

Jonathan M. Young  
09/23/98 10:15:18 AM

Record Type: Record

To: Cynthia A. Rice/OPD/EOP

cc:

Subject: DOT Letter

Thanks for your guidance and suggestions. Here's a rewrite. I reworded the civil rights line a bit to change the agency. Let me know what you think.

Jonathan

President Clinton statement:

I am proud to join you in celebrating the historic release of regulations for over-the-road buses.

As all of you know, this is a day long in coming. Decades ago many visionary supporters of disability rights began a vigorous and persistent campaign to obtain the basic civil right of transportation access for people with disabilities. The Americans with Disabilities Act of 1990 addressed this need by requiring wheelchair lifts and other accessibility features for our public transportation systems. But it postponed the policy for over-the-road buses until further study could be conducted. These new regulations will now help bring closure to one of the ADA's major objectives.

I salute the thousands of activists and supporters who worked tirelessly to make this day a reality, including members of ADAPT, the Disability Rights Education and Defense Fund, Paralyzed Veterans of America, Justice For All, the United States Congress, and the U.S. Department of Transportation. In particular, I want to thank Secretary Slater for his steadfast leadership in ensuring that the regulations are at once strong for the disability community and sensitive to reasonable concerns about implementation.

Let us now continue to promote the full inclusion, empowerment, and independence for all people with disabilities.

President Clinton statement:

ADA

I am proud to join you in celebrating the historic release of regulations for over-the-road buses. As all of you know, this is a day long in coming. Decades ago many visionary supporters of disability rights began a vigorous and persistent campaign to ensure that people with disabilities shared with all Americans ~~the basic civil right of transportation access~~

~~equivalent transportation services~~

I salute the thousands of activists and supporters who worked tirelessly to make this day a reality, including members of ADAPT, DREDF, and PVA, members of Congress, and the Department of Transportation. In particular, I want to thank Secretary Slater for his steadfast leadership.

Cynthia,

DOT is holding an event tomorrow for the OTTB reg, which doesn't exactly give us a lot of time to prepare a statement. I gather that we'd need to shy away from anything with policy implications because of the levels of clearance, so I whipped up this short statement. Would something like this be okay?

Cherry  
Finn  
x67032

09/18/1998 10:00 AM 001 DOT PIA TDI 1 001 0100 11 17 18

— CR

# facsimile transmittal

To: Cynthia Dailard

Fax: 456-7431

From: John Day

Date: 09/18/98

Re: Proposed Rollout for OTRB  
ADA Rule

Pages: 11 (+ cover)

The following pages contain materials relating to the proposed White House rollout event for the Department of Transportation's ADA Final Rule for "over-the-road-buses." Included are the scheduling proposal submitted by the DOT Public Affairs office; an internal DOT memo recommending a White House announcement to the Secretary's Chief of Staff; and letters in support of this rule from Justin Dart, Jr., disability community leader and Presidential Medal of Freedom recipient; Senators Kennedy and Harkin and Representatives Hoyer and Owens, co-authors of the ADA; and Marca Bristo, Chairperson of the National Council on Disability.

We would also like to suggest Chief of Staff Erskine Bowles as a possible participant, in the event that the President or Vice President are not available.

If you have any questions or need additional information, please contact me at 202/366-1671, or Matt Welbes at 202/366-1668.

SCHEDULING PROPOSAL TODAY'S DATE 9/16/98

---

ACCEPT

REGRET

PENDING

---

SCHEDULING OFFICE USE ONLY

---

**TO:** Stephanie Streett, Director of Presidential Scheduling

**FROM:** Thurgood Marshall, Jr., Secretary to the Cabinet

**REQUEST:** Presidential announcement of a new federal requirement that "over-the-road buses" (OTRBs) comply with the Americans with Disabilities Act (ADA).

**PURPOSE:** Announcement/rollout of the Department of Transportation's final ADA rule on the accessibility of over-the-road buses (OTRBs)

**BACKGROUND:** This rule applies ADA requirements to the last major part of the nation's passenger transportation system that remains inaccessible. The rule requires nondiscriminatory bus service and the use of accessible buses. It also avoids unreasonable burdens on small business.

