disabilities Act (1990)
 - Telecommunications Act (1996)
 - Rehabilitation Act Amendments (1998)
 - Patient Protection and Affordable Care Act (2010)
- Technical assistance and training
- Research
- ABA enforcement

ABA Enforcement

- Complaint process
- On-line form
- About 75 cases opened each year



ABA Coverage

- Applies to facilities designed, built, altered or leased with Federal funds
 - Federal buildings (e.g., post offices)
 - Non-Federal buildings (e.g., school designed and built with Federal money)

Completed Rulemakings

- ADA Accessibility Guidelines (1991)
Supplements:
 - state and government facilities (1998)
 - children's environments (1998)
 - play areas (2000) and recreation facilities (2002)
- Transportation Vehicles (1991)
- Telecommunications Access (1998)
- Electronic & Information Technology (2000)
- Updated ADA-ABA Guidelines (2004)

Rulemaking in Development

1. Outdoor Developed Areas
2. Passenger Vessels
3. Public Rights-of-Way
4. Transportation Vehicles
5. Information and Communications Technology
6. Self-Service Transaction Machines
7. Emergency Transportable Housing
8. Medical Diagnostic Equipment
9. Shared Use Paths
10. Classroom Acoustics

Passenger Vessels

New guidelines for passenger vessels,
including cruise ships, gaming boats, ferries



Passenger Vessels

- First draft of guidelines – November 26, 2004
- Second draft of guidelines – July 7, 2006
- Third draft of guidelines – June 26, 2008
- Numerous information meetings and vessel visits
- Passenger Vessel Emergency Alarms Advisory Committee report – September 10, 2008
- Board approved proposed rule – January 11, 2012
- **Next step – OMB review**

Public Rights-of-Way

New guidelines will cover:

- Sidewalks
- Crossings
- Curb ramps and detectable warnings
- Pedestrian signals
- On-street parking
- Work zones
- Roundabouts



Public Rights-of-Way

- First draft of guidelines – June 17, 2002
- Public hearing – October 8, 2002
- Second draft of guidelines – November 23, 2005
- Proposed rule – July 26, 2011
- **Next step – final rule**

Vehicle Guidelines Update

Update of ADA
guidelines (1991) for:

- Buses
- Vans
- Rail cars
- Other modes



Vehicle Guidelines Update

- First draft of guidelines – April 11, 2007
- Public hearings
- Second draft of guidelines – November 19, 2008
- Proposed rule – July 26, 2010
- Information meetings on ramp slope
- **Next step – final rule**

*This rulemaking updates the guidelines for buses and vans;
a subsequent rule will address rail vehicles*

Information Communications Technology

Joint update of:

- Section 508 standards for electronic and information technology (procured by Federal agencies)
- Section 255 guidelines for telecommunications products

Information Communications Technology

- Advisory Committee report – April 3, 2008
- Advance notice of proposed rulemaking – March 22, 2010
- Public hearings
- Second advance notice of proposed rulemaking – December 8, 2011
- **Next step – proposed rule**

Self-Service Transaction Machines

- In November 2010, the Board decided to separate the rulemaking on ADA self-service transaction machines from the rulemaking on information and communication technology



Self-Service Transaction Machines

- The Departments of Transportation (DOT) and Justice (DOJ) are undertaking related rulemakings that present an opportunity to work collaboratively to develop a single set of technical requirements that would be referenced and scoped by each agency
- **Next step – proposed rule**

Shared Use Paths

- The design, construction, and use of shared use paths differs from trails and sidewalks
- Shared use paths often serve recreational purposes while providing off-road transportation routes for pedestrians, cyclists, roller skaters, and others

Shared Use Paths

- Information meeting – September 13, 2010
- Advance notice of proposed rulemaking – March 28, 2011
- **Next step – supplemental notice of proposed rulemaking**



www.access-board.gov

- All Board publications
- Guidance material
- Links to resources
- Submit ABA complaints
- Sign-up for newsletter
- Webinar series
- On-line guide to the ADA and ABA Accessibility Guidelines



The screenshot shows the United States Access Board website. The header includes the board's name and tagline, "A Federal Agency Committed to Accessible Design", along with navigation links for Home, Site Map, and Contact Us. Below the header is a search bar and a list of categories: Communications (Section 508, Telecommunications, Classroom Acoustics), Facilities (ADA Standards, ABA Standards, Emergency Housing, Outdoor Areas), Pedestrian Networks (Public Rights-of-Way, Shared Use Paths), Transportation (Vehicles, Transit Facilities, Passenger Vessels), and Equipment (Medical Diagnostic Equipment). The main content area features several news items with dates, such as "Vehicle Guidelines" (August 20), "Drug Label Access" (July 13), "MDE Committee" (July 5), "Emergency Housing" (June 18), "Diagnostic Equipment" (February 9), "ICT Hearing" (January 12), "ICT Draft Rule" (December 8), "Rights-of-Way Rule" (December 5), "Board Member" (September 6), and "Board Member" (August 23). A small image of a white portable building is shown next to the "Emergency Housing" article. On the right side, there are links for "Sign Up for free updates", "POPULAR LINKS" (ADA Standards, 508 Refresh, Webinars, Courtroom Access, Video Access, Emergency Issues, Board Meetings), "ON-LINE SERVICES" (Webinar, Publications, Etc as ABA Consultant), and "En Español".