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ARCHITECTURAL AND TRANSPORTATION BARRIERS COMPLIANCE BOARD

36 CFR Part 1192

Docket No. ATBCB-2020-0002

RIN 3014-AA42

Americans With Disabilities Act Accessibility Guidelines for Transportation Vehicles; Rail Vehicles

AGENCY: Architectural and Transportation Barriers Compliance Board.

ACTION: Advance Notice of Proposed Rulemaking.

SUMMARY: We, the Architectural and Transportation Barriers Compliance Board (hereafter, "Access Board", "Board", or "we"), are issuing this Advance Notice of Proposed Rulemaking (ANPRM) to begin the process of updating our existing accessibility guidelines for rail vehicles covered by the Americans with Disabilities Act (ADA). By this ANPRM, the Access Board invites public comment on the substance of recommendations contained in the report issued by its Rail Vehicles Access Advisory Committee (RVAAC) and poses related questions. The Board will consider comments received in response to this ANPRM, along with the recommendations in the RVACC report, to develop proposed updates to our rail vehicle accessibility guidelines in a future rulemaking.

DATE: Submit comments by [INSERT DATE 90 DAYS FROM DATE OF PUBLICATION IN THE FEDERAL REGISTER].

ADDRESSES: You may submit comments, identified by docket number (ATBCB-2020-0002), by any of the following methods:

- Federal eRulemaking Portal: http://www.regulations.gov. Follow the instructions for submitting comments.
- E-mail: docket@access-board.gov. Include docket number ATBCB-2020-0002 in the subject line of the message.
- Fax: 202-272-0081.
- Mail or Hand Delivery/Courier: Office of Technical and Information Services, U.S. Access Board, 1331 F Street, NW, Suite 1000, Washington, DC 20004-1111.

Instructions: All submissions must include the docket number (ATBCB-2020-0002) for this regulatory action. All comments received will be posted without change to http://www.regulations.gov, including any personal information provided.

Docket: For access to the docket to read background documents or comments received, go to www.regulations.gov/docket?D=ATBCB-2020-0002.

FOR FURTHER INFORMATION CONTACT: Technical information: Juliet Shoultz, (202) 272-0045, E-mail: shoultz@access-board.gov. Legal information: Wendy Marshall, (202) 272-0043, marshall@access-board.gov.

SUPPLEMENTARY INFORMATION:

I. Legal Authority

The Americans with Disabilities Act (ADA) charges the Access Board with developing and maintaining minimum guidelines to ensure the accessibility and usability of covered transportation vehicles, including rail passenger cars, for persons with disabilities. See 42 U.S.C. 12204; see also 29 U.S.C 792(b)(3)(B) & (b)(10) (authorizing

the Access Board to "establish and maintain" minimum guidelines for standards issued pursuant to titles II and III of the ADA). These Access Board guidelines serve as the basis for legally enforceable accessibility standards issued by the Department of Transportation (DOT), which is the federal entity responsible for implementing and enforcing the ADA's non-discrimination provisions related to transportation vehicles. See, e.g., 42 U.S.C. 12149(b), 12163, 12186(c) (accessibility standards in DOT regulations implementing ADA titles II and III must be "consistent with" the Access Board's minimum guidelines).

II. Background: Rulemaking History and Rail Vehicles Access Advisory Committee

In 1991, the Access Board first issued accessibility guidelines for ADA-covered transportation vehicles, which addressed minimum requirements for buses, vans, and rail vehicles. 56 FR 45756 (Sept. 6, 1991) (codified at 36 CFR part 1192) (hereafter, "ADA Accessibility Guidelines for Transportation Vehicles"). That same day, DOT adopted the Board's ADA Accessibility Guidelines for Transportation Vehicles as enforceable accessibility standards applicable to new, used, or remanufactured ADA-covered vehicles. See 56 FR 45584, 45619-20 (Sept. 6, 1991) (codified at 49 CFR part 38).

