

MaineDOT

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Maine Department of Transportation

Americans with Disabilities Act (ADA) Title II Updated Transition Plan

Prepared by Theresa Savoy, Director, Civil Rights Office

Submitted to the Federal Highway Administration
September 29, 2016



Paul R. LePage
GOVERNOR

STATE OF MAINE
DEPARTMENT OF TRANSPORTATION
16 STATE HOUSE STATION
AUGUSTA, MAINE 04333-0016

David Bernhardt
COMMISSIONER

September 29, 2016

Todd Jorgensen, FHWA Division Office
Federal Highway Administration
Federal Building, Room 614
Augusta, Maine 04330

RE: Updated Maine Department of Transportation ADA Title II Transition Plan

Dear Mr. Jorgensen:

The Maine Department of Transportation (MaineDOT) submits its updated ADA Title II Transition Plan to the Federal Highway Administration in compliance with the American with Disabilities Act of 1990.

As Chief Engineer of MaineDOT, I approve this document for your review. Please forward any revisions or concerns to Theresa Savoy, Director of the MaineDOT Civil Rights Office. Thank you.

Sincerely,

Joyce Taylor, Chief Engineer
JT/tms

Cc:

David Bernhardt, Commissioner
Colleen M. Sinotte, Civil Rights Specialist
Theresa Savoy, Civil Rights Office
Toni Kemmerle, Chief Counsel



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Dedication

This document is dedicated to Penny Plourde, whose dedication to people with disabilities has and will continue make Maine a better place. Penny not only helped those with disabilities, but also helped those without to better understand the challenges that are faced daily on Maine's Transportation System. She will be greatly missed.

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Introduction

In August of 1994, the Maine Department of Transportation (MaineDOT) completed an initial Title VI/ Section 504/ADA Transition Plan. In preparing this plan, MaineDOT's evaluation included a review of its nondiscrimination policies, equal employment opportunity statement and its employment practices. The initial plan also included a nondiscrimination complaint process and a commitment to improve accessibility at public facilities such as rest areas, ferry terminals and public venues. It tasked the program areas to consider and ensure accessibility in the design of projects. The initial plan did not include an inventory or evaluation of the State of Maine's public right-of-ways, including curb ramps, sidewalks and signalized crossings. It also did not inventory rest areas or public facilities for ADA compliance.

As a state agency MaineDOT must meet the requirements of Title I and Title II of the Americans with Disabilities Act. Much of what is required by Title I of ADA prohibits private employers, State and local governments, employment agencies and labor unions from discriminating against qualified individuals with disabilities in job application procedures, hiring, firing, advancement, compensation, and job training. MaineDOT is subject to State laws and regulation concerning hiring practices. This document will focus on Title II of the ADA which applies to state and local government entities, and, in subtitle A, protects qualified individuals with disabilities from discrimination services, programs, and activities provided by State and local government entities.

This document updates the initial plan (herein referred to as "the Plan") and is based on requirements and guidelines set forth in the ADA and the Federal Highway Administration (FHWA). In November of 2015, FHWA provided additional guidance for State agencies in the development of their transition plans (Appendix I). Requirements of that Guidance are shown in italics in the document. As stated above, this Plan is specific to Title II of ADA. Its initial focus is to identify and address accessibility concerns under the FHWA's jurisdiction. The Plan will therefore focus mainly on highway and bridge facilities, rest areas, Park and Ride Lots and the other highway facilities. It will also review MaineDOT's policies as they relate to ADA in the alteration and construction of these facilities. This document reflects MaineDOT's good faith efforts to comply with and implement the provisions of Title II of the Americans with Disabilities Act (ADA), especially as these regulations relate to pedestrian facilities on its highway system.

Limitations

MaineDOT faces many challenges in reaching full compliance with the ADA. Most of the upgrades made to the transportation system will occur as alterations to existing right of way and building facilities, much of this work is contingent on funding and prioritization within MaineDOT's work plan. MaineDOT must comply with laws regarding the acquisition of property rights, historic preservation and environmental considerations, and physical constraints as well. MaineDOT intends to comply with ADA guidelines "to the maximum extent feasible" but, at times it is technically infeasible to accomplish a fully compliant solution. Every effort will be made to remove all barriers and provide easy access to the transportation facilities over which the department has control. In addition, attempts will be made to work with other public right of way owners and adjacent property owners to determine the best solution for each area. The Department will follow its established guidelines on technical infeasibility and undue financial burden.

Purpose of the Plan

The purpose of this plan shall be to:

1. Assure compliance with the administrative requirements of the ADA and Section 504 of the Rehabilitation Act of 1973 as these relate to the State's highways, bridges and facilities within its jurisdiction; and
2. Serve as an informational document for any persons interested in MaineDOT's ADA highway and bridge improvement efforts; and
3. Provide a roadmap for MaineDOT to create the most accessible transportation system possible.

Revisions and Updates

The ADA Transition Plan will be updated every three (3) years to include any new requirements, incorporate any changes in policies and process, update staff and include any new policies.

The ADA inventory will be updated annually to document:

1. Updates and improvements made to the transportation system based on work plan and municipal improvements; and
2. To incorporate new data from scheduled inventories of the MaineDOT system. (See Inventory Schedule and Plan below)

MaineDOT's Mission Statement

To responsibly provide our customers with the safest, most reliable transportation system possible, given available resources.

Responsibility for ADA Transition Plan

FHWA requires that states designate an *Official responsible for implementation of the TP, i.e., Executive Director, Secretary, Commissioner, Chief Engineer, etc.* 28 CFR 35.150(d)(3)(iv)

At MaineDOT, the coordination and implementation of the ADA Transition Plan for (The Plan) is the responsibility of the Chief Engineer. The Chief Engineer approves the plan and provides guidance and leadership to ensure compliance and commitment to the Plan. The Chief Engineer designates ADA Coordinator who will be responsible for the day to day implementation of this Plan as it relates to Title II of the ADA.

