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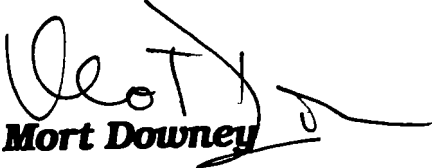
**U.S. Department of
Transportation**
Office of the Secretary
of Transportation

The Deputy Secretary

December 28, 1993

NOTE TO STANLEY HERR:

***This is a final, internally coordinated
version of what I sent you last fall--no
significant changes, but it just emerged
from the bureaucratic clearance process.***


Mort Downey

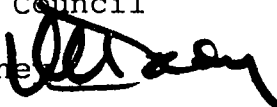


THE DEPUTY SECRETARY OF TRANSPORTATION

WASHINGTON, D.C. 20590

DEC 28 1993

MEMORANDUM FOR: Stanley Herr
Domestic Policy Council

FROM: Mortimer L. Downer 

SUBJECT: Department of Transportation Activities
in Improving Transportation Accessibility

The following is the Department of Transportation (DOT) report on what has been accomplished and our future directions in removing barriers to persons with disabilities who wish to use the Nation's transportation system.

ACCESSIBILITY GOALS

The following goals are drawn from our governing statutes and implementing regulations:

- . to work towards a barrier-free environment for all who desire to travel, that will foster increased employment, educational and social opportunities for some 40 million Americans with disabilities;
- . to ensure that travelers with disabilities will be treated without discrimination;
- . to ensure or encourage the training of all transportation employees who have contact with the public so that they can provide needed services to passengers in an appropriate way;
- . to work with public and private providers of transportation services, professional organizations and consumers in improving accessibility to transportation for the disability community; and
- . to ensure that DOT enforces national transportation accessibility regulations and standards and makes its own facilities and services accessible.

INTRODUCTION

The Department's activities in this area are governed by the Americans With Disabilities Act (ADA) of 1990, the Air Carrier Access Act (ACAA) of 1986 and section 504 of the Rehabilitation

Act of 1973 (section 504). These statutes also provide a basis for technical standards that define accessible facilities and vehicles.

The following provides a brief overview of what has been accomplished to date. More details are provided in the subsequent sections.

- . In aviation, disabled travelers can use the air transportation system with much less difficulty than was true 10 years ago. Airports are far more accessible and new aircraft must have features such as movable armrests on aisle seats, special wheelchairs to permit easy boarding and movement in the cabin, and, in some cases, accessible lavatories.
- . In mass transit, every Federally subsidized system provides some type of service usable by disabled and elderly passengers. Accessibility improvements are appearing rapidly, in the form of bus lifts, vehicle ramps, and door-to-door paratransit vans for persons unable to use fixed-route service. Rail transit systems are upgrading their key stations and buying railcars with accessible devices. The Federal Transit Act requires any fixed-route transit system receiving Federal operating assistance to charge elderly and disabled passengers one-half the standard fare in non-peak periods.
- . Intercity rail service is becoming generally accessible; one car per train must be accessible by 1995, and Amtrak's existing stations must be modified by 2010. Elderly and disabled passengers travel at a 25 percent discount, subject to certain restrictions.
- . For streets and highways, new Interstate and other rest areas funded with Federal aid must be accessible. Streets and highway pedestrian facilities being constructed, renovated and altered with Federal aid are being brought into conformance through installation of curb cuts that will accommodate wheelchairs.
- . Intercity buses currently have few accessibility features, and the Department has published an ANPRM soliciting opinion on how to make them accessible. The DOT rule will take effect by the ADA deadlines of 1996 and 1997.
- . In the maritime area, the Department is planning preparatory research, and expects to begin rulemaking in about a year that would implement ADA requirements for accessible marine vessels (ranging from ferry boats to cruise ships) and facilities.

The Department provides information and interpretation of DOT's accessibility regulations to travelers with disabilities and responds to complaints about non-compliance on a continuing basis. As a statutory member of the Architectural and Transportation Barriers Compliance Board (Access Board), the Department participates in formulating policy and standards for accessibility

requirements. It also provides information and technical assistance on the special transportation needs of persons with disabilities to planners, architects, designers, and providers of transportation services.