Over the ensuing years, while the Access Board has issued updates to the ADA Accessibility Guidelines for Transportation Vehicles for non-rail vehicles, the Board has not yet revised the accessibility requirements applicable to rail vehicles since their initial promulgation.[1] The existing guidelines for rail vehicles thus need to be updated to,

[1] For example, in 1998, the Access Board and DOT issued a joint final rule specifying new accessibility requirements for over-the-road buses. See 63 FR 51670 (Sept. 28, 1998). Also, in 2016, the Access Board updated its existing guidelines for buses, over-the-road buses (OTRBs), and vans. These updated guidelines incorporated new accessibility-related technologies, such as automated announcement systems

among other things, incorporate new accessibility-related technologies that did not exist nearly three decades ago and to ensure consistency with the Board's other subsequently issued regulations. Indeed, in 2016, when the Board revised the accessibility guidelines for non-rail vehicles, we expressly noted that our existing guidelines for transportation vehicles that operated in fixed guideway systems (e.g., rapid rail, light rail, commuter rail, and intercity rail), which similarly needed updating, would be addressed in a future rulemaking. See Final Rule, 81 FR at 90600.

In May 2013, as a first step in the process to update our existing rail vehicles guidelines, the Access Board convened the Rail Vehicles Access Advisory Committee (RVAAC or Committee). See Notice of Establishment; Appointment of Members, Rail Vehicles Access Advisory Committee, 78 FR 30828 (May 23, 2013). RVAAC was charged with "mak[ing] recommendations to the Board on matters associated with revising and updating our [rail vehicle] accessibility guidelines." Id. at 30829. The Committee was comprised of manufacturers of transportation vehicles that operate on fixed guideway systems, transportation providers that operated fixed guideway systems, organizations representing individuals with disabilities, and other entities whose interests may be affected by the accessibility guidelines.[2] Id. Due to time constraints, the Committee decided to focus only on recommendations for new rail vehicles.

The RVAAC organized itself into the following four subcommittees: Communications; Boarding and Alighting; Onboard Circulation and Seating; and Rooms

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and level boarding bus systems, as well as additional changes to ensure that the Board's transportation vehicle guidelines remained consistent with its other regulations issued since 1998. See 81 FR 90600 (Dec. 14, 2016) (codified at 36 CFR § 1192.21 & App. A). DOT has not yet adopted these updated accessibility guidelines for non-rail vehicles as enforceable standards.

[2] The full list of organizations represented on the Rail Vehicles Access Advisory Committee is available at https://www.access-board.gov/guidelines-and-standards/transportation/vehicles/rail-vehicles-access-advisory-committee/advisory-committee-members.

and Spaces. Committee members spent most of their time working in the subcommittees, which reported to the full Committee. The full Committee met seven times. The Committee adopted the following guiding principles to develop its recommendations:

- Features providing access for people with disabilities must be equivalent to those provided to others in terms of functionality and aesthetics, and must not segregate individuals with disabilities;
- Accessible features should be the norm for everyone;
- There may not be restrictions on using any facilities or features until the train is stopped;
- Safety concerns must be balanced with the underlying civil rights principles of the ADA;
- Establishing policy mandates will drive the development of improved generations of technology;
- All train cars should be accessible;
- Access Board guidelines should promote the development of technology, and not freeze current technology in place; and
- "[G]rowing demographics (graying of America)" must be considered when establishing scoping for accessible features.

In July 2015, the Committee formally presented its final report (hereinafter RVAAC Report) to the Access Board. The RVAAC Report, which totals 71 pages, consists of a "main" report that is broken down into five chapters (which, except for the introductory chapter, mirror the topics covered by the four subcommittees) and several accompanying appendices. The full RVAAC Report is available at https://www.access-

board.gov/guidelines-and-standards/transportation/vehicles/rail-vehicles-access-advisory-committee.

In sum, the Report provides the Committee's recommendations for updated accessibility requirements applicable to newly acquired rail vehicles, which are written using regulatory-style language interspersed with occasional textual discussion. The appendices provide supplementary information in the form of a reference copy of ADA provisions relating to transportation vehicles (Appendix A), a list of operational matters for DOT consideration that arose during committee deliberations but fall outside the Board's jurisdiction (Appendix B), and minority reports submitted by three Committee members (Appendix C).

