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United States Government Accountability Office
Washington, DC 20548

B-294370

July 29, 2004

The Honorable James M. Inhofe
Chairman
The Honorable James M. Jeffords
Ranking Minority Member
Committee on Environment and Public Works
United States Senate

The Honorable Don Young
Chairman
The Honorable James L. Oberstar
Ranking Minority Member
Committee on Transportation and Infrastructure
House of Representatives

Subject: *Architectural and Transportation Barriers Compliance Board: Americans with Disabilities Act (ADA) Accessibility Guidelines for Buildings and Facilities; Architectural Barriers Act (ABA) Accessibility Guidelines*

Pursuant to section 801(a)(2)(A) of title 5, United States Code, this is our report on a major rule promulgated by the Architectural and Transportation Barriers Compliance Board (Access Board), entitled "Americans with Disabilities Act (ADA) Accessibility Guidelines for Buildings and Facilities; Architectural Barriers Act (ABA) Accessibility Guidelines" (RIN: 3014-AA20). We received the rule on July 22, 2004. It was published in the Federal Register as a final rule on July 23, 2004. 69 Fed. Reg. 44084.

The final rule revises and updates the Access Board's accessibility guidelines for buildings and facilities covered by the Americans with Disabilities Act of 1990 and the Architectural Barriers Act of 1968.

Enclosed is our assessment of the Access Board's compliance with the procedural steps required by section 801(a)(1)(B)(i) through (iv) of title 5 with respect to the rule. Our review indicates that the Access Board complied with the applicable requirements.

If you have any questions about this report, please contact James W. Vickers, Assistant General Counsel, at (202) 512-8210. The official responsible for GAO

evaluation work relating to the subject matter of the rule is Michael Gryzkowiec, Managing Director, Physical Infrastructure. Mr. Gryzkowiec can be reached at (202) 512-2834.

signed

Kathleen E. Wannisky
Managing Associate General Counsel

Enclosure

cc: James Raggio
General Counsel
Architectural and Transportation Barriers
Compliance Board

ANALYSIS UNDER 5 U.S.C. § 801(a)(1)(B)(i)-(iv) OF A MAJOR RULE
ISSUED BY THE
ARCHITECTURAL AND TRANSPORTATION BARRIERS
COMPLIANCE BOARD
ENTITLED
"AMERICANS WITH DISABILITIES ACT (ADA) ACCESSIBILITY
GUIDELINES FOR BUILDINGS AND FACILITIES;
ARCHITECTURAL BARRIERS ACT (ABA)
ACCESSIBILITY GUIDELINES"
(RIN: 3014-AA20)

(i) Cost-benefit analysis

The Access Board performed a regulatory assessment of the final rule and its potential impacts. While much of the final rule reorganizes and renumbers prior guidelines for easier understanding, the Access Board has identified 14 revisions that are expected to have monetary impacts on new construction and alteration of facilities. These are listed in the preamble to the final rule along with their unit cost impacts. The impacts of the final rule are expected to range from 0.04 percent to 0.07 percent of industry and government construction estimates. In 2002, industry estimated that \$152 billion of non-residential building construction projects were started. Government reports estimate that \$264 billion of non-residential building construction work and \$6 billion of federal, state, and local government housing construction was installed in 2002.

The final rule also affects leased postal facilities. The United States Postal Service (USPS) leases 27,000 postal facilities and estimates that it will cost \$9,234 per facility to comply with the final rule. USPS will need to alter its leased facilities to comply with the guidelines when a new lease is entered into for a facility, including a previously occupied facility. USPS enters into an average of 1,661 new leases per year and estimates that it will cost \$15.3 million annually for leased postal facilities to comply with the final rule.

(ii) Agency actions relevant to the Regulatory Flexibility Act, 5 U.S.C. §§ 603-605, 607, and 609

The Access Board has certified that the final rule will not have a significant economic impact on a substantial number of small entities.

(iii) Agency actions relevant to sections 202-205 of the Unfunded Mandates Reform Act of 1995, 2 U.S.C. §§ 1532-1535

The Unfunded Mandates Reform Act does not apply to rules that enforce the constitutional rights of individuals or enforce statutory rights that prohibit discrimination on the basis of race, color, sex, national origin, age, handicap, or disability. 2 U.S.C. 1503(1) and (2).

(iv) Other relevant information or requirements under acts and executive orders

Administrative Procedure Act, 5 U.S.C. §§ 551 et seq.

The final rule was issued using the notice and comment procedures found at 5 U.S.C. 553. On November 11, 1999, the Access Board published a Notice of Proposed Rulemaking in the Federal Register. 64 Fed. Reg. 62247. In response, the Access Board received over 2,500 comments and held public hearings in Los Angeles and Washington, D.C. The comments are discussed in the preamble to the final rule.

Paperwork Reduction Act, 44 U.S.C. §§ 3501-3520

The final rule does not contain any information collections that are subject to review by the Office of Management and Budget (OMB) under the Paperwork Reduction Act.

Statutory authorization for the rule

The final rule was promulgated under the authority found at 29 U.S.C. 792(b)(3) and 42 U.S.C. 12204.

Executive Order No. 12866

The final rule was reviewed by OMB and found to be an “economically significant” regulatory action under the order.

Executive Order No. 13132 (Federalism)

The Access Board has determined that the final rule complies with federalism principles in the order and the Access Board consulted with state and local governments throughout the rulemaking process.