Designation of Title II ADA Coordinator

The following individual has been designated as the coordinator for ADA implementation of this Plan within MaineDOT:

- Title II ADA Coordinator : Theresa Savoy, Director, Civil Rights Office

ADA Transition Plan Team

The ADA Transition Plan Team has been created and chartered to work towards developing needed aspects of the required ADA Transition Plan to be completed by September 30, 2016. The Team's charge is to develop long term processes for deliverables from the Plan and to provide guidelines as to how the Plan is implemented. It will also create or update procedures and policies to ensure accessibility on the State's transportation system. The Team was made up of individuals from the Executive Office (Chief Engineer), Bureau of Planning, Project Development, Maintenance and Operations including the Traffic Division, the Results and Information Office and Legal and Civil Rights Office. (Appendix II)

From this Team, the Department created an ongoing ADA Subcommittee of the Engineering Council and an ADA Community Advisory Group.

ADA Subcommittee of the MaineDOT Engineering Council

MaineDOT will establish an ADA Subcommittee of the Engineering Council (EC) which will:

1. Ensure that ADA is met on projects;
2. Develop protocols for determining priority projects outside of work plan projects;
3. Develop processes for reporting ADA updates and technical infeasibility findings;
4. Provide technical and engineering expertise to ADA coordinator;
5. Develop training programs for Assistant Engineers, new engineers, regional staff, subrecipient staff and others to ensure that projects are in compliance and that ADA is considered in all construction projects that;
6. Address any engineering concerns on projects brought to the EC

Jurisdictional Responsibilities

Overview of the Maine Highway System

There are 23,457 miles of public roads in Maine. Many of these roads (14,403 miles) are local and municipal roads. MaineDOT has jurisdiction over 9,166 miles of roadway in Maine. There are many classifications of roads in Maine. Information on Maine's road classifications can be found at <http://www.maine.gov/mdot/csd/mts/highwaysystems.htm>.

Although MaineDOT has jurisdiction over these roads, the responsibility for some of these highways falls within urban compacts in many cities and large towns in Maine. State statute defines urban compact areas (MSRS 23§754) and the responsibilities for maintenance within those compacts.

In June 2014, MaineDOT revised and implemented its Local Cost Sharing Policy. The purpose of this policy was to "create a fair and consistent basis for sharing the cost of major

investments to the state highway and bridge system.” This clarifies cost and maintenance responsibilities for those projects outside the Municipal Plan Organization (MPO) Capital Management Area, leaving open the potential for MPOs to adopt the policy at its discretion. Below are excerpts from that policy as they relate to sidewalks and state and municipal responsibility:

Maintenance of Pedestrian Facilities in the Right-of-Way

Maine Statute defines “highways” as “all of the right-of-way that may have been laid out by the State, county or towns. In most instances, the term includes the pedestrian facilities in those rights-of way.

Under 23 USC§ 116 federal law requires that facilities that are constructed with federal funds either be maintained by the MaineDOT or through maintenance agreements with the appropriate local officials. MaineDOT enters into agreements with municipalities when pedestrian facilities are upgraded or constructed which require the municipalities to maintain those facilities.

In June 2014, MaineDOT revised and implemented its *Local Cost Sharing Policy*. The purpose of this policy was to “create a fair and consistent basis for sharing the cost of major investments to the state highway and bridge system.” This clarifies cost and maintenance responsibilities for those projects outside the Municipal Plan Organization (MPO) Capital Management Area, leaving open the potential for MPOs to adopt the policy at its discretion. Below are excerpts from the Local Cost Sharing Policy as it relates to sidewalk maintenance:

Sidewalk Maintenance - Municipalities are responsible for year-round maintenance of all existing, new or replaced/rehabilitated pedestrian facilities. MaineDOT reserves the right to perform maintenance and invoice the municipality if appropriate maintenance is not satisfactorily performed by the municipality.

Additionally, when municipalities are engaging in maintenance paving on the state highway system, this treatment is considered an alteration by US DOJ and FHWA and as such, ADA upgrades must be completed by the municipality pursuant to the “MaineDOT ADA Compliance Policy for Construction and Maintenance.”

Applicable Reference Codes, Standards and Guidance

Standard and Methodology Used for ADA Evaluations

FHWA requires that states: *Describe in detail the **Methods** that will be used to make the facilities accessible. 28 CFR 35.150(d)(3)(ii)*

Public Rights of Way

MaineDOT will rely on the 2010 ADA Standards for Accessible Design which incorporates the 2004 ADA Accessibility Guidelines (ADAAG). It will also use provisions adopted by the US DOT in 2006 that incorporate 2006 ADAAG standards for detectable warnings and

other transportation concerns that the 2010 ADA does not address. Those standards are codified in 49 CFR 37, Appendix A. Lastly, where the above guidance is silent, MaineDOT will refer to the 2011 Proposed Public Rights-of-Way Accessibility Guideline (PROWAG) for guidance on best practices.

Maine will also use its Standard Details that meet or exceed ADA standards.

Communications Policies and Guidance (includes public involvement)

- State of Maine Accessibility Policy on Effective Electronic Communications: <http://www.maine.gov/oit/policies/ADA-effective-communication-policy.htm>
- Section 508 of the Rehabilitation Act of 1973 as amended by 1998 the Work Force Investment Act (section 1194.22 and its subsequent amendments) as minimum requirements for web accessibility
- MaineDOT Public Involvement Plan <http://maine.gov/mdot/docs/2015/MaineDOTPublicInvolvement1015.pdf>
- Federal Highway Administration (FHWA) Public Involvement Techniques for Transportation Decision-Making Document
- FHWA Environmental Justice Guidance Document
- ADA Community Advisory Working Group
- Maine Bicycle and Pedestrian Council

Undue Burden Analysis:

In making decisions program-wide in the transition plan, MaineDOT may determine whether financial and administrative burdens are undue. A public agency must consider all of that public agency's resources available for use in the funding and operation of the service, program, or activity. (28 CFR Part 35, APP. A), an undue burden can also be a change which would result in a fundamental alteration in the nature of a program, service or activity.