OTRB companies include nationwide intercity bus lines (e.g., Greyhound), local and regional carriers, and charter/tour bus companies. They do not include municipal transit bus authorities.

The main points of the rule are the following:

- New OTRBs used for fixed-route service must be accessible (i.e., have wheelchair lifts and securement locations).
- Large fixed-route carriers (like Greyhound) must make sure that half their buses are accessible by 2006 and all are accessible by 2012.
- Fixed-route carriers must provide interim service in accessible buses on 48 hours' advance notice until their fleets are fully accessible.
- Charter/tour companies must provide 48-hour advance notice service in accessible buses.
- Bus companies that fail to provide timely advance notice service in accessible buses must compensate the passengers who requested it.
- A number of provisions of the rule limit burdens on small business. For example, small fixed-route companies do not have a

deadline to make their fleets accessible. Small companies that operate mostly charter/tour service with a small amount of fixed-route service can meet all requirements through 48-hour advance notice service.

- The estimated annual cost of compliance with the rule is \$22-30 million gross, with an estimated net cost (after subtracting revenue from new passengers who can use accessible buses) of \$15-26 million. TEA-21 authorized financial assistance that can help defray some of these costs.

The rule is controversial: the bus industry (especially Greyhound) and its unions, as well some members of Congress, have opposed providing accessible bus service, primarily on cost grounds.

The issuance of this rule is an opportunity to emphasize the Administration's commitment to civil rights for all Americans and our desire to uphold important principles on a complex and contested issue.

**NOTE:** This rule is subject to a Federal court order to expedite publication. The earliest possible date for an event is therefore needed.

**PREVIOUS PARTICIPATION:** The White House has not previously participated publicly in this rulemaking, but has strongly supported the ADA and disability-related initiatives.

**DATE AND TIME:** September 22, 23, 24, or 25

**BRIEFING TIME:** 1/2 hour

**LOCATION:** The White House Roosevelt Room or another location readily accessible to individuals with disabilities

**PARTICIPANTS:** The President or Vice-President, Mrs. Clinton or Mrs. Gore Secretary of Transportation Slater, and a representative of the disability community.

**OUTLINE OF EVENT:** Secretary Slater: brief welcome, acknowledgement, and introductory remarks of disability community representative

Disability community representative: remarks and introduction of the President (or representative)

The President (or representative): remarks

**REMARKS REQUIRED:** For the President or Vice-President and Secretary  
Of Transportation

**MEDIA COVERAGE:** Expect substantial national coverage from major  
newspapers and television and radio networks.

**RECOMMENDED BY:** Secretary of Transportation

**CONTACT:** Steven Akey, Director of Public Affairs, or Bill Schulz, Deputy  
Director of Public Affairs (202) 366-4570



U.S. Department  
of Transportation  
**Federal Transit  
Administration**

# Memorandum

**Subject:** Accessible Over-the-Road-Bus  
Announcement at the White House

**Date:**

**To:** Jerry Malone  
Chief of Staff

**Reply to  
Attn. of:**

**From:** Michael A. Winter  
Associate Administrator  
For Budget and Policy

**DATE:** September 17 or 18 (tentative)  
**TIME:** TBD  
**DURATION:** 45 minutes  
**LOCATION:** White House

**PURPOSE:** Announcement of Final Over-the-Road-Bus Accessibility Rule.

## **BACKGROUND:**

The Department of Transportation is scheduled to release the final rule on making over-the-road-buses (OTRBs) accessible in September. The Secretary has made a public commitment to release the rule by September 15 and it is anticipated that the final rule will be released close to the scheduled date. The final rule will be notable as it is one of the last major Americans with Disabilities Act (ADA) provisions to be implemented and its issuance will be an ADA success for the Clinton Administration. Since the ADA's passage in 1990, significant work has been done to bring the OTRB rulemaking to closure and this event will commemorate the achievement.

The OTRB rulemaking was distinct from most other ADA transportation provisions. In most cases, the ADA requires new vehicles purchased or leased by private entities primarily in the business of transporting people for use in fixed-route service to be accessible. If a private entity purchases or leases the new vehicle for use in demand responsive service, the vehicles must be accessible or the entity must provide equivalent service. For OTRB's, however, the ADA required that the Congress' Office of Technology Assessment (OTA) would first study how to achieve accessibility prior to the Department's issuance of the final rule.

