



AGENCY

Architectural and Transportation Compliance Barriers
(Access) Board*Rule title*

Passenger Vessels Accessibility Guidelines

RIN	3014-AA11
Publication Date	June 25, 2013
Comment Period Closing Date	January 24, 2014
Stage	Proposed rule

REGULATORY SCORING

	SCORE
1. Systemic Problem: How well does the analysis identify and demonstrate the existence of a market failure or other systemic problem the regulation is supposed to solve?	2/5
2. Alternatives: How well does the analysis assess the effectiveness of alternative approaches?	2/5
3. Benefits (or Other Outcomes): How well does the analysis identify the benefits or other desired outcomes and demonstrate that the regulation will achieve them?	2/5
4. Costs: How well does the analysis assess costs?	2/5
5. Use of Analysis: Does the proposed rule or the RIA present evidence that the agency used the Regulatory Impact Analysis in any decisions?	2/5
6. Cognizance of Net Benefits: Did the agency maximize net benefits or explain why it chose another alternative?	0/5
Total Score	10/30

SUMMARY

The proposed rule seeks to require certain design specifications and technical provisions for renovations and construction of passenger ships so that physically disabled passengers can make use of a greater range of amenities. The rule also requires certain alert systems to be in place for visually and hearing-impaired passengers.

Little evidence is provided as to whether current access to amenities is systemically deficient. Also, there is no discussion of whether future vessels will change their size or accessibility without regulation. The analysis does enumerate alternatives to the problem it purports to solve; however, the alternatives explored are narrow and their benefits are not calculated.

No direct link is made as to whether construction requirements will actually enhance the welfare of those the proposed rule intends to help. Expenditures likely to arise from the rule are provided, as is a brief analysis of how the prices of goods and services provided on vessels will change. But the analysis does not discuss how this might alter the types of services provided. It fails to address whether this rule will reduce the number of sailings between ports or result in the termination of routes.

Evidence indicates that the agency did not rely heavily on its economic analysis when crafting its final rule. The agency fails to explain why its chosen regulation maximizes net benefits and why alternatives to the proposed rule were deemed inadequate.

1. Systemic Problem: How well does the analysis identify and demonstrate the existence of a market failure or other systemic problem the regulation is supposed to solve?	2		
Does the analysis identify a market failure or other systemic problem?	3	1A	The analysis assumes that ferries, cruise ships, and other passenger vessels fail to provide enough handicapped-accessible features. One could say there is a systemic failure to give weight to the preferences of a small minority (disabled Americans and those highly sympathetic to them), but it is a stretch to see this as a market failure.
Does the analysis outline a coherent and testable theory that explains why the problem is systemic rather than anecdotal?	0	1B	There is no theory discussing why vessel operators might fail to provide enough features for disabled passengers.
Does the analysis present credible empirical support for the theory?	1	1C	Other than the fact that the ten case-study vessels all required updating under the new guidelines, no. Yet there is little evidence as to whether current access is systemically deficient. Moreover, it shows that a "significant percent of passengers who used wheelchairs or scooters did not occupy a guest room with mobility features." (37)
Does the analysis adequately address the baseline? That is, what the state of the world is likely to be in the absence of federal intervention not just now but in the future?	2	1D	There is no discussion of whether future vessels will change their size or accessibility without regulation.
Does the analysis adequately assess uncertainty about the existence or size of the problem?	2	1E	The rule does discuss possible future growth in the number of handicapped citizens in the United States. It also shows that a number of handicapped passengers did not use handicapped-accessible rooms that are currently available. But there is little discussion of the uncertainty attached to these estimates.
2. Alternatives: How well does the analysis assess alternative approaches?	2		
Does the analysis enumerate other alternatives to address the problem?	4	2A	There are limited alternatives presented throughout the proposed rule
Is the range of alternatives considered narrow (e.g., some exemptions to a regulation) or broad (e.g., performance-based regulation vs. command and control, market mechanisms, nonbinding guidance, information disclosure, addressing any government failures that caused the original problem)?	1	2B	The alternatives are narrow. Some examples include pool lifts or sloped pools; ramps or elevators; ramp access or double ramp access; and automatic doors. The proposed rule also provides exemptions permitted for smaller vessels and where it is very costly to make changes.
Does the analysis evaluate how alternative approaches would affect the amount of benefits or other outcome achieved?	1	2C	The proposed rule does not calculate benefits but simply looks at alternative structures that result in similar access.