Cost may be a factor in determining whether to undertake a stand-alone accessibility improvement identified in a transition plan. For example, if an existing highway, not scheduled for an alteration, is listed in the public agency's transition plan as needing curb cuts, the public agency may consider costs that are "unduly burdensome."

The test for being unduly burdensome is the proportion of the cost for accessibility improvements compared to the agency's overall budget, not simply the project cost. If it is determined that full ADA compliance is an Undue Financial Burden, then ADA compliance is met to the best of available options. A written statement of the reasons for reaching that conclusion must be documented. [28 CFR § 35.150(a)(3)]. ADA regulations require documentation that is signed by the "head" of the agency, or his or her designee, whenever an undue burden is determined.

Technical Infeasibility:

MaineDOT recognizes that there will be instances when it will be technically infeasible for some pedestrian facilities to be constructed in full and strict compliance with the requirements of ADA Standards because of physical or site constraints. In such

circumstances, MaineDOT will provide accessibility to the maximum extent feasible. Before reaching a conclusion about technical infeasibility, MaineDOT will need to consider the extent to which physical or site constraints can be addressed. Because the burden of proving technical infeasibility lies with the state or local government that constructed the facility, MaineDOT has developed a worksheet to assist designers and others in determining and documenting technical infeasibility on projects.

2013 USDOJ/USDOT Alteration Guidance

In the summer of 2013, the U.S. Department of Justice and the U.S. Department of Transportation released a joint memo clarifying the definition of alterations on highway projects, [2013 DOJ/DOT Joint Technical Assistance](#). From this Memo MaineDOT reviewed its policy on ADA Compliance and updated the ADA Compliance Policy for Construction and Maintenance.

ADA Compliance Policy for Construction and Maintenance

MaineDOT first developed its policy for ADA compliance on construction and maintenance projects in the spring of 2012. The policy gave guidance to project development, maintenance and traffic engineering staff on when and to what extent ADA upgrades should be made on various pavement and traffic treatments. Because of the August 2013 DOJ/DOT Joint Technical Assistance memo, a new policy was developed and was last updated in August 2016. That policy better defined the MaineDOT's approaches to ADA on all projects. That policy can be found on our website. We encourage municipalities to review the document and use it as a model for their own policies. The ADA Compliance Policy can be found at <http://www.maine.gov/mdot/civilrights/>

Self-Evaluation

FHWA requires that states do the following for self-evaluation:

Inventory of barriers (identification of physical obstacles) 28 CFR 35.150(d)(3)(i); 28 CFR 35.105 (a) – State demonstrates good faith by identifying intersection information, including curb ramps and other associated accessibility elements, as a starting point and showing movement and commitment toward developing a full inventory.

Require an Action Plan to develop an inventory of sidewalks (slopes, obstructions, protruding objects, changes in levels, etc.), signals (APS), bus stops (bus pads), buildings, parking, rest areas (tourist areas, picnic areas, visitor centers, etc.), mixed use trails, linkages to transit.

Policy Inventory

MaineDOT has reviewed its policies as they relate to Title II of ADA. MaineDOT found a number of policies that are directly related to ADA compliance, or that impact ADA requirements and compliance. Those Policies include:

1. MaineDOT Section 504 – Rehabilitation Act of 1973 and the ADA Act of 1990 Policy Statement and Assurances - Updated in 2016
2. MaineDOT ADA Compliance Policy for Construction and Maintenance – Updated in 2016
3. ADA Complaint Process – Updated 2016
4. ADA Complaint form – Updated 2016
5. ADA Technical Infeasibility Checklist – Approved 2016
6. MaineDOT Guidelines on Crosswalks – Currently being updated*
7. MaineDOT Complete Streets Policy- Adopted 2014 (Currently being updated)
8. MaineDOT Local Cost Sharing Policy – Updated 2014 (Currently being reviewed)
9. MaineDOT Mailbox Policy – Updated 2015
10. Municipal Memorandum of Agreement – Updated 2016

All current Policies are posted on the MaineDOT Civil Rights webpage at:

<http://www.maine.gov/mdot/civilrights/>

*MaineDOT Crosswalk Policy will be uploaded when approved by MaineDOT Engineering Council.

Public Facilities Self-Evaluation Plan

MaineDOT is in the process of undergoing a self-evaluation of all of its public facilities and programs. At the FHWA’s request, MaineDOT has focused its initial inventory and evaluation on curb ramps on its highways and bridge systems to address barriers to accessibility. MaineDOT has begun that process, described below, and is working towards a more robust inventory over the next five years (dates are targets). That inventory and evaluation will include:

1. Curb Ramp at intersections: 2015 (continue to update as needed)
2. Mid-block curb ramps and crossings: Inventory 2016-17
3. Traffic Signal Systems (APS): Initial Inventory 2016 - 18
4. Sidewalks: 2017-22
5. Linkages to Transit Stops: 2017-18
6. Rest Areas: 2017

Curb Ramp Inventory Progress

In 2011 MaineDOT underwent an inventory of its system to identify all sidewalks within the State-owned rights-of-way on its entire system. At that time 783.55 miles of sidewalk were located. MaineDOT has entered that information in its access management data systems. This inventory will be used in ongoing assessments on accessibility of sidewalks on MaineDOT’s system. In the coming years, MaineDOT will assess the accessibility of that inventory and will work toward full accessibility to the maximum extent feasible.

From the sidewalk inventory, the agency was able to determine where intersections existed and where curb cuts should be present. Using Microsoft Access, a database was created to link those intersections or nodes, with Graphic Information System (GIS) data to provide the ability to remotely view each node and each curb cut on that node where these pedestrian facilities exist. In the summer of 2015, the inventory was compiled using GIS programs including Google Maps and our own internal GIS program. Using summer interns, 6,616 intersection nodes were looked at remotely and 10,726 potential curb ramps were evaluated

for the existence of tip downs, detectable warnings, and level landings. Ramps were also reviewed to assess if the ramps were flush with the roadway. At that time and based on the most recent GIS data we found that there were 906 curbs where there were no tip downs ramps present. There were 8,774 curbs where detectable warnings were not present and there were 870 ramps where the curb ramp was present but did not appear flush with the curb.