DOT was to issue interim rules that did not require lifts or other specific equipment to provide access (we did so as part of the Department's 1991 ADA rule). Then, a year following the OTA study, we were to issue final rules. These final rules were to define the accessibility obligations of OTRB carriers. OTA completed its study in May 1993. The Department issued an advance notice of proposed rulemaking and held a public meeting in October 1993. Following the Secretary's commitment to expedite work on the project, the Department issued a notice of proposed rulemaking in March 1998. The final rule is the culmination of this process.

In support of the Department's rulemaking, the Transportation Equity Act for the 21<sup>st</sup> century (TEA-21) establishes the Rural Transportation Accessibility Incentive Program (Sec. 3038). The program provides OTRB operators with funds for capital and training costs associated with making OTRBs accessible. Throughout the rulemaking process, the OTRB industry has claimed that accessibility could be achieved through other measures without equipping buses with lifts. The establishment of the incentive program will offset some of the costs the industry has identified and expedite implementation of the rule. The TEA-21 program authorizes \$24.3 million in funding for this provision between FY 1999 and FY 2003.

#### ISSUES:

The rule's release will be a major advance in implementation of the ADA. The history of this effort during the past eight years has been highlighted by bus industry positions distinctly different from the findings of the Congress' OTA report, the Department's NPRM, and the final rule. With the establishment of the Rural Transportation Accessibility Incentive Program and the pending issuance of the final rule, this event will be an opportunity to confirm the role that all attendees will have in implementing the rule.

JUSTIN DART, JR.  
907 6<sup>TH</sup> STREET, S.W., APT. 516C  
WASHINGTON, D.C. 20024  
202-488-7684

COPY

Rodney E. Slater  
Secretary  
Department of Transportation  
400 7<sup>th</sup> Street, SW, Suite 4281  
Washington, DC 20590

August 29, 1998

Dear Secretary Slater:

I personally appreciate your support for people with disabilities.

Now we need your continuing leadership on the Over the Road Bus (OTRB) issue. We are counting on you to ensure the final Americans with Disabilities Act OTRB regulations will not be weakened. Any waiver will be taken as a license to ignoring serving people with disabilities. We have only to look at the industry's track record over the past six years to find proof of this.

You know the vital importance of transportation, including intercity bus transportation, for all Americans, for lower-income Americans, for rural Americans.

- 15 million, 23 percent of all rural Americans, are people with disabilities.
- Six in ten adults with disabilities rank among the lowest-incomes in this nation.
- 20% of African Americans have a disability, 12% have severe disabilities.
- 10% of Asian Americans have a disability, 5% severe disabilities.
- 15% of Hispanic Americans has a disability, eight percent severe disabilities.

What about their ability - their right - to ride?

Don't let the industry pit one ridership group versus another.

Since 1991 these companies have been required to serve people with disabilities on their buses. DOT gave them great flexibility in how they could achieve this goal, yet in all this time they have done almost nothing to try and find or execute alternate solutions to lift equipping their buses. The "service" they offer is a crime. If this is what the industry can come up with on their terms, what does this say about their judgement, their capabilities, their commitment?

**Justice for All means Real Power for All,**

All Real Access to the Dream for All

And what exactly is this industry asking of their drivers and other hands-on personnel who must carry people up and down those narrow steps? Who must load 300 lb power wheelchairs? They also pay if no lifts are required.

The cost concerns raised recently are the same tired arguments I have heard for over a decade. The transit industry has spent years blaming most if not all potential problems on having to provide lifts. It is really their own mismanagement which is to blame. Many of the evil results they threatened if they were required to lift equip their buses in the 1980s came to pass without their having to install one lift. You have heard it before, this is the same song coming from different voices.

Your own department found that the costs associated with the regulations as proposed in March would only raise the price of an average \$33 ticket be about 38 cents. This is the time to stand firm against the fear mongering of the OTRB industry.

You have already made concessions to address this issue. Thanks to your leadership, this year Congress allocated funds to offset some of the costs of lift-equipping over the Road Buses. No other business has received federal financing for complying with the ADA.