It is important to emphasize that the RVAAC Report merely sets forth the Committee's non-binding recommendations for consideration by the Access Board. The Committee's recommendations should not be viewed as the Board's own proposed revisions to our existing rail vehicle accessibility guidelines. While we will consider the RVAAC Report when formulating proposed updates to the rail vehicle guidelines, other pertinent sources, including public comment received in response to this ANPRM, will be considered.

III. Areas for Public Comment

Considering the significant public interest in the RVAAC Report and in anticipation of a future rulemaking to "refresh" the accessibility guidelines for rail vehicles, the Access Board issues this ANPRM. Specifically the Board seeks public comment in two areas: (a) the substance of the recommendations in the RVAAC Report; and (b) related questions about the feasibility or potential impact of specific

recommendations (e.g., design, operations, cost), as well as current research, data, and technologies relating to the improvement of rail vehicle accessibility. The Access Board encourages all interested parties to provide comment, including governmental agencies, private entities that own or operate rail vehicles, individuals with disabilities, and advocacy organizations. Comments submitted in response to this ANPRM will be considered by the Access Board when developing any forthcoming notice of proposed rulemaking.

In reviewing and commenting on the RVAAC Report, we strongly encourage commenters to focus on the substance of the Committee's recommendations, rather than the specific wording of particular recommendations. In any future proposal to update the existing accessibility guidelines for rail vehicles, the Access Board will develop its own regulatory text and ensure consistency with the formatting used in other accessibility guidelines.

While this notice highlights certain sections of the RVAAC Report and poses related questions, the Access Board seeks comments on all recommendations presented in the RVAAC Report. More broadly, we also seek comment on cross-cutting issues including the potential impact of the Report's recommendations on the safety of rail passengers and personnel, implementation costs, and the ways that such costs might be minimized while still achieving an appropriate level of access for persons with disabilities.

IV. Discussion of RVAAC Recommendations and Questions for Public Comment

Discussed below are some of the recommendations posed in the RVAAC Report that, if implemented, would represent changes from the Access Board's existing requirements for rail vehicles in the ADA Accessibility Guidelines for Transportation Vehicles (36 CFR part 1192). The Board highlights these recommendations and poses related questions to the public for the purpose of obtaining additional information about recent research and current technology relevant to these recommended changes, and the potential costs of implementing such changes.

A. Application

The Access Board's existing rail vehicle guidelines apply to all ADA-covered new, used, and remanufactured rail vehicles. However, due to time constraints, the RVAAC only addressed and provided recommendations pertaining to new rail vehicles. This limited scope of the RVAAC Report does not mean that, when the Access Board issues a proposed rule to update our existing accessibility guidelines, we will similarly limit our scope to new rail vehicles.

Question 1: Would it be feasible for remanufactured rail cars to meet the accessibility requirements recommended in the RVAAC Report? What would be the challenges and costs of applying the RVAAC's proposed accessibility requirements to remanufactured rail cars? For each challenge and or cost that you raise, please indicate the type of rail vehicle affected.

Question 2: What is the typical lifespan of different types of rail vehicles? How often is each type of existing rail vehicle replaced with a new or remanufactured vehicle?

Question 3: We are not aware of any small governmental jurisdictions that currently operate rail transportation systems covered by the ADA. With respect to small businesses, are there any specific issues or concerns that the Access Board should consider when developing any proposed regulatory updates to its existing accessibility guidelines for rail vehicles?

B. Communication Access

Currently, the only provisions regarding communication for rail vehicles in the existing guidelines specify that each vehicle be equipped with a public address system permitting transportation system personnel, or recorded or digitized human speech messages, to announce stations and provide other information, with some exceptions. See 36 CFR 1192.61, 1192.87, 1192.103 & 1192.121.