There are 1,736 curbs for pedestrian facilities where traffic signals exist. Of these there were 109 without visible curb ramps.

Caveats

This initial inventory was done remotely using the best data available at the time of the review. Because of the nature of Google Maps; dates that photographs were taken, obstructions in viewing the data and construction at the time of after the data was collected, the GIS inventory may not reflect the most recent information. Because of this each reviewed curb ramp noted the date stamp of the map reviewed. Because this inventory is based on intersection information, MaineDOT must still collect information on midblock crossings where curb ramps and accessibility is needed. It was also difficult to detect slope and landing size remotely.

From this inventory, MaineDOT can access information for upcoming projects and ensure work within those projects, which meet the definition of alteration, are upgraded and tracked. We can also assess where we were unable to meet ADA requirements because of technical reasons and note the inventory so that they can be addressed in future projects. It also allows us to use this data to prioritize critical needs around areas near public facilities where pedestrian facilities are present.

Prioritization

MaineDOT took the information from the curb ramp inventory and merged it with a public facilities datasets. The datasets used in analysis are maintained by the Maine Office of GIS (MEGIS): <http://www.maine.gov/megis/>. MaineDOT access this data through ESRI ArcGIS Desktop application (ArcMap, ArcCatalog) SDE connections that showed facilities within a 500 foot proximity to those curb ramps. These facilities include school, hospitals, court facilities, post offices, libraries, nursing homes, police stations, municipal offices and museums. This information helps the agency prioritize its approach to ADA accessibility by providing information on where the curb ramps are and in what state of compliance they are in. In the 2015 curb ramp inventory, we found that 2977 ramps were within 500 feet of a facility described above. Of those, 238 were found without curb ramps, and 2331 did not have detectable warnings. Although these curb ramps are in close proximity to public facilities, it is important to point out that they may not directly impact accessibility to these facilities.

The MaineDOT Civil Rights Office is currently working with the Safety Office to review high crash locations where pedestrian injury occurred. With that information we can cross reference our curb ramp inventory to determine safety and accessibility concerns.

Process of Collecting Data

Each year MaineDOT does work on its highways and intersections and that data must be tracked and the ADA inventory must be updated.

Because of the caveats in collecting this data and in integrating it with in ADA inventory, MaineDOT is developing a second layer of data collection. As was mentioned above, inside the urban compacts, cities are responsible for much of the annual work. Many communities do much of their work on their sidewalk systems and their highway systems. Regardless of who does the work, on MaineDOT's system, updates need to be captured.

MaineDOT will use Municipal Planning Organizations (MPOs) and Regional Planning Organizations (RPOs) to capture information on site and within MPOs and Urban compacts. They will review areas prioritized in the inventory to assess compliance around public facilities and in high crash locations to determine if these curb ramps are compliant and if there are problem areas that may be high priority concerns, such as limited access, poor connectivity or unusable.

Schedule

FHWA requires the following

***Schedule** – Show a strong commitment toward upgrading ADA elements identified in the inventory of barriers in the short term (planned capital improvement projects) and a strong commitment over time toward prioritizing curb ramps at walkways serving entities covered by the ADA. 28 CFR 35.150(d)(2) This would also include planning and investments directed at eliminating other identified barriers over time. 28 CFR 35.150(d)(3)*

In the next year, MaineDOT will develop a schedule to address curb ramps that are currently out of compliance. Within existing asset management systems and work plan programs we will incorporate ADA deficiencies on our system into real project information. As projects are designed ADA deficiencies will be automatically part of the design process when a project becomes a candidate for the Statewide Transportation Improvement Program (STIP) and for annual work plans.

MaineDOT is currently updating the agency's Strategic Plan and is developing asset management funding strategies that will require certain policies be considered in program areas before projects are approved. ADA policies will be considered as resource decisions are made, to ensure compliance on our system.

Through our priority process we will encounter critical ADA deficiencies which need to be addressed outside of traditional project prioritization but are determined to be necessary because of their proximity to public facilities or because we have had concerns brought to our attention by the public. We will also attempt to address needs that we encounter during paving projects that would be outside the scope of work. To meet these needs, MaineDOT will allocate \$500,000.00 annually to specifically address ADA deficiencies that might not otherwise be addressed.

Public Outreach

MaineDOT provided a list of stakeholders with a copy of the Draft Plan and comments were solicited. The notice also encouraged these stakeholders to members or others who may be interested in the Plan. A public notice of the Draft Plan was also posted on the MaineDOT Civil Rights website from September 9, 2016 - September 23 and comments were solicited

until that time. MaineDOT also distributed this Plan as draft to a list of stakeholders asking those groups to distribute the Plan to their members and affiliates. (Appendix III)

No formal comments were received but some observations we made. One suggestion was to make the grievance process and form more visible on the webpage. We did this by placing that information at the beginning in its own section.

An important part of the Maine DOT ADA Transition Plan is to gather information and comments from the public, particularly from those most impacted by the accessibility of the transportation system.

In 2011, MaineDOT hired a consultant, PPlourde Associates, to assist the Civil Rights Office with the ADA Transition Plan. Before starting her consulting firm, Penny Plourde worked for many years at MaineDOT in Civil Rights and was a Division Director of Vocational Rehabilitation Services at the Maine Department of Labor. As a disabled individual, she provided insight into challenges that disabled individuals face. She helped design a training for Assistant Engineers and provided Civil Rights staff with guidance and insight on this Plan.

MaineDOT has strong relationships with disabilities stakeholders in Maine. Individuals from the Maine Developmental Disabilities Rights Council, the Maine Department of Labor's Division of the Blind, and American Association of Retired Persons (AARP) are members of our Bicycle and Pedestrian Council. Along with PPlourde Associates, Alpha One, a center for independent living and the State of Maine's Division of the Blind have participated in training our Assistant Engineers to better understand the challenges that those with disabilities face when using our systems.