The disability community has fought for the right to ride for over a decade, has gone to jail, has risked personal injury over this issue. We are counting on you.

Thanks again for your contributions to our rights.

Please let us know if there is any way we can support you.

Love,



Justin Dart

Congress of the United States  
Washington, DC 20510

September 10, 1998

Secretary Rodney E. Slater  
U.S. Department of Transportation  
400 7th Street, S.W.  
Room 10205  
Washington, D.C. 20590

Dear Secretary Slater:

As co-authors of the Americans with Disabilities Act, we were very pleased with the Department of Transportation's ("DOT") March 25, 1998 Notice of Proposed Rulemaking ("NPRM") concerning the accessibility of over-the-road buses ("OTRBs"). The NPRM reflects your deep commitment to finishing the work of implementing the ADA.

It has come to our attention that DOT remains under pressure to compromise on full accessibility for fixed-route OTRBs in the final rules. Such a compromise would run counter to the requirements of the ADA, and we strongly urge you to resist that pressure.

In 1990, Congress excluded OTRBs from certain of the ADA's nondiscrimination requirements, pending a study by the Office of Technology Assessment ("OTA"). Congress expected DOT to carefully consider OTA's recommendations in issuing OTRB regulations, and we are happy DOT concurred with those recommendations in issuing the NPRM.

We applaud your recognition in the NPRM that full accessibility "is consistent with the requirements for all other modes of transportation under the ADA." As you stated in the NPRM, "all new fixed-route transit buses; all new rapid, commuter, and intercity rail cars; and all new full-size fixed-route private buses other than OTRBs are already required to be accessible." We agree there should be no exception to this requirement for new fixed-route OTRBs. Experience has demonstrated that providing equal opportunity to Americans with disabilities is financially achievable, and of course, is the right thing to do.

Moreover, the proposed rules include a number of provisions that fairly address the OTRB industry's concerns. The rules apply only to *new* buses and do not require retrofitting. This is consistent with the ADA's general mandate that although facilities may be inaccessible when it comes to the accessibility of existing facilities and vehicles, new facilities and vehicles must be fully accessible. Also, the proposed rules would not take effect for a large company until the year 2000 and for a small company until 2001, and the rules would not require a large company's entire fleet to be accessible until 2012.

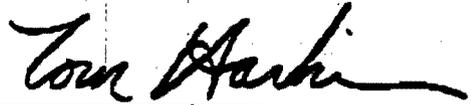
Both the OTA study and the NPRM recognized that for fixed-route OTRBs, neither an option involving boarding chairs nor one that combined a pool of buses and an advance reservation requirement for people with disabilities could be reconciled with the ADA's nondiscrimination mandate. The NPRM set forth this principle succinctly, and correctly, stating that to properly implement the ADA, "it is necessary . . . to ensure that passengers who use wheelchairs can ride, board, and disembark from OTRBs while using their own wheelchairs."

The NPRM also found that the proposed rules would not impose an undue financial burden on the OTRB industry. DOT calculated that the cost of accessibility for fixed-route OTRBs, spread over all passengers, would be \$0.35 per ticket. This hardly can be called a significant impact. In addition, the OTA study concluded that the effect of implementing its recommendations on both ridership and rural service would be marginal.

Finally, during debate of this year's Transportation Equity Act for the 21st Century, the OTRB industry sought relief from the NPRM from Congress. Congress responded by mandating that DOT make specified funding available to OTRB operators to help them implement the final rules. That funding, not a change in the NPRM, is the appropriate answer to the OTRB industry's concerns.

We appreciate your hard work on this matter, and hope the final regulations closely resemble the NPRM.