The RVAAC Report recommended a robust expansion of requirements for accessible communications, including provisions for variable message signage (VMS) and hearing induction loops. It also recommended requiring VMS and real-time route map tracking (where provided) to be located in at least two locations in each car, so that every seat has a view of one or more of the accessible signs. RVAAC Report, Chap. 2, §§ I – XI.

Question 4: What solutions or technologies are commercially available that, if implemented, would be capable of providing access to public communications onboard rail vehicles?

Question 5: What solutions or technologies are commercially available that, if implemented on rail vehicles, would provide accessible emergency information to passengers in real-time?

Question 6: What are the design and cost impacts of the RVAAC's proposed requirement for variable messaging systems on rail cars?

Question 7: What are the design and cost impacts of the RVAAC's proposed requirement for hearing induction loops on rail cars?

C. Boarding and Alighting

The RVACC Report stressed that "full-length level or near level boarding should be the highest priority and most preferred method of boarding on all fixed guideway (e.g. rail) modes." RVAAC Report, Chap. 3, § I.A. But, when not required or possible, "boarding should be, as often as possible, by ramp or bridge-plate as the primary means for boarding" and mechanical lifts should only be used as a back-up alternative. See id. § I.B.

1. Car-borne Ramps, Bridge Plates, and Lifts

Currently, the existing guidelines for rail vehicles permit station-based ramps, bridge plates, and lifts for use in boarding and alighting in certain situations. See 36 CFR 1192.83, 1192.95 & 1192.125. The Committee recommended requiring car-borne ramps, bridge plates, and lifts in certain instances. RVAAC Report, Chap. 3, § I.B. Were this recommendation included in a proposed rule, it would, in most circumstances, prohibit the use of station-based lifts, and would instead require rail vehicles to provide car-borne ramps, bridge plates, and lifts. In a minority report, the Metropolitan Transportation Authority of the State of New York raised concerns with this recommendation, asserting

that the new gap recommendations will require that the bridge plates installed on the cars be capable of traversing the largest vertical and horizontal gap at any station. The station with the largest gap will dictate the bridge plate design for all new cars. Consequently, the bridge plates carried on the cars may be very long to accommodate the largest gaps. These long bridge plates may create a safety hazard when deployed in confined areas at a station. Id. at App. C (MTA-SNY Minority Report, pp. 62-63).

Question 8: Please identify research studies or data that address the impact of car-borne ramps, bridge plates, or lifts on rail vehicle operation, maintenance, or rider safety.

Question 9: What would be the cost implications if ramps, bridge plates, and lifts were required to be mounted on rail vehicles instead of being based at stations?

2. Lift Design Load

The RVAAC Report recommended increasing the lift design load from the existing requirement of 600 pounds to 800 pounds. See RVAAC Report, Chap. 3, § IV.A; see also 36 CFR 1192.83(b), 1192.95(b) & 1192.125(b) (existing Access Board specifications for design loads of rail vehicle-based lifts). In the Access Board's final rule promulgating updated accessibility requirements for non-rail vehicles, we retained the 600-pound design load for vehicle lifts based on the National Highway Traffic Safety Administration's Federal Motor Vehicle Safety Standards for public use lifts, which are codified at 49 CFR 571.403 and 571.404. See 36 CFR 1192.21, Appendix A, T402.2. However, the Federal Motor Vehicle Safety Standards address lifts used on motor vehicles, not rail cars. The Access Board thus seeks additional information regarding design loads on rail vehicles.

Question 10: What would be the design and cost impacts if the design load requirement for rail vehicle-based lifts was increased to 800 pounds minimum? Are there any types of rail vehicles requiring a lift to board for which an 800-pound minimum design load would not be feasible?

Question 11: What is the current design load of newly manufactured lifts used for rail vehicles?