ADA Webpage

MaineDOT has also updated and improved its ADA webpage. This page will house a variety of resources and contacts that MaineDOT, municipalities, contractors and, most importantly, the public, can use to help them better understand MaineDOT's commitment to accessibility on its system and to provide useful information to understand federal law and requirements for accessibility on pedestrian facilities. The Webpage can be accessed at: <http://www.maine.gov/mdot/civilrights/> and clicking on the "+ American with Disabilities Act".

ADA Community Advisory Working Group

In 2016, MaineDOT will charter an external community-based statewide ADA Community Advisory Working Group (ADA Working Group) composed of the MaineDOT ADA Coordinator, the MaineDOT Bike Ped Coordinator, Representatives from Regional Planning Organizations and Maine's four Municipal Planning organizations, representatives from various stakeholder and provider groups and individuals with disabilities.

This ADA Working Group will have fifteen inaugural members. MaineDOT will make a good faith effort to ensure geographic diversity in the selection of working group members by selecting at least one member from each of the six RPOs.

MaineDOT will encourage individuals with disabilities, disability rights advocates, and organizations that service individuals with disabilities to consider submitting a letter of interest for participation in the working group.

The duties of the ADA Working Group will include the following:

- Reviewing and providing specific input regarding MaineDOT's ADA Self-Evaluation and Transition Plan Updates;
- Recommending means and methods for MaineDOT to increase the public involvement of persons with disabilities in transportation planning;
- Providing specific information, input and recommendations regarding community accessibility concerns as they relate to transportation projects and pedestrian facilities within MaineDOT's jurisdiction; and
- Serving as a liaison between MaineDOT and the community.

The ADA Working Group will play an important voluntary consultative role in helping MaineDOT comply with the ADA. MaineDOT will maintain ultimate authority and control over decisions regarding its ADA compliance efforts.

The MaineDOT ADA Coordinator and the MaineDOT Bike Ped Coordinator will be responsible for soliciting members throughout the state.

Additionally, MaineDOT may include comments submitted by the ADA Working Group in subsequent revisions to its ADA Transition Plan.

Grievance Process for Title II of the Americans Disabilities Act of 1990

Title II of the Americans with Disabilities Act of 1990 (ADA) protects qualified individuals with a disability from discrimination on the basis of that disability in the services, programs, or activities of the Maine Department of Transportation (MaineDOT). This notice is posted to inform the public of the provisions of Title II of the ADA and the requirements of the Federal ADA regulations.

Grievance Procedure: The MaineDOT does not discriminate against qualified individuals with a disability in its services, programs or activities. Also, qualified individuals with a disability are not excluded from participation in or denied the benefits of the services, programs, or activities of the MaineDOT. If an individual has a complaint under Title II of the ADA about the services, programs or activities of the MaineDOT, he or she is encouraged to file the complaint with the ADA Title II Coordinator.

How to file a Grievance:

The procedure to file a grievance is as follows:

1. A formal written grievance should be filed with the ADA Title II Coordinator. If you are unable to provide a written statement an oral grievance can be filed by contacting ADA Title II Coordinator. Under the Grievance Procedure, a formal complaint must be filed within 90 calendar days of the alleged occurrence using the form below or other methods. Additionally, individuals filing a grievance are not required to file a grievance with MaineDOT, but may instead exercise their right to file a grievance with the Department of Justice. The grievance must include the following information:

- The name, address, and telephone number of the person filing the grievance.
 - The name, address, and telephone number of the person alleging ADA violation, if other than the person filing the grievance.
 - A description and location of the alleged violation and the remedy sought.
 - Information regarding whether a complaint has been filed with the Department of Justice or other Federal or state civil rights agency or court.
 - If a complaint has been filed, the name of the agency or court where the complaint was filed, and the date the complaint was filed.
2. The grievance will be either responded to or acknowledged within 10 working days of receipt. If the grievance filed does not concern a MaineDOT facility, it will be forwarded to the appropriate agency and the grievant will be notified.
 3. Within 60 calendar days of receipt, the ADA Title II Coordinator will conduct the investigation necessary to determine the validity of the alleged violation. If appropriate, ADA Title II Coordinator will arrange to meet with the grievant to discuss the matter and attempt to reach a resolution of the grievance. Any resolution of the grievance will be documented in the MaineDOT's ADA Grievance File.
 4. If a resolution of the grievance is not reached, a written determination as to the validity of the complaint and description of the resolution, if appropriate, shall be issued by ADA Title II Coordinator and a copy forwarded to the grievant no later than 90 days from the date of the MaineDOT's receipt of the grievance.
 5. If the grievant is dissatisfied with MaineDOT's handling of the grievance at any stage of the process or does not wish to file a grievance through the MaineDOT's ADA Grievance Procedure, the grievant may file a complaint directly with the United States Department of Justice at https://www.ada.gov/filing_complaint.htm other appropriate state or Federal agency.

The resolution of any specific grievance will require consideration of varying circumstances, such as the specific nature of the disability; the nature of the access to services, programs, or facilities at issue and the essential eligibility requirements for participation; the health and safety of others; and the degree to which an accommodation would constitute a fundamental alteration to the program, service, or facility, or cause an undue hardship to the MaineDOT. Accordingly, the resolution by the MaineDOT of any one grievance does not constitute a precedent upon which the MaineDOT is bound or upon which other complaining parties may rely.

File Maintenance: The MaineDOT's ADA Title II Coordinator shall maintain ADA grievance files for a period of three years.