Does the analysis identify and quantify incremental costs of all alternatives considered?	4	2D	The proposed rule provides detailed information on the cost associated with redesigning and maintain the new structure or mechanism that enhances accessibility. "However, [the agency] did not conduct case studies of large cruise ships because we could not find cruise ship owners and operators to participate in the case studies. Due to the lack of information, [the agency] did not estimate the incremental costs to construct large cruise ships in compliance with the proposed guidelines, and the additional operation and maintenance costs due to the proposed guidelines." (RIA, 35)
Does the analysis identify the alternative that maximizes net benefits?	0	2E	No, benefits are not quantified.
Does the analysis identify the cost-effectiveness of each alternative considered?	0	2F	Benefits were too ill-defined to allow cost effectiveness comparisons.
3. Benefits (or other Outcomes): How well does the analysis identify the benefits or other desired outcomes and demonstrate that the regulation will achieve them?	2		
Does the analysis clearly identify ultimate outcomes that affect citizens' quality of life?	3	3A	The proposed rule will "enable these [handicapped] individuals to achieve greater participation in society, independent living, and economic self-sufficiency." (38,103) However, there is no direct link to whether these construction requirements will actually enhance the welfare of those it intends to help.
Does the analysis identify how these outcomes are to be measured?	1	3B	The DOT and the DOJ will measure the fraction of rooms that are now handicapped accessible; however, the rule fails to report how the agency will measure net benefits to citizens.
Does the analysis provide a coherent and testable theory showing how the regulation will produce the desired outcomes?	2	3C	With a larger number of rooms and amenities available, handicapped passengers have a greater probability of easier access. However, increasing the number of rooms and amenities does not ensure availability to those who are most likely to benefit from these changes.
Does the analysis present credible empirical support for the theory?	1	3D	There is little discussion on the current accessibility of vessels.
Does the analysis adequately assess uncertainty about the outcomes?	1	3E	The proposed rule does look at the future growth rate in the number of handicapped citizens who may benefit from the changes in passenger vessels.
Does the analysis identify all parties who would receive benefits and assess the incidence of benefits?	3	3F	The analysis identifies individuals with mobility, hearing, and vision disabilities on passenger vessels as recipients of benefits.
4. Costs: How well does the analysis assess costs of the regulation?	2		
Does the analysis identify all expenditures likely to arise as a result of the regulation?	4	4A	Via ten case studies, the proposed rule does provide a long list of expenditures that are likely to arise.
Does the analysis identify how the regulation would likely affect the prices of goods and services?	2	4B	The rule does briefly analyze how prices of goods and services provided on vessels will change. But it does not discuss how this might alter the types of services provided.

<p>Does the analysis examine costs that stem from changes in human behavior as consumers and producers respond to the regulation?</p>	<p>1</p>	<p>4C</p>	<p>The proposed rule assumes “an expected service life of 25 to 40 years based on the vessel type and size.” (RIA, 12). Yet the rule fails to address whether or how operators might respond to the new, more expensive guidelines. According to the RIA, the costs of building new ships will be higher and the revenue produced per square foot is expected to be lower. Faced with these higher costs of renovation or replacement and lower revenues post renovation, vessel operators will likely extend the service life of current vessels as a way to reduce the present value of the expenses associated with the rule. In addition, the RIA fails to address whether this rule will reduce the number of sailings between ports or result in the termination of ferry or cruise ship routes. Raising the operating costs while lowering revenue may cause operators to reduce the number of sailings between ports as a way to ensure more passengers, and thus more revenue, per departure. If the costs are high enough, an operator may cease offering connections between certain ports.</p>
<p>If costs are uncertain, does the analysis present a range of estimates and/or perform a sensitivity analysis?</p>	<p>2</p>	<p>4D</p>	<p>The proposed rule and RIA report the information about the costs associated with compliance. These ten case studies do report the range of costs that various types of vessels may encounter.</p>
<p>Does the analysis identify all parties who would bear costs and assess the incidence of costs?</p>	<p>3</p>	<p>4E</p>	<p>The rule focuses on the costs incurred by vessel operators.</p>
<p>5. Use of Analysis: Does the proposed rule or the RIA present evidence that the agency used the analysis in any decisions?</p>	<p>2</p>	<p>5</p>	<p>The proposed rule focuses on the ADA mandate. The results from the ten vessel case studies are used to determine which types of renovations and structures might be easier to implement than others.</p>
<p>6. Net Benefits: Did the agency maximize net benefits or explain why it chose another alternative?</p>	<p>0</p>	<p>6</p>	<p>The proposed rule does not relate to whether these goals are maximized. (38,103) The RIA should follow the methodology used by the DOJ in 2008 when the DOJ evaluated the Nondiscrimination on the Basis of Disability in State and Local Government Services Rule and the Nondiscrimination on the Basis of Disability by Public Accommodations and in Commercial Facilities Rule. In Appendix 4 of both RIAs, the DOJ attempted to measure use value by monetizing the time value and quality-of-experience value realized by those experiencing greater accessibility.</p>