Although much work has been accomplished, the task is far from complete. The following sections present a detailed account of the status, future initiatives, anticipated costs and state of compliance for each mode of transportation.

AVIATION

Status - In the Nation's air transportation system, many barriers to persons with disabilities have now been eliminated:

- Airport Facilities - Federally assisted airports and all air carrier-operated terminal facilities being built or altered must be made accessible. Required accessibility features pertain to such items as accessible parking, baggage services, signage, water fountains, bathrooms, ticket counters, and information/telecommunications devices. There must be an accessible path from the front door of the terminal to each boarding gate, including loading ramps, boarding bridges, lifts or mobile lounges to all aircraft with 30 or more seats. All Federally assisted airports are generally in compliance with DOT's requirements. Places of public accommodation within the airports are covered under Department of Justice (DOJ) ADA Title III regulations.
- Aircraft - DOT's ACAA rule requires new aircraft delivered after April 5, 1992, to have the following accessibility features:
 - Movable aisle armrests: required on 50 percent of aisle seats in new and refurbished aircraft with 30 or more seats. By the end of 1993, we estimate 400 to 800 new and refurbished aircraft will have roughly 6,500 to 13,000 such armrests installed, about 10 to 20 percent of the fleet. All such aircraft should be so equipped by the year 2000. Very few aircraft with less than 30 seats have armrests.
 - Aisle wheelchairs: required on aircraft with 60 or more seats and an accessible lavatory, or upon passenger request. Just about all such aircraft are now equipped with on-board wheelchairs.
 - Cabin stowage: space for at least one passenger's folding wheelchair required on all new aircraft with over 99 seats. We estimate about 200 such new aircraft have cabin stowage space large enough for one folding wheelchair. Many existing aircraft also have adequate space for a wheelchair in a coat closet or other areas.

- Accessible lavatories: required on twin-aisle aircraft (typically 200+ seats). We estimate only a few new twin-aisle aircraft will have been delivered with fully accessible lavatories by the end of 1993. A DOT Federal Advisory Committee, which met over the last year, has circulated for internal committee comment a draft report on the feasibility and costs (\$20,000 to \$150,000) of installing accessible lavatories on single-aisle aircraft with over 100 seats.

- Passenger Services - All carriers, upon request, must now provide disabled passengers with special assistance in boarding, deplaning, and connecting with flights (including hand-carrying onto aircraft larger than 30 seats, if no other means of boarding exists). In the cabin, passengers' wheelchairs and other assistive devices are given priority stowage over carry-on baggage. Passengers with battery-powered wheelchairs are routinely accommodated (with few exceptions due to baggage compartment limitations or safety), and spillable batteries are placed in hazardous materials packages at no charge. Carriers are required to designate Complaints Resolution Officials to resolve complaints and respond to inquiries by persons with disabilities. Some carriers, but not all, have chosen on a voluntary basis to provide requesting passengers with medical oxygen, stretchers, incubators, or respirators on their aircraft, at an additional charge in some cases.

- Training - DOT's ACAA rule requires all carriers operating aircraft with more than 19 seats to provide carrier and contract employees having contact with the public with sensitivity training, as well as education to proficiency about DOT's accessibility regulations and proper and safe operation of equipment for travelers with disabilities.

- Consumer Guidance on ACAA Regulations - Since January 1992, about 35,000 copies of a booklet, "New Horizons for the Air Traveler with a Disability," developed by DOT to help disabled travelers understand their rights to accessible air travel, have been mailed to advocacy groups, the air travel industry and the public. The Department also distributes a two-page fact sheet summarizing these regulations.

Compliance - The Department monitors air carrier compliance through complaints. (DOT staff takes complaints from the public on airline service issues and conducts follow-up investigations with carriers.) Between April 5, 1990 (the effective date of DOT's ACAA rule) and the end of August 1993, 678 complaints have been filed with DOT. These include such issues as improper handling or packaging of wheelchairs and their batteries, denial of boarding assistance, refusal of some airlines to provide oxygen aboard their planes (not required by our regulations) and carrier personnel who are not trained adequately to comply with the various provisions of the ACAA regulations.