3. Platform Lift Service Size

Currently, the Access Board's rail vehicles guidelines require lift platforms to have a minimum clear width of 30 inches and a minimum clear length of 48 inches, as measured from 2 inches above the platform surface to 30 inches above the surface. The minimum clear width as measured at the platform surface to a height of 2 inches is permitted to be 28 ½ inches instead of 30 inches to accommodate the structure and frame of doors on some rail vehicles. See 36 CFR 1192.83(b)(6), 1192.95(b)(6) & 1192.125(b)(6). The RVAAC Report recommended increasing the size of lift platform surfaces to a clear width of 32 inches minimum and a clear length of 54 inches minimum, both measured from the platform surface to 40 inches above the platform surface. See RVAAC Report, Chap. 3, § IV.B.

Currently available research and the RVAAC's recommendations demonstrate a potential need to increase the size of the lift platform to accommodate larger wheeled mobility devices and advancement in their engineering and design. See Center for Inclusive Design and Environmental Access, Anthropometry of Wheeled Mobility Project – Final Report (Dec. 2010), available at

http://www.udeworld.com/documents/anthropometry/pdfs/AnthropometryofWheeledMobilityProject_FinalReport.pdf.

Question 12: What would be the design impacts on rail vehicles if the required size of platforms on rail vehicle-based lifts was increased to a clear width of 32 inches minimum and clear length of 54 inches minimum?

4. Bi-Parting Side Doors

The existing guidelines require that accessible passenger doorways have a clear opening width of 32 inches. See 38 CFR 1192.53(a)(1), 1192.73(a)(1), 1192.93(a)(1) & 1192.113(a)(1). The RVACC Report recommends that bi-parting side doors should have one leaf that provides a clear width opening of at least 32 inches. The purpose of this proposal is to ensure passengers can readily board and alight from vehicles, especially during high capacity periods and when alternative doorways are not available, including when one of the bi-parting doors fails to open. However, the Committee recommended this as a best practice and not a requirement because it recognized that larger panels can create unintended consequences and it did not want to inhibit more efficient, reliable, and safe designs. RVACC Report, Chap. 4, §§ I.A & I.B(1)-(2).

Question 13: How prevalent is the situation where a single leaf of a bi-parting side door on a rail vehicle fails to open, thereby restricting the clear width to less than 32-inches?

Question 14: What would be the design implications of a requirement that one leaf of bi-parting doors on rail vehicles provide a clear width of 32 inches minimum?

5. Between-Car Barriers

The existing guidelines for rail vehicles require between-car barriers for light and rapid rail systems and certain commuter rail systems. 36 CFR 1192.63, 1192.85 &

1192.109. This requires that a device or system be provided to prevent, deter, or warn individuals from inadvertently stepping off the platform between cars. Id.

The RVAAC Report recommends that between-car barriers also be required for rail vehicles used in intercity and high-speed rail systems. RVAAC Report, Chap. 4, § V.A. Amtrak raised concerns about this proposal in a minority report, asserting that while between-car barriers are appropriate for high-platform, level-boarding, "[b]i-level long intercity trains will see no benefit from adding the barriers, will add cost and may in fact create a safety hazard to railroad employees responsible for coupling and uncoupling cars." RVAAC Report, Appendix C (Amtrak Minority Report, p. 53).

Question 15: What data or other evidence supports a need for between-car barriers on rail vehicles used for intercity or high-speed rail service, if any?

Question 16: If requirements for between-car barriers were extended to rail vehicles used for intercity or high-speed rail service, should there be a specified minimum between-car gap that would trigger application of such a requirement? If so, what size gap should be used to trigger any such requirement?

Question 17: What would be the cost of requiring between-car barriers on rail vehicles used for intercity or high-speed rail service?

D. On Board Accessibility

1. Mobility Aid Seating Location Size

The Access Board's existing guidelines require clear floor space for mobility aid seating locations of 48 inches by 30 inches. See 36 CFR 1192.83(a)(1), 1192.57(b), 1192.125(d)(2) & 1192.95(d)(2). In the RVAAC Report, the Committee recommended increasing required clear floor space to 54 inches by 32 inches where the space is

confined on no more than two sides, and 59 inches by 32 inches where the space is confined on three sides. RVAAC Report, Chap 4, § IV.A. See also Center for Inclusive Design and Environmental Access, Anthropometry of Wheeled Mobility Project – Final Report (Dec. 2010), available at http://www.udeworld.com/documents/anthropometry/pdfs/AnthropometryofWheeledMobilityProject_FinalReport.pdf. The Metropolitan Transportation Authority of the State of New York raised concerns in a RVAAC Minority Report about the loss of additional seats with the increased floor space. RVAAC Report, Appendix C (MTA-SNY Minority Report, p. 68).

