



Alliance of the Ports of Canada, the Caribbean, Latin America and the United States

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March 25, 2005

Mr. Emil H. Frankel
Chairman
The Access Board
1331 F Street, NW
Washington, DC 20004

By Fax: 202-272-0081

Dear Mr. Frankel:

The American Association of Port Authorities (AAPA) is writing to comment on the Access Board's Draft Passenger Vessel Accessibility Guidelines, which were released for comment in December 2004. AAPA was founded in 1912 and today represents the leading public port agencies in the United States, Canada, Latin America and the Caribbean. Our comments today reflect the views of our U.S. members.

AAPA has reviewed carefully the draft passenger vessel accessibility guidelines and strongly urges the Access Board to remove language and requirements related to landside facilities. The draft guidance is vague regarding landside facilities and, if adopted, would create legal ambiguity regarding who is responsible for compliance with the Americans with Disabilities Act (ADA). Landside facilities already comply with the requirements of ADA, since these landside facilities are accessible to the public. AAPA believes that requiring landside facilities to know whether a vessel is compliant is an inappropriate expansion of their current responsibilities. The guidelines are also vague on whether changes are required and when a facility, rather than a vessel, must make improvements.

If the Access Board believes strongly that the current ADA landside regulations are not effective, AAPA urges the Board to establish a new guideline that clearly articulates the problem and the solutions. The draft passenger vessel guideline is too vague as it relates to landside facility responsibilities.

Following are comments on specific sections of the guidelines and how they impact landside facilities.

V201.1 (Scope)

The draft guidelines reference landside facilities, but focus mostly on the vessel requirements. In the scope section, landside facilities are not even mentioned. If the Access Board does not follow AAPA's recommendation to remove landside facility requirements from this document, then the scope section needs to be revised to clearly articulate that landside facilities are included in the scope of this guideline. A summary of how this rule impacts landside facilities also should be provided in this section.

V2065 (On-Board Accessible Routes)

This section defines an on-board accessible route to include vessel entry and departure points. The vessel must provide the accessible route internally; however, this applies only to newly constructed vessels. The rule does state that altered vessels should provide a solution unless an internal solution is "technically infeasible." AAPA recommends that this term be more clearly defined and that exemptions for financial constraints should not be allowed. Without more clarity, it is very likely that vessel operators will claim as much hardship as possible in order for ports to pick up the cost of compliance through landside enhancements.

V206.4 (Entry and Departure Points)

This section is vague and needs clarification regarding the scope and division of labor that this section would create. This section states that persons with disabilities will be able to depart a vessel not just at current landside facilities where a new vessel may stop, but at landside facilities where the vessel may stop in the future. This would require landside facilities to design for something that may never happen. Under this guideline, both the vessel operators and the ports must anticipate all likely future uses. How is this determined?

UV208 (Passenger Vessel Boarding)

This section calls on vessel operators and pier operators to work together to negotiate an allocation of responsibility for compliance with the guidelines for passenger vessel boarding. This is too vague regarding legal responsibilities. This section also announces that the new rule will include amendments covering new or altered landside facilities, but these amendments were not included in the draft guidelines or the scope of these regulations. If the Access Board continues to include facilities within the scope of these guidelines, these amendments must be published in a manner to allow for public comments.

V412 (Passenger Boarding Systems)

This section ties into earlier sections and explains the requirements for various pieces of passenger board systems and distinct systems. All these provisions fall within the established ADA norms and do not need revisions as they relate to the landside impact.

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CONCLUSION

The American Association of Port Authorities urges the Access Board to delete all requirements and references to landside facilities since they are not included in the scope of the regulations. The Access Board may consider developing a separate guideline specifically for landside requirements that clarifies rules and responsibilities. The draft guideline is too ambiguous.

Thank you for your consideration of these comments.

Sincerely,

A handwritten signature in black ink, appearing to read "Kurt J. Nagle", with a long horizontal flourish extending to the right.

Kurt J. Nagle