

Pedestrian Work Zones & the Americans with Disabilities Act

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Outline of Our Session

- Laws and Regulations (K. Woodruff, FHWA)
- Pedestrian Work Zone Guidance (R. Drumm, FHWA)
- INDOT's State of Practice & Tools (J. Ritter, INDOT)

Outline of Part 1

- Brief Indiana History and Future
- Laws/Regulations/Authority
- A Story: Complaint Regarding Pedestrian Work Zones

Keep Pushing Towards Compliance

- Past 10 Years in Indiana:
 - Transition Plans (Thank You Indiana)
 - 9 to 300ish
 - INDOT Standards and Standard Drawings
 - Procedures
 - Training and Awareness
- On-going >>> Work Zone = Practical Solutions
 - Whenever Pedestrian Accessible Route (PAR) is involved
 - When you impact the PAR you are impacting people's mobility.
 - Including People With Disabilities

Laws

- **Section 504 of the Rehabilitation Act (1973)**
 - Applies to Federally Funded Projects
 - Prohibits Discrimination on the Basis of Disability
 - 29 U.S.C. Section 794 – Nondiscrimination Under Federal Grants and Programs

- **Title II of the Americans with Disabilities Act (1990)**
 - Applies to State and Local Governments
 - Prohibits Discrimination on the Basis of Disability
 - 42 U.S.C. Section 12131: Part A – Prohibition Against Discrimination

Regulations

- 28 CFR Judicial Administration (US DOJ & all others)
 - 28 CFR 35.130:
 - **(b)(1)** A public entity, in providing any aid, benefit, or service, may not, directly or through contractual, licensing, or other arrangements, on the basis of disability –
 - **(b)(1)(iv)** Provide different or separate aids, benefits, or services to individuals with disabilities or to any class of individuals with disabilities than is provided to others **unless such action is necessary to provide qualified individuals with disabilities with aids, benefits, or services that are as effective as those provided to others**;
 - 28 CFR 35.160:
 - **(a)(1)** A public entity shall take appropriate steps to ensure that communications with applicants, participants, members of the public, and companions with disabilities are as effective as communications with others.
 - Work Zone Barriers/Signs are communication devices as well as safety devices!

Regulations

- 49 CFR = TRANSPORTATION (USDOT)
 - 49 CFR 27 –Nondiscrimination on the Basis of Disability in Programs or Activities Receiving Federal Financial Assistance
- 49 CFR 27.7 Discrimination Prohibited
 - (a) “General. No qualified handicapped person shall, solely by reason of his disability, be excluded from participation in, be denied the benefits of, or otherwise be subjected to discrimination under any program....” [sic]
 - Barden v. Sacramento establishes that sidewalks are a “program”

Regulations

- 49 CFR 27 (continued)
 - 49 CFR 27.7 Discrimination Prohibited
 - 49 CFR 27.7 (b) – Discriminatory Actions Prohibited
 - 49 CFR 27.7 (c) – Communications Required
 - Signage/barriers = Communication Devices
- 49 CFR 2.9 – Assurances
- Nondiscrimination Assurances required to receive Federal-Aid Highway funds

Regulations

- 23 CFR = HIGHWAYS (Federal Highway Administration)
- Pedestrian & Bicycle Accommodations & Projects
 - 23 CFR 652.5: Policy
 - “The safe accommodation of pedestrians and bicyclists should be given full consideration during the development of Federal-aid highway projects, and during the construction of such projects. The special needs for the elderly and *handicapped* shall be considered in all Federal-aid projects that include pedestrian facilities.” [sic]

AN ADA Compliant in Indiana: It Can Happen to You Too!

- City/County Failed to Provide:
 - Accessible and Safe Detour Route
 - Adequately Detour Signage
 - Compliant Curb Ramps Along Detour
- City/County was Required to:
 - Develop Accessible Detour Around Work Area
 - Install Crash Barrier at Pedestrian/Motorist Conflict Points
 - Install Detour Signage
 - PLUS – Update their ADA Transition Plans

Typically Seen Pedestrian Work Zone



Barrier Needed

Close This Ramp

Police Tape Not Detectable

Needs Barrier



Better: More Like What Should Be Installed



Crawfordsville (INDOT)

Detectable Barriers



Greencastle (City)

Oh..

This is also something
that should be avoided!



Conclusion

- Laws and Regulations = Nondiscrimination is Required
- Work Zones Must be Safe for Traffic and Pedestrians
- There is Room for Improvements, and
- There is Ample Guidance Available...and please
- No Porta-lets in the PAR