Submit all inquiries and grievances to:

Theresa Savoy, ADA Title II Coordinator
 Director, Civil Rights Office
 Maine Department of Transportation
 SHS 16
 Augusta, Maine 04333

Phone: 207-624-3042

E-mail: Theresa.savoy@maine.gov
TTY: Users dial Maine RELAY 711

Maine Department of Transportation

External ADA/Section 504 Complaints Complaint Form

Name of Person filing Grievance	Name of Person alleging violation (if different from person filing grievance)	
Phone	Phone	
Address	Address	
City, State, Zip	City, State, Zip	
Has complaint been filed with another Agency? Name of Agency		Date of Alleged Discrimination
Location of the alleged violation		What Remedy are you requesting?
<p>Explain As Briefly And Clearly As Possible the nature of the violation. Was the alleged violation a physical barrier to a facility (Sidewalk, building, transit stop, public transportation, etc.) How You Were Discriminated Against. Were other individuals involved? <i>Please indicate who was involved.</i> You may also attached any material pertaining to your case (photographs, drawings, video)</p>		
Signature	Date	

Please Mail Complaint to:

<p>Maine Department of Transportation Civil Rights Office # 16 State House Station Augusta, Maine 04333-0016 Or Call (207) 624- 3042 or TYY Relay 711</p>
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Conclusion

The MaineDOT is committed to ensuring that our system is accessible to those with disabilities. We have a long history of providing for the needs of all modes of travel in the planning, programming, design, rehabilitation, maintenance, and construction of the state's transportation system. In partnership with municipalities, Metropolitan Planning Organizations, Regional Planning Organizations, Federal Highway Administration and other federal agencies, stakeholders, the public, particularly those with disabilities, MaineDOT will continue to develop and implement a safe, comprehensive transportation system that balances the needs of all users.

ADA/Section 504 Definitions

List of Acronyms

ADAAG: Americans with Disabilities Act Accessibility Guidelines

ADA: Americans with Disabilities Act of 1990

FHWA: Federal Highway Administration

GIS: Graphic Information System

MATS: Managed Assets on Transportation Systems

MeTRAMS:

MPO: Municipal Planning Organization

PROWAG: 2011 Proposed Accessibility Guidelines for pedestrian Facilities in the Public Right of Way

RPO: Regional Planning Organization

RELAY 711: Telecommunications Relay Service

STIP: Statewide Transportation Improvement Program

Title VI: Title VI of the Civil Rights Act of 1964

Glossary of ADA Terms

ADA Transition Plan: INDOT's transportation system plan that identifies accessibility needs, and identifies the process to integrate accessibility improvements, and ensures all transportation facilities, services, programs and activities are accessible to all individuals.

Accessible: A facility that provides access to people with disabilities using the design requirements of the 2010 Standards. (PROWAG R106.5)

Accessible Pedestrian Signal (APS): A device that communicates information about the WALK phase in audible and vibrotactile formats. (PROWAG R105.5)

Alteration: A change to a facility in the public right of way that affects or could affect access, circulation or use of the facility. An alteration must not decrease or have the effect of decreasing the accessibility of a facility or an accessible connection to an adjacent building or site.

Americans with Disabilities Act (ADA): The Americans with Disabilities Act of 1990, as amended sets design guidelines for accessibility to public facilities, including sidewalks and trails by individuals with disabilities.

Americans with Disabilities Act Accessibility Guidelines (ADAAG): The ADAAG contains scoping and technical requirements for accessibility to buildings and public facilities by individuals with disabilities under the ADA.

Blended Curb or Transition: A curb ramp shallower than 1:20 (5%), where the sidewalk is blended into or is flush with the street.

Circulation Path: An exterior or interior way of passage provided for pedestrian travel including, walks, hallways, courtyards, elevators, platform lifts, ramps, stairways and landings.

Cross Slope: The slope that is perpendicular to the direction of accessible pedestrian travel. (PROWAG R105.5)

Crosswalk: The part of a roadway at an intersection that is included within the extensions of the lateral lines of the sidewalks on opposite sides of the roadway, measured from the curb line or, in the absence of curbs, from the edges of the roadway or, in the absence of a sidewalk on one side of the roadway, the part of the roadway included within the extension of the lateral lines of the sidewalk at right angles to the centerline.

Curb Line: A line at the face of the curb that marks the transition from the roadway to a sidewalk or planting strip between the sidewalk and the gutter or roadway.

Curb Ramp: A short ramp cutting through a curb or built up to it. (PROWAG R106.5)

Detectable Warning: A surface feature built in or applied to walking surfaces or other elements to advise of an upcoming change from a pedestrian to a vehicular way. (PROWAG R405.5)

Element: An architectural or mechanical component of a facility, space, site or public right of way.

Entrance: Any access point to a building or facility used for entering. Includes entry door or gate and hardware. (PROWAG R106.5)

Facility: All or any portion of structures, improvements, elements and pedestrian or vehicular routes located on a site or a public right-of-way.

Flush Transition: See Blended Transition

Grade Break: The meeting line of two adjacent surfaces of different slope (grade).

Island: Curbed or painted area outside the vehicular path that is provided to separate and direct traffic movement, which also may serve as a refuge for pedestrians.

Marked Crosswalk: Any portion of a roadway at an intersection or elsewhere that is distinctly indicated for pedestrian crossing by lines or other markings on the surface.

Mid-Block Crossing: A marked pedestrian crossing on a street that is located between or away from intersections.

Parallel Curb Ramp: A system of two sloped ramps that run parallel to the curb line from a common lower landing that is approximately level with the street.

Pedestrian Access Route: A continuous and unobstructed walkway within a pedestrian circulation path that provides accessibility. (PROWAG R105.5)

Perpendicular Curb Ramp: A curb ramp with a main slope running perpendicular to the curb line and with one or more flared side slopes.

Projects: Any construction or maintenance project that disturbs the pavement by at least $\frac{3}{4}$ of an inch.

Public Right of Way: Land or property owned by a public entity and usually acquired for or devoted to transportation or pedestrian purposes.

Public Use: Interior or exterior, rooms, space or elements that are made available to the public.

Qualifying Pedestrian Area: as an area that MaineDOT determines will have substantive pedestrian activity or use during the expected life-cycle of a project.

Ramp: A walking surface that has a running slope steeper than 5%.

Right of Way: Denotes land, property or interest therein, usually in a strip, acquired for or devoted to transportation purposes.

Running Slope: The slope that is parallel to the direction of travel expressed as a ratio of rise to run in the public right of way. This is usually called grade and is expressed as a percentage.

Section 504: Section 504 of the Rehabilitation Act of 1973, which prohibits discrimination in any program or activity receiving federal financial assistance.

