

NEW ACCESSIBILITY GUIDELINES ARE ON THEIR WAY

By Ronald L. Geren, RA, CSI, CCS, CCCA

Some of you may not be aware, but a big event in the world of accessibility took place on January 14, 2004: The Architectural and Transportation Barriers Compliance Board (ATBCB), commonly referred to as the Access Board, unanimously approved new guidelines governing access to facilities covered by the Americans with Disabilities Act (ADA) and the Architectural Barriers Act (ABA) (See sidebar). The new guidelines will replace the ADA Accessibility Guidelines (ADAAG), which were originally published in 1991, and the Uniform Federal Accessibility Standards (UFAS) originally published in 1982. Although approved, another step in the process is underway before the final guidelines are published.

WHAT'S NEXT?

To publish their new guidelines, the Access Board must submit the new guidelines to the Office of Management and Budget (OMB) for review and clearance. The OMB's review will be managed through the Office of Information and Regulatory Affairs (OIRA). To initiate this formal 90-day review, the Access Board submitted the new guidelines along with a regulatory assessment, which includes a cost impact analysis. A few meetings have been held between OIRA and the Access Board over the past couple of months, but no information regarding the agenda was available. Once cleared by OMB, the final guidelines will be published in the *Federal Register*.

But, that's not the end of it. The new guidelines themselves are not enforceable or mandatory for facilities covered by the ADA or ABA. Other agencies are authorized to set standards that eventually must be complied with, provided they're consistent with the Access Board's new guidelines. For example, the Departments of Justice (DOJ) and Transportation (DOT) will establish standards that will be enforceable under the ADA; while the Government Services Administration (GSA), Department of Defense (DOD), and other federal agencies will set standards enforceable under the ABA. As of this date, none of the agencies above have specified timelines when their updated standards will take affect.

WHY THE CHANGE?

According to the Access Board, the change was necessary to "reflect technological developments so that they continue to meet the needs of persons with disabilities." The change was also in response to demands to have the guidelines be more consistent with model building codes and industry standards, and to remove ambiguous language to make the guidelines more like a building code or standard.

WHAT CHANGES CAN BE EXPECTED?

The most notable change will be the format. Basically, the new guidelines will be organized into three parts: ADA Application and Scoping, ABA Application and Scoping, and Technical Requirements. The original ADAAG was based on the arrangement and numbering of ANSI A117.1, and the Technical Requirements part retains much of that same structure, making it easier to transition to the new guidelines. However, the use of diagrams and drawings are used primarily as advisory information, with all requirements established in written text.

ADA vs. ABA

ADA: Addresses accessibility in the private sector (places of public accommodation and commercial facilities) and the public sector (state and local government facilities).

ABA: Addresses accessibility in the Federal sector and other facilities designed, built, altered, or leased with Federal funds.

How It Got This Far

9/14/1994 - Access Board creates ADAAG Review Advisory Committee.

7/10/1996 - Advisory Committee submits its report to the Access Board.

3/11/1998 - Access Board adopts plan to combine ADAAG with UFAS.

3/10/1999 - Access Board approves proposed guidelines.

9/3/1999 - Access Board submits proposed guidelines to OMB.

11/16/1999 - Guidelines are published in the *Federal Register*.

1/31/2000 - Public hearing in Los Angeles, CA.

3/13/2000 - Public hearing in Arlington, VA.

5/15/2000 - Deadline for public comment. Over 2,500 comments received.

4/2/2002 - Draft of final guidelines available for public review.

1/14/2004 - Access Board approves final guidelines for submission to OMB.

April, 2004 - Access Board submits final guidelines to OMB for clearance.

The changes range from small editorial changes to substantive technical changes. Some of these changes include:

- “Gratings” was replaced with “openings” to include such items as expansion joints and wood deck spacing.
- Minimum height of 34 inches for door hardware.
- Cross slope for accessible surfaces changed from 1:50 to 1:48 to match building codes.
- Disappearance of truncated domes, except for platform edges (See sidebar story)
- Allowance of limited-use/limited-application (LULA) elevators.
- Outside diameter for handrails and grab bars increased to 2 inches.
- Height for unobstructed side reach reduced from 54 inches to 48 inches.
- Water closet distance from side wall or partition allows a range of 16 to 18 inches, instead of the absolute 18 inches.
- Addition of a visual component (i.e. strobes) to fire alarm systems.

WHAT’S THE CONTROVERSY?

Other than “What took it so long?” there hasn’t been much controversy about the new guidelines. After the proposed guidelines were published, BOMA had contested the visual fire alarm requirement that placed a device in every office. This was modified in the final draft to limit visual devices to only public and common areas, conference rooms, and large, open office spaces.

The United States Chamber of Commerce, on the other hand, is concerned that there is no justification for making significant changes. On their website, they’ve stated:

Much of the justification for the proposed stricter standards is based on anecdotal evidence with no basis in fact. We are concerned that the process employed by the ATBCB in raising the standards was lacking, and that the resulting substantive standards are based on nothing more than subjective opinion. We will continue to monitor all developments, either by the ATBCB, OMB, or DOJ, related to this issue.

CONCLUSION

In the Federal rulemaking process, the content of a rule (guidelines, in this case) cannot be disclosed until the final rule is published in the *Federal Register*. However, in an attempt to coordinate the new guidelines with the development process of the International Code Council’s (ICC) 2003 edition of ANSI A117.1, the Access Board made available a draft of the final rule. The final draft rule, or guidelines, could be expected to change during its progress to final publication. Once cleared by OMB, a separate rulemaking process will take place by DOJ and other agencies to adopt the new guidelines. Until then, no date is scheduled for when the new guidelines become enforceable.

There is still some concern about how the new guidelines will affect existing facilities. This is a concern that currently has no definitive solution in sight, but will likely be addressed when applicable Federal agencies, or more specifically the DOJ, develop standards that adopt the new guidelines. Preferably, this will be addressed through a grandfather clause, similar to those included in model building codes.

FOR MORE INFORMATION

Visit the Architectural and Transportation Barriers Compliance Board (The Access Board) website at: <http://www.access-board.gov>

Truncated Domes: A Bumpy History

Truncated domes were originally required in ADAAG 4.7 for curb ramps, and in ADAAG 4.29 for hazardous vehicular areas and reflecting pools. These requirements were suspended jointly by the Access Board, DOT, and DOJ in July 1994 until July 26, 1996, pending results of a research project on the need for detectable warnings.

The results of the research indicated that detectable warnings had only a modest impact. So, the Access Board, DOT, and DOJ extended the suspension to July 26, 1998, to allow the ADAAG Review Advisory Committee to conduct its review. The suspension was further extended until July 26, 2001.

The Advisory Committee recommended that the requirement for detectable warnings be retained for platform edges at transportation facilities, but made no recommendations for any other locations, including curb ramps.

But, on July 26, 2001, no extension to the suspension was made, and by default, the requirements are now mandatory. However, the new guidelines followed the recommendations of the Advisory Committee, and are retained only for platforms. Until other Federal agencies establish standards under the new guidelines, truncated domes are again part of the enforceable standards.

To comment on this article, suggest other topics, or submit a question regarding codes, contact the author at ron@specsandcodes.com.

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