In each instance, DOT verifies that the carrier has responded and taken appropriate corrective action, where necessary. Such complaints are also routinely reviewed to determine the extent to which carriers are in compliance with the regulations. The Department also uses these complaints to track trends or spot areas of concern which may warrant further action with carriers in the future. Cases in which serious or recurrent violations of the regulations are found are referred to the Department's enforcement office. Since the enactment of the regulations, the Department has taken enforcement action against four major airlines for violations of the rules. DOT also receives about 10 complaints per year alleging that some part of an airport facility does not comply with accessibility regulations, and DOT conducts follow-up investigations with airports and carriers to resolve such complaints.

Coming Initiatives - When DOT issued its 1990 ACAA regulations, there was no safe, efficient way for wheelchair passengers to board and leave small commuter aircraft (primarily those with 19 to 30 seats). As a result, the ACAA regulation does not require boarding assistance for those aircraft, if hand-carrying is the only form of assistance available. This has resulted in instances of disabled travelers being denied boarding assistance on commuter flights.

Private sector firms have now developed a series of external lifts that have tested satisfactorily on most (but not all) commuter aircraft in the 19 to 30 seat range. These devices range in cost from \$13,000 to \$37,000. In September 1993, DOT published a proposed rule to jointly require commuter air carriers and operators of roughly 545 airports to acquire lift devices or other equipment to board passengers with mobility impairments onto such aircraft by 1997. DOT expects to publish a final rule by Spring 1994. Currently, we estimate about 50 airports have voluntarily purchased lift devices for these aircraft. The lifts are not designed for aircraft with below 19 seats, but the proposed rule would require their use on such aircraft where feasible.

The Department must also determine how it will resolve problems for passengers requiring medical oxygen. FAA regulations prohibit airline passengers from carrying their own supply of medical oxygen on board aircraft. It is provided by some airlines, at costs ranging from \$50 to \$75 per flight. The apparatus must be surrendered, however, at the gate upon arrival. If passengers must lay over at an airport, medical oxygen is generally not available for use in the terminal. While airlines and terminals are not required to provide oxygen, many such travelers feel they are being denied access to the Nation's air transportation system. The Department has asked for comments in a recent NPRM about how better to serve the needs of those who require medical oxygen, as well as the handling of wheelchair batteries.

Cost - The Department estimated industry compliance cost to meet its ACAA rule's aircraft accessibility and training requirements at roughly \$19.7 million per year (1990\$). Estimates of total costs to the aviation industry to provide boarding equipment would range from \$1.0 million to \$8.3 million (1993\$) per year (based on alternative assumptions about the number of lifts and boarding chairs needed per airport).

MASS TRANSIT

Status - In accordance with DOT's ADA regulations issued September 6, 1991, every Federally subsidized transit system currently provides some type of accessible service usable by passengers with disabilities. The phased-in implementation of the ADA is on schedule, and no major problems have been encountered. The transit industry has held thousands of meetings with persons with disabilities, involving them in their system planning and fostering a new community of trust.

- Accessible Vehicles - Under the ADA, all new, used and refurbished transit buses, vans with over 16 seats, and railcars for which a solicitation for purchase was made after August 25, 1990, must be accessible. In demand responsive service (e.g., dial-a-ride), an operator can provide equivalent service in lieu of acquiring all new accessible vehicles.
 - Buses: Out of a total active fleet of about 52,500 fixed-route buses in excess of 24 seats, operated by 458 Federally assisted transit agencies in urbanized areas (over 50,000 population), roughly 50 percent, or 26,000 buses, are now lift-or ramp-equipped, versus 35 percent prior to the ADA. DOT estimates the fleet will be 100 percent accessible in 405 urbanized areas by 2001.
 - Railcars: Under ADA, rapid, light and commuter rail operators must provide one accessible car per train by 1995. As of year-end 1991, the total transit rail fleet consisted of 8,106 rapid railcars, 811 light railcars, and 3,989 commuter railcars. Currently, all rapid railcars are accessible to wheelchair users, though many do not satisfy ADA requirements for accessible features to facilitate use by persons with vision and hearing impairments (e.g., exterior speakers). There are greater accessibility problems with many current light and commuter rail systems.
- Paratransit - DOT has completed review of plans required from transit agencies covering a 5-year phase-in of paratransit services, for persons with disabilities unable to use fixed-route systems. Despite the effect of the recent recession on local tax revenues, only two of the 540 systems submitting paratransit plans to the DOT in the first year requested a waiver due to undue financial burden (Richmond, VA and Suffolk

