

Action Alert 11-10-2009 Opportunity to Comment on Accessibility Guidelines

Opportunity to Comment on Draft Final Accessibility Guidelines

The Architectural Barriers Act Draft Final **Accessibility Guidelines for Outdoor Developed Areas** were released for public review on October 19th. Because these Guidelines affect our National Scenic and Historic Trails, the Partnership for the National Trails System urges you to submit comments to the Access Board **by December 18th**. To read the Guidelines go to this website:

<http://www.regulations.gov/search/Regs/home.html#documentDetail?R=0900006480a4536e>

To comment on the Draft Accessibility Guidelines, follow this link:

<http://www.regulations.gov/search/Regs/home.html#submitComment?R=0900006480a4536e>

This document is divided into two sections: **(1)** a brief overview of the Guidelines, including excerpts of what we think is important for trails, and **(2)** a section where we lay out some of the sticking points in the Guidelines. We hope that this information will give you a sense of some of the problems that may come up for trail folks. We're still in the process of preparing comments from the Partnership, and your input will help us hone them as we give our recommendations to the Access Board.

1) Highlights from the Accessibility Guidelines

The Guidelines address appropriate surface, clear tread width, passing spaces, obstacles, and openings in the surface of trails (1017.2-1017.6). Safe slopes for trails and quantity and size of resting intervals are discussed in 1017.6-8. Guidelines for protruding objects and width of gates and barriers (1017.9-1017.10) come straight out of the Americans with Disabilities Act (ADA) and Architectural Barriers Act (ABA) Guidelines for Buildings and Facilities. Finally, applicable trail signs must include information about trail conditions (1017.11).

Scoping Requirements for when a trail must be made Accessible:

Conditions are set in the Guidelines for when trails must meet the technical provisions for accessibility in Section 1017. A trail must meet all the following conditions to be subject to these provisions:

- It must be new construction or alteration (F247.2 and .3).
- Its Designed Use must be as a pedestrian trail.
- It must connect directly to a trailhead or another trail that currently does comply with the technical provisions in the Outdoor Areas Accessibility Guidelines.

Conditions for Exceptions to the Draft Final Outdoor Areas Accessibility Guidelines:

The Conditions for exceptions to the draft final Outdoor Areas Accessibility Guidelines are laid out in Section 1019.2. If one of these conditions exists, an exception can be taken for a specific technical requirement. At the point where that condition no longer exists, the technical provision must again be met. The Conditions are

- Compliance is not feasible due to terrain
- Compliance cannot be accomplished with the prevailing construction practices
- Compliance would fundamentally alter the function or purpose of the facility or the setting
- Compliance is precluded by the
 - Endangered Species Act
 - National Environmental Policy Act
 - National Historic Preservation Act
 - Wilderness Act
- Other Federal, State, or local law the purpose of which is to preserve threatened or endangered species; the environment; or archaeological, cultural, historical, or other significant natural features

Partial Compliance with Outdoor Areas Accessibility Guidelines:

According to the draft final Guidelines, when a condition allows an exception to a specific technical requirement (width, grade, etc.), that specific technical requirement must still comply "to the maximum extent feasible" (1017.1). For example, if compliance with the width requirement is not feasible due to terrain, but compliance with the grade requirement is, then the trail must comply with grade even though it has a width exception.

2) Aspects of these Guidelines to pay attention to:

~ When "alterations" are made to a trail, that trail falls under the scoping requirements for meeting the technical

provisions of 1017. A trail does not fall under scoping requirements with "maintenance" only. However, **it is unclear when maintenance becomes alteration**. We recommend that there be a clear distinction in the Guidelines between "alteration" and "maintenance."

~ Along the same lines, **how much of the trail falls under the scoping requirements** when the trail is altered? It is unclear whether the scoping requirements will apply to only the altered portion of the trail. This needs to be clarified.

~ In general, there could be more clarity throughout the Draft Final Accessibility Guidelines as to when requirements apply and when they do not. For example, Dave Startzell of the Appalachian Trail Conservancy (ATC) says, **"It should be clarified that the requirements associated with trailheads only apply if the trail involved falls within the overall scoping requirement** - a newly constructed or altered trail that either connects to an accessible trailhead or to another accessible trail segment." It would be relatively simple to emphasize this clarification.

~ The Conditions for Exceptions are subjective and open to interpretation. Multiple perspectives already exist on the word "feasible." Janet Zeller of the USDA Forest Service recommends that the term "feasible" be defined as meaning "able to be completed within the limits of the applicable Conditions." Dave Startzell of the ATC suggests differentiating between "technical feasibility" and "practical feasibility." **We recommend a tighter definition of the term "feasible" in the Conditions.**

~ **Little guidance is given in the Guidelines for exempting an entire trail from Accessibility Guidelines.** Formerly, if an entire trail fell within the overall Scoping Requirements, the process of exempting it required one of two General Exceptions (a matrix addressing extreme barriers and piecemeal trail accessibility, which has since been deleted from the Guidelines). The Access Board has dropped those prescriptions and is now requesting that trail managers/designers submit documentation when they decide to exempt an entire trail (F201.4.1). The hope is that this will help "develop additional guidance on exempting entire trails" in the future. The consequence? Exempting an entire trail now carries a high level of individual responsibility, since specific circumstances, qualities, or conditions that would justify whole-trail exemption are no longer included in the Draft Final Accessibility Guidelines. However, the trail will still be subject under the Architectural Barriers Act to future evaluation by the Access Board as to whether enough was done to comply with the Guidelines to the maximum extent feasible.

~ The new requirements for sign content seem to **mandate the same content for all new signs**, regardless of accessibility on the trails they designate. This may discourage the installation of new signage.

Your Opportunity to Comment:

Please note that the **deadline for comments is Friday, December 18, 2009.**

· **To access the comment form, click on the following link:**

<http://www.regulations.gov/search/Regs/home.html#submitComment?R=0900006480a4536e>

The Regulations.gov ID for this docket is **ATBCB-2009-0006**.

· E-mail: outdoor@access-board.gov.

· Fax: 202-272-0081.

· Mail or Hand Delivery/Courier: Office of Technical and Informational Services,
Architectural and Transportation Barriers Compliance Board, 1331 F Street NW, suite
1000, Washington, DC 20004-1111.

The Partnership for the National Trails System is interested in your thoughts on these Accessibility Guidelines. Please send us your reactions, questions, or concerns about them and, **when you submit your comments to the Access Board, please share them with PNTS as well.** You may send comments to us at pntscommunications@gmail.com.