Question 18: What would be the effect on the design and operation of rail cars if the required size of mobility aid seating locations were increased from 48 inches by 30 inches to a requirement of (1) 54 inches by 32 inches where the space is confined on no more than two sides and (2) 59 inches by 32 inches where the space is confined on three sides?

2. Vertical Access

There is no requirement in the existing guidelines to provide vertical access on rail cars. In the RVAAC report, the committee recommended adding a requirement for vertical access in new intercity bi-level lounge cars. The Committee explained that a lounge "means any car with a primary function that is to enhance the passenger experience beyond the purchased coach or sleeper accommodation and is so designed to enhance viewing from the second level." Such lounge cars include open platform observation areas that are accessible to passengers, whether or not an extra fare is charged, and single level cars (known as "dome cars) that offer an elevated area designed

for viewing scenery. The Committee explained that the goal is to expand the full rail travel experience for passengers who might otherwise miss out on key features of the travel. This would include providing a lift, an accessible restroom (if an upper level restroom is provided), and accessible wheelchair spaces on the upper level. RVAAC Report, Chap 4, § IX.

Question 19: Should vertical access be required on new intercity bi-level lounge cars? If so, should such a requirement apply only to certain types of intercity bi-level cars (such as those that provide a viewing dome on the upper level)?

Question 20: Is it technically feasible for platform lifts to serve the upper levels of bi-level rail cars?

Question 21: What are the likely costs, including both one-time equipment installation costs and ongoing maintenance, if vertical access was required on intercity bi-level rail cars?

3. Handrails and Stanchions for Onboard Circulation

The Access Board's existing guidelines require that handrails and stanchions not encroach on the accessible routes and permit safe boarding, onboard circulation, seating and standing assistance, and alighting by persons with disabilities. 36 CFR 1192.57, 1192.77, 1192.97 & 1192.115. The RVAAC recommended retaining the existing requirement for the diameter of the interior handrails and stanchions with additional specifications that (a) handrails or handholds be included on transverse passenger seats in all rail cars, and (b) in light and rapid rail systems, vertical stanchions be provided adjacent to, or as part of, seats on alternate rows and sides of the aisle. RVAAC Report, Chap. 4, § VI.B. The current regulation does not address the visibility of handholds,

handrails, and stanchions. The Access Board is interested in obtaining public comment on any potential need for visual contrast for handholds, handrails, or stanchions.

Question 22: Are additional types of handholds, handrails, or stanchions needed on rapid, light rail, intercity or commuter rail vehicles beyond those currently required? If so, please describe.

Question 23: Are handholds, handrails, or stanchions for rail vehicles currently designed with visual contrast?

Question 24: Is there a need for visual contrast on handholds, handrails, or stanchions? If so, please explain.

E. Dining Cars

Regarding accessible seating in dining cars, the RVAAC proposed to increase the required wheelchair spaces and transfer seating at tables from one to two spaces. The Committee also noted that this requirement could be met with convertible spaces. RVAAC Report, Chap. 5, § II.A. In response to this suggested requirement, Amtrak, in a minority report, indicated that when they attempted to use convertible spaces during the development of their new dining cars, the convertible spaces were criticized as "making a spectacle" of the arrival of someone using a wheelchair. RVAAC Report, Appendix C (Amtrak Minority Report, p. 54).

Question 25: What would be the advantages and disadvantages of having convertible/readily removable seating in dining cars on rail vehicles to accommodate passengers using wheelchairs.

David M. Capozzi,
Executive Director.
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