Sidewalk: That portion of a public right of way between the curb line or lateral line of a roadway and the adjacent property line that is improved for use by pedestrians.

Street Furniture: Elements in the public right-of-way intended for use by pedestrians.

Technically Infeasible: An alteration that has little likelihood of being accessible because of site constraints which prohibit modification or addition of elements, spaces or features that are in full strict compliance with the minimum requirements of the 2010 ADA Standards.

Urban Compact Area: Urban Compact Municipalities are those in which the population according to the last United States census exceeds 7,500 inhabitants, or is less than 7,500 inhabitants but more than 2,499 inhabitants, and in which the ratio of people whose place of employment is in a given municipality to employed people residing in that same municipality is 1.0 or greater, and when the municipality has not exercised the opt-out provision of this section.

Vibrotactile: A vibrating surface, located on the accessible pedestrian signal button that communicates information through touch. (PROWAG R105.5)

APPENDICES

1. **Appendix I** FHWA State DOT Transition Plan Attributes Checklist ii
2. **Appendix II** ADA Transition Plan Team Charter iv
3. **Appendix III** Stakeholders List, e-mail and web notice vii

Appendix I

State DOT Transition Plan Attributes Checklist: All Elements posted conspicuously on website, for internal and external use	
Transition Plan Attribute	Review Comments
Official responsible for implementation of the TP, i.e., Executive Director, Secretary, Commissioner, Chief Engineer, etc. 28 CFR 35.150(d)(3)(iv)	
Inventory of barriers (identification of physical obstacles) 28 CFR 35.150(d)(3)(i); 28 CFR 35.105 (a) – State demonstrates good faith by identifying intersection information, including curb ramps and other associated accessibility elements, as a starting point and showing movement and commitment toward developing a full inventory. Require an Action Plan to develop an inventory of sidewalks (slopes, obstructions, protruding objects, changes in levels, etc.), signals (APS), bus stops (bus pads), buildings, parking, rest areas (tourist areas, picnic areas, visitor centers, etc.), mixed use trails, linkages to transit. Best practice – have discussion of jurisdictional issues/responsibilities for sidewalks	
Schedule – Show a strong commitment toward upgrading ADA elements identified in the inventory of barriers in the short term (planned capital improvement projects) and a strong commitment over time toward prioritizing curb ramps at walkways serving entities covered by the ADA. 28 CFR 35.150(d)(2) This would also include planning and investments directed at eliminating other identified barriers over time. 28 CFR 35.150(d)(3) Best practice – dedicate resources to eliminate identified ADA deficiencies	
Describe in detail the Methods that will be used to make the facilities accessible. 28 CFR 35.150(d)(3)(ii) Best practice – include the Standard that the STA is following (i.e., 2010 ADAAG, 2011 PROWAG)	
Other ADA Requirements	Review Comments
Public Involvement – Description of process to allow public to readily access and submit comments for both self-evaluation and transition plan. 28 CFR 35.150(d)(1); 28 CFR 35.105(b) Best practices: a) detailed list of individuals consulted posted conspicuously on website, does not have to be in actual TP, but must be documented and available; b) have both electronic and hard copy notice. 28 CFR 35.105I	
ADA policy statement is a requirement of State Agencies, but does not have to be in the TP per se, but it is a good practice and needs to be easily accessible by the public. 28 CFR 35.106 Best practice – post conspicuously on website, for internal and external use	
Clear identification of the ADA Coordinator (dedicated trained staff) with contact information (i.e., name, office address, telephone number, email address, fax number) 28 CFR 35.107(a)	

Clear **Complaint/Grievance Process** to receive and address complaints/grievances from the public (is a requirement of State Agencies, but does not have to be in the TP per se, but it is a good practice and needs to be easily accessible by the public). 28 CFR 35.107(b)

REVIEWER _____ DATE _____

Appendix II

ADA Transition Plan Team Charter

The MaineDOT is currently developing an ADA Transition Plan for the Federal Highway Administration. The Plan is designed to provide processes for identifying and ensuring that our highway and bridge system is compliant with ADA laws. This will require an agency wide approach in which the Agency will work together to create a system where users of all abilities are assured access. The Team members will represent various agency units integral to the Plan and will work together and in groups to ensure that the requirements of the Plan are met and completed on time. The Plan is a living document that will need to be updated overtime as barriers to accessibility are eliminated and where new information is processed.

Team Purpose

This team will work towards developing needed aspects of the required ADA Transition Plan to be completed by September 30, 2016. It will also develop long term processes for deliverables from the plan and will determine how the Plan is implemented and how it will ensure that the MaineDOT is meeting its commitments to ensuring accessibility on its transportation system. The Team will assess the need to continue after that date, based on the processes created by the Plan.

Duration and Time Commitment

The team will work until September 30, 2016. To utilize our time there should be subcommittees created that will work on particular aspects of the plan. The team will develop a timeline to ensure that work is being completed.

Members (Suggested)

Joyce Taylor
Theresa Savoy
Nate Kane
Sam Krajewski
Brad Foley
Attlee Mousseau
Brian Burne
Steve Hunnewell
Scott Rollins
Patrick Adams

Desired Outcomes

1. A completed ADA Transition Plan with processes and protocols for moving forward in the assessment of MaineDOT infrastructure; and
2. A process to capture ADA barriers from the public and ADA improvements on a yearly basis; and
3. An institutional process for identifying, documenting and updating our facilities moving forward.

Deliverables

Deliverables are listed below and are required by FHWA guidance. To provide some organization, there was an attempt to match some deliverable to various areas of the agency. These are suggested as a starting point and open to discussion.

Agency wide Decisions

Schedule

Need to create a schedule for:

1. inventory
2. fixing the deficiencies

Inventory – need to create schedule and process for completion

- a) Curb ramps GIS inventory (complete 2015)
- b) Midblock crossings
- c) Transit Stops
- d) APS
- e) Rest areas
- f) Park and Rides
- g) Sidewalks (RPOs and MPOs?)
- h) Ferry terminals and parking lots

Schedule for upgrades

- a) STIP/Work Plan
- b) Annual review of projects
- c) Input from public
- d) Possible ADA/Pedestrian fund \$200,000.00?