County, NY), and both were denied. However, waiver requests are expected to increase significantly as we approach the end of the phase-in period in 1996.

By year-end 1993, the second year of the phase-in period, over 100 of the 540 ADA paratransit areas have indicated that they are planning to be in full compliance. The remaining 440 areas are expected to complete paratransit system implementation by year-end 1996. It is still too early in the implementation timetable to determine whether lack of funding for paratransit will prove a major problem in transit agencies, all of which are dependent on existing Federal, state and local funds. Many paratransit systems are encountering problems because they now find they may have to deny service to able-bodied elderly patrons previously served on the basis of age, but who are no longer required to be eligible under ADA guidelines.

- Key Rail Stations - A key station is one that has particular importance to users (e.g., because it is a transfer point between lines, generates a high volume of demand, or interfaces with other transportation modes). We estimate about 500 of the 708 key stations are now wheelchair accessible.

Time extensions beyond ADA's required July 1993 compliance date have been granted by DOT for 284 key rail stations. Some key station extensions run until 1999; others extend up to 2020; and some dates are still being determined. As key station implementation proceeds, lack of funding to accommodate major modifications may be a problem, because rail operators must stretch existing Federal, state and local funds for regular transit service to cover ADA station improvements. Aside from granting time extensions authorized by ADA for extraordinary key station expenses, DOT also proposed to nearly fully fund authorized levels for the FY 95 mass transit program, in part to help remedy some of the ADA funding concerns.

The Department has decided to extend the deadline for installation of detectable warning strips on rail platforms from July 1993 to July 1994. DOT explicitly recognized the safety importance of detectable warnings to visually impaired passengers, but believed that rail systems needed additional time to solve practical problems concerning the installation and maintenance of such strips.

Cost - Over the FY 1995-FY 1999 period, ADA costs to the Nation's public fixed-route operators should total about \$900 million annually, or about four percent of all public transit costs. Annual costs are then expected to drop to \$800 million following the year 2000 after most key rail stations are made accessible (the one-time capital cost estimates are \$907 million for 12 rapid rail operators, 10 commuter rail systems, and 14 light rail

systems for 708 key stations). Recurring capital and operating costs of complementary paratransit service are estimated to be \$700 million per year. Lifts on buses and vans cost about \$50 million per year, and railcar modification costs are estimated at about \$15 million per year. In the 1991-2000 decade total costs for ADA mass transit compliance are estimated at \$7.3 billion.

Compliance - The Department denied 115 key station time extension requests, on the basis that the rail operators' requests did not meet the \$225,000 cost threshold established by FTA guidance to satisfy the ADA criterion of "extraordinary expensive structural change". These 115 key stations are in probable non-compliance with the ADA July 1993 accessibility deadline and have been referred to DOT's Office of Civil Rights to work out reasonable timetables to reach station compliance.

INTERCITY RAIL SERVICE

Status - Amtrak's service is becoming accessible, providing where necessary station-based lifts to accommodate wheelchairs from the platform onto the car and accessible features within railcars. Amtrak is purchasing new railcars and expects to meet the requirement of one accessible car per train by ADA's July 1995 deadline.