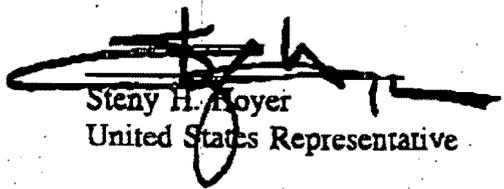
Sincerely,



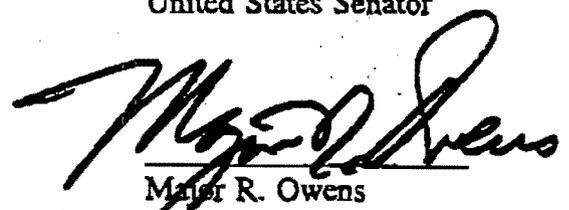
Tom Harkin  
United States Senator



Edward M. Kennedy  
United States Senator



Steny H. Hoyer  
United States Representative



Major R. Owens  
United States Representative



## NATIONAL COUNCIL ON DISABILITY

*An independent federal agency working with the President and Congress to increase the inclusion, independence, and empowerment of all Americans with disabilities.*

August 28, 1998

The Honorable Rodney E. Slater  
Secretary of Transportation  
U.S. Department of Transportation  
400 7<sup>th</sup> Street, S.W.  
Washington, D.C. 20590

Dear Secretary Slater:

As the planned release date for the Department's new regulation on over-the-road buses (OTRB) approaches, lobbying against provisions requiring full fleet accessibility must be intensifying significantly. Transportation industry representatives are working to convince legislators and advocacy organizations serving minority groups and low income populations, especially in rural areas, that this requirement can only be met through reductions in service to rural communities and increased prices. As a result, these groups are being persuaded to support advance notice systems, pooling of accessible buses, and other partial measures as the only solutions that will not negatively impact them.

The OTRB industry is also strongly promoting a modification to the new regulation permitting transit operators to obtain a waiver to the requirement that all new buses be accessible. NCD strongly opposes any modification that provides avenues for avoiding the overall goal of full fleet accessibility within the time frames established by the regulation.

We believe the OTRB industry is pushing for solutions they believe will offset their immediate fiscal concerns without adequately considering important countervailing factors. In doing so, they are misinforming the public, setting groups against one another, and failing to show leadership in the search for solutions that are acceptable to all affected parties.

Industry advocates promote the notion that their bottom lines will be devastated and small service providers put out of business by citing a recent study that estimated the demand for accessible trips at only 13,600 annually. A separate study conducted by the Office of Technology Assessment (OTA) estimates 180,000 trips would be generated annually by people using wheelchairs in an accessible OTRB system, and another 200,000 trips by people using other mobility aids. How should the difference in these estimates be accounted for? Even if OTA's estimate is off by 50%, the number of trips generated annually by an accessible system would strengthen, not devastate the industry's profitability. A piece of the picture is missing.

Other solutions zealously promoted by industry advocates are pooling and advance notice systems. The pooling process requires inefficient practices such as running empty buses to pick-up locations, increasing labor and operating costs. Advance notice systems curtail peoples'

Rodney E. Slater

Page 2

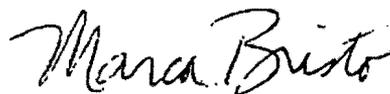
ability to travel on short notice when necessary, and drive up administrative costs. As demand increases, particularly for trips involving multiple transfers, problems coordinating the schedules of accessible equipment and stranding passengers will escalate.

These considerations alone call for a reassessment of how the industry can better address the economic impacts of full fleet accessibility. Neither reducing service and increasing prices nor denying people with disabilities full and equal access are viable solutions. The responsibility of the industry and the Department of Transportation is to promote the development of non-discriminatory, as well as economically feasible solutions.

One avenue for finding solutions may be through the Intermodal Surface Transportation Efficiency Act of 1991 (ISTEA), particularly under Section 18(i). This new section is aimed in part at revitalizing links between small, isolated communities and the rest of the nation. Its provisions for assistance to intercity bus transportation offer new possibilities for state, local and private transportation providers to collaborate in meeting the intercity transportation needs of non-urbanized communities. We urge the Department to encourage collaboration and creative solutions in keeping with its strategic goal of mobility for all Americans : to "ensur[e] a transportation system that is accessible, integrated and efficient, and offers flexibility of choices."

On behalf of the National Council, I extend to you our sincerest thanks for your demonstrated leadership at the Department on transportation issues impacting the civil rights of persons with disabilities.

Best regards,



Marca Bristo  
Chairperson

cc: Nancy McFadden, General Counsel  
Robert Ashby, Deputy Assistant General Counsel for Regulation and Enforcement