Official Responsible

Chief Engineer

Policies Review and Incorporation

ADA Policy

Crosswalk Policy

Developing process for review of crosswalk anomalies

- How do we develop that process?
- Who is integral to that process?

Complete Streets Policy

Municipal MOA's

Standard Details

Funding Mechanism for high priority projects (Executive)

RPO/MPO data collection and public participation process (Planning)

- What is our best use of RPOs and MPOs
- How will we train them?
- How will we ensure consistency?

- How will we gather data?
- Crowd sourcing?

Work Plan integration and Projex

- How will we integrate that

Data management and integration (RIO)

Project upgrades and design work (Project Development/M&O and RIO)

- Process for reviewing upcoming work
- Process for ensuring the information is kept current?
- Process for updating the inventory?

Methods used as standards

- 2011 PROWAG?
- PDR and Standard Details
- Process for municipal review/LAP review
- Traffic signals (MUTCD)

Public Participation (Planning, Creative Services)

- Database availability
- Stakeholder participation
- Website information
- RPO/MPO participation
- My Sidewalk/crowd sourcing?

Schedule

Need to create a schedule for:

1. inventory
2. fixing the deficiencies

Inventory – need to create schedule and process for completion

- a) Curb ramps GIS inventory (complete 2015)
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Schedule for upgrades

- a) STIP/Work Plan
- b) Annual review of projects
- c) Input from public
- d) Possible ADA/Pedestrian fund?

Stakeholder List and Public Notice

1. AARP
2. Alpha One
3. Bicycle Coalition of Maine
4. Community Action Programs
5. Disability Rights Maine
6. Disability Support Services, University of Maine
7. Maine Association for Community Service Providers (MACSP)
8. Maine Area Agencies on Aging / M4A
9. Maine CDC
10. Maine Department of Labor, Rehabilitation Services
11. Maine Developmental Disabilities Council
12. Maine Municipal Association
13. Maine State Police / Dept. of Public Safety
14. Robbie Foundation
15. SILC – State Independent Living Council
16. SUFU – Standing Up for Us
17. The Iris Network
18. UCP of Maine
19. University of Maine Center for Community Inclusion and Disability Services
20. Maine Association for Community Service Providers (MACSP)

The screenshot shows the MaineDOT Civil Rights Office website. The header includes the Maine.gov logo, navigation links for Agencies, Services, and Help, and contact information for 207-624-3000. The main content area features a sidebar with links like Home, Disadvantaged Business Enterprises, and Required State and Federal Posters. The main heading is "MaineDOT Civil Rights Office". Below this, a yellow box contains a "Notice of Public Comment" regarding the "MaineDOT Update American with Disabilities Act (ADA) of 1990 - Part II Transition Plan". The notice states that the plan is based on 2015 guidance from the Federal Highway Administration and focuses on connectivity to transit. It lists three key points: 1. Comply with administrative requirements of the ADA and Section 504 of the Rehabilitation Act of 1973; 2. Serve as an informational document for interested parties; 3. Provide a roadmap for the most accessible transportation system possible. The notice also mentions that the draft document is available for public review until 4:00 PM on September 23, 2016, and provides contact information for Theresa Savoy, Director of the Civil Rights Office.

Savoy, Theresa

From: Savoy, Theresa
Sent: Friday, September 09, 2016 1:46 PM
To: 'mldyermacsp@msn.com'; 'tgoodwin@cpime.org'; Dibner, Eric; 'janet.may@maine.edu'; 'sconverse@drme.org'; 'exdirectorsufu@sufumaine.org'; 'mmcclell@maine.rr.com'; 'nancy@bikemaine.org'; 'jim@bikemaine.org'; Scott, Bruce G; 'jmaurer@maine4a.org'; 'stevefarnham@arostookaging.org'; 'dwalsh@eaaa.org'; 'lgross@smaae.org'; 'gqueally@spectrumgenerations.org'; 'bsawyer-manter@seniorsplus.org'; 'pmorelli@aarp.org'; 'Scott.Tash@ucpofmaine.org'; 'DFitzgibbons@alphaonenow.org'; Littlefield, Dawn; 'robbiefoundation@gmail.com'; 'ashah@theiris.org'; Cronin, Nancy E; Dyer, Rachel M; 'shenry@maine.edu'; 'srichards@wmca.org'; 'gherman@memun.org'
Cc: Kemmerle, Toni; 'Colleen.M.Sinotte@dot.gov'
Subject: Notice of Public Comment MaineDOT Americans with Disabilities Act (ADA) Title II Updated Transition Plan
Attachments: Final MaineDOT ADA Transition Plan Update.docx

******Notice of Public Comment******

MaineDOT Update American with Disabilities Act (ADA) of 1990, Part II
Transition Plan

The MaineDOT has recently updated its ADA Transition Plan for the Federal Highway Administration (FHWA). Components of this plan are based on 2015 guidance from the Federal Highway Administration and therefore focus on accessibility on Maine's state highway system. Because MaineDOT is not a direct provider of transit in Maine, this Plan focuses only on connectivity to transit from our system. This Plan only addresses state owned facilities and does not address local roads. The purpose of this plan is to:

1. Comply with the administrative requirements of the ADA and Section 504 of the Rehabilitation Act of 1973 as it relates to the State's highways, bridges and facilities within its jurisdiction; and
2. Serve as an informational document for any persons interested in MaineDOT's ADA improvement efforts; and
3. Provide a roadmap to create the most accessible transportation system possible.

It is important to note that this Plan is a living document. It will be updated and over time will continue to reflect input from the public as the MaineDOT moves forward toward accessibility for all users.

MaineDOT has tried to as comprehensive a list as possible to get stakeholder input. This list is not complete. As providers and stakeholders, please distribute to your memberships and other interested individuals and groups.

The Draft Plan can also be found at: <http://www.maine.gov/mdot/civilrights/>

MaineDOT will accept comments on this Plan until **4:00 P.M., September 23, 2016.**