Amtrak stations must undergo major alterations to bring them into conformance with DOT's ADA standards, which call for full accessibility at all Amtrak stations as soon as possible, but no later than July 2010. In October 1992, the Amtrak Board of Directors approved a plan to modify eight Amtrak-owned joint use stations that have been designated as key stations and requested that DOT extend its July 1993 deadline for installation of warning edge stripping on train platforms and other substantial improvements. Extensions were granted into 1994 and 1995 for five of the stations, but Amtrak has since requested extensions on these stations to July 1997.

Cost - The total cost of modifying the eight key Amtrak stations is estimated at \$9.3 million.

STREETS AND HIGHWAYS

Status - All Interstate highway rest areas were made accessible a number of years ago because of previous legislation affecting persons with disabilities. Other street and highway-related facilities are covered by the DOJ's ADA Title II regulations affecting state and local facilities. Under Title II, whenever pedestrian facilities or bus stops and shelters are provided in conjunction with new street or highway construction, curb cuts must be included. For existing crosswalks on highways with curbs

in downtown areas, state and local governments with 50 or more employees were required by July 1993, to include in their transition plans a schedule for providing curb cuts, ramps, or other sloped areas, giving priority to walkways serving state and local government offices, facilities, transportation, public accommodations, and employers.

In order to eliminate state to state inconsistencies concerning parking for persons with disabilities, the Department issued a set of nonbinding regulatory guidelines for establishment of a uniform system for such parking in 1989.

Coming Initiatives - DOJ will soon amend its Title II regulation expanding coverage to everything within public rights-of-way (e.g., signage, street furniture, emergency road-side call boxes).

Compliance - Complaints affecting streets and highways received by DOJ under Title II are being forwarded to DOT for investigation. A significant number of these complaints are premature as the alleged violations cannot yet be viewed as such under the state's transition plan requirements.

MARITIME

Status - The Department is in the process of planning preparatory research and anticipates issuing a proposed rule and cost/benefit analysis by year-end 1995. An ANPRM would begin the process of establishing ADA accessibility regulations and standards for marine passenger vessels (ranging from ferry boats to cruise ships) and facilities. This project must be coordinated with the Access Board's issuance of related accessibility guidelines.

PRIVATE TRANSPORTATION

Status - Unlike previous statutes, the ADA requires private as well as public transportation vehicles, services, and facilities to be accessible, whether or not they receive Federal funds. The ADA requirements for private transportation vary, depending on whether the operator is or is not primarily involved in the transportation business, operates demand-responsive or fixed-route service, and uses large or small vehicles. Generally, most private transportation operators must either acquire accessible vehicles or provide equivalent service to disabled passengers. Over-the-road buses are a special case under the ADA and are discussed next.

INTERCITY, CHARTER, AND TOUR BUSES

Status - The ADA requires the Department to promulgate a final rule by mid-May 1994, implementing accessibility requirements for over-the-road buses (OTRB) and related facilities in the

intercity, charter and tour bus industries. These requirements are to be effective in July 1996 for large carriers and July 1997 for small carriers, although the President may delay implementation for up to one year to reduce excessive cost burdens.

Currently, there are 3,500 private companies operating a total fleet of 25,000 OTRBs, ranging in size from Greyhound with 1,800 fixed-route regular service buses to small companies with fewer than one-half dozen buses. Most of the OTRB fleet is inaccessible, as are most terminals and flag stops (gas stations, grocery stores, etc.). The OTRB industry provides a variety of services, including fixed-route buses linking some 6,000 communities; charter and tour services; and commuter, airport and other services. For a number of reasons, since 1982, the OTRB ridership base has shrunk from 130 million annual passengers to 37 million passengers in 1990.

Currently, 26 OTRB operators provide about 350 lift-equipped buses under contract to public agencies, and almost all such buses have been purchased with the aid of public monies. Few passengers have used the lifts. In October 1993, DOT issued an ANPRM to explore legal, technical and operational issues involved in developing OTRB accessibility requirements. The Department and the Access Board held a joint workshop on October 21-22, 1993, where key issues with all parties affected by this rulemaking were discussed. Major issues to be addressed in this rulemaking concern (1) the potential compliance costs on a struggling industry; (2) how to provide accessible restroom services; and (3) how to frame ADA-mandated accessibility requirements to minimize economic disruption of the industry, and reduce the risk that OTRB services will be cancelled in rural areas where they are especially needed.

Costs - Based on OTA's report to Congress, the estimated cost of equipping an OTRB with lift and related equipment ranges from \$7,000 to \$35,000. There are also costs from foregone revenue resulting from the loss of seating and baggage capacity to accommodate lifts and wheelchair securement spaces.

CONCLUSION

Much has been accomplished in removing barriers to those with disabilities in the Nation's transportation system. The Department has kept up well in developing, promulgating, and implementing its regulations within the timetables mandated by the ADA, the ACAA, and section 504. In many cases, enforcement procedures are still evolving, as new rules go into effect and we gain experience with their implementation. In addition, the Department is working to ensure that its own programs and facilities are fully consistent with requirements for non-discrimination on the basis of disability.

APPENDIX A

STATUTES AND REGULATIONS AFFECTING PERSONS WITH DISABILITIES

Many programs and activities of the Department are affected by the following laws pertaining to persons with disabilities.

- ° The Architectural Barriers Act of 1968, as amended, requires that certain buildings financed with Federal funds be designed and constructed to be accessible to the physically handicapped.
- ° Section 16 of the Federal Transit Act, as amended, sets forth a policy that elderly and persons with disabilities have the same right to utilize Federally-subsidized mass transportation facilities and services as other persons.
- ° Section 165(b) of the Federal Aid Highway Act of 1973, as amended, requires that certain transportation projects receiving Federal funds under the Act be planned, designed, constructed, and operated to allow effective utilization by elderly and handicapped persons.
- ° Section 504 of the Rehabilitation Act of 1973, as amended, prohibits discrimination on the basis of handicap in all Federally assisted and conducted programs.
- ° The Air Carrier Access Act of 1986 prohibits discrimination on the basis of handicap in air travel.
- ° Section 161 of the Surface Transportation and Uniform Relocation Assistance Act of 1987 directed the Secretary of Transportation to conduct a study on parking for handicapped persons.
- ° The Americans With Disabilities Act OF 1990 (ADA) gives civil rights protection to individuals with disabilities similar to those given to individuals on the basis of race, sex, national origin and religion. It guarantees equal opportunity for individuals with disabilities in public accommodations, employment, transportation, state and local government services and telecommunications. The Department issued a final rule in 1990 implementing many provisions of the ADA.

APPENDIX B

ADA TECHNICAL ASSISTANCE

The Federal Transit Administration (FTA) has produced the following ADA guidelines and reference reports:

Handbook on Preparation of ADA Paratransit Plan.

Guidelines for Improvement of Transit Accessibility for Persons with Disabilities.

Update of 1986 FTA-Sponsored "Guidelines for Active and Passive Wheelchair Lifts, Ramps and Securement Devices."

Guidelines on Rail Car Gaps and High Platform Safety.

Guidelines on Wheelchair and Three Wheel Scooters use in Public Transit.

Guidelines on Transportation Needs of Persons with Visual, Hearing, and Cognitive Impairments.

Strategies for Implementing a Standee-on-Lift Program for Fixed-Route Bus Service.

Accessibility Handbook for Transit Facilities.

Handbook and Course on Public Participation in Transportation Planning.

Americans With Disabilities Act Paratransit Eligibility Manual and Course of Study.

Independent Locking Securement System for Mobility Aids in Public Transportation Vehicles.

FTA is also supporting accessibility demonstration projects in 25 cities, which are being conducted under the auspices of the National Easter Seal Society.

During fiscal year 1994, FTA's technical assistance activities will continue to focus on the technology requirements to overcome mobility barriers and will address additional accessibility needs with regard to buses, bus stops, rail cars, and transit facilities. Special emphasis will be placed on problems of safety (adequacy of securements for wheelchairs and other mobility aids in vehicles and protective devices for standees on lifts), and on the communications needs of persons with visual, hearing, and other physical or mental impairments.