

# NPS National Laws, Regulations and Policies on Accessibility

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## Overview of NPS National Laws, Regulations and Policies on Accessibility

There are a number of policies, laws and regulations related to accessibility that apply to national park areas to assure parks are welcoming and accessible to visitors and employees with disabilities. These include requirements for the design and construction of sites and facilities and regulations that require programs, services, and activities offered by the park to be accessible and usable by people with disabilities. Applicable policies, laws and regulations are cited below.

### Laws

#### [About the Architectural Barriers Act and Other Disability Rights Laws](#)

[Architectural Barriers Act \(ABA\)](#) – The ABA requires access to facilities designed, built, or altered with federal dollars or leased by federal agencies. The law covers a wide range of facilities, including post offices, social security offices, prisons, and national parks. It also applies to nongovernment facilities that have received federal funding, such as certain schools, public housing, and mass transit systems. Passed in 1968, the ABA stands as the first measure by Congress to ensure access to the built environment. Facilities that predate the law generally are not covered, but alterations or leases undertaken after the law took effect can trigger coverage.

[Americans with Disabilities Act \(ADA\)](#) – The ADA prohibits discrimination on the basis of disability in employment, state and local government services, transportation, public accommodations, commercial facilities, and telecommunications. Unlike the ABA, the ADA's coverage is not tied to the presence of federal funding. For more information, contact a regional Disability and Business Technical Assistance Center or the appropriate federal agency.

[The Rehabilitation Act](#) – The Rehabilitation Act of 1973 ensures access to programs and activities that are federally funded. It also protects the rights of federal employees with disabilities. Federal agencies are responsible for enforcing requirements as they apply to their own programs, services, and employment practices. The law also requires electronic and information technology procured by federal agencies to be accessible according to standards issued by the Access Board.

[The Fair Housing Act](#) – The Fair Housing Act, as amended in 1988, prohibits discrimination in housing on the basis of disability, as well as race, color, gender, and religion. It covers housing in the public and private sectors and bans discrimination in any aspect of selling or renting housing. Under the law, new multifamily housing must be able to be adapted for accessibility according to established guidelines. The law also requires reasonable exceptions to housing policies and operations so that people with disabilities are afforded equal housing opportunities.

## Executive Orders (EOs)

[EO 13164 - Requiring Federal Agencies to Establish Procedures to Facilitate the Provision of Reasonable Accommodation](#) (pdf)

[EO 13514 - Federal Leadership in Environmental, Energy, and Economic Performance](#) (pdf)

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## Regulations

### Code of Federal Regulations (CFR)

#### The Superintendent's Compendium and 36 Code of Federal Regulations (36 CFR)

The Superintendent's Compendium is the summary of park specific rules implemented under 36 Code of Federal Regulations (36 CFR). It serves as public notice, identifies areas closed for public use, provides a list of activities requiring either a special use permit or reservation, and elaborates on public use and resource protection regulations pertaining specifically to the administration of the park. The Superintendent's Compendium does not repeat regulations found in 36 CFR and other United States Code and CFR Titles, which are enforced without further elaboration at the park level.

The regulations contained in 36 CFR, Parts 1-7, are the basic mechanism used by the National Park Service (NPS) to preserve and protect the natural and cultural resources of the park and to protect visitors and property within the park. Parts 1 through 6 are general regulations applicable to all areas of the National Park system, and Part 7 contains special regulations specific to individual parks. Each of these Parts has many sections and subsections articulating specific provisions. Within some of these Part 1-7 sections and subsections, the Superintendent is granted discretionary authority to develop local rules to be responsive to the needs of a specific park resource or activity, park plan, program, and/or special needs of the general public.

#### **Section 504 requirements for the National Park Service are found in the Code of Federal Regulations (CFR) in Title 43 Public Lands: Interior, Subtitle A - Office of the Secretary of the Interior.**

43 CFR - Part 17 - NONDISCRIMINATION IN FEDERALLY ASSISTED PROGRAMS OF THE DEPARTMENT OF THE INTERIOR

Subpart B - Nondiscrimination on the Basis of Disability – for concessioners and contracted services in the NPS

[43 CFR Part 17 - Nondiscrimination in Federally Assisted Programs of the Department of the Interior - Subpart B - Nondiscrimination on the Basis of Disability](#)



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Subpart E - Enforcement of Nondiscrimination on the Basis of Disability in Programs or Activities Conducted by the Department of the Interior – for programs provided directly from the NPS

[43 CFR Part 17 - Nondiscrimination in Federally Assisted Programs of the Department of the Interior -Subpart E - Enforcement of Nondiscrimination on the Basis of Disability in Programs or Activities Conducted by the Department of the Interior](#)

**Federal Management Regulation (FMR)**, Subchapter C—Real Property, Part 102-76—Design and Construction, Subpart C—Architectural Barriers Act: Priority should be given to those elements that will provide the greatest access in the following order:

- (a) An accessible route and an accessible entrance;
- (b) At least one accessible restroom for each sex or a single unisex restroom;
- (c) Accessible telephones;
- (d) Accessible drinking fountains; and
- (e) Accessible parking spaces.

#### **Federal Acquisition Regulation (FAR)**

The Federal Acquisition Regulations System is established for the codification and publication of uniform policies and procedures for acquisition by all executive agencies. The Federal Acquisition Regulations System consists of the Federal Acquisition Regulation (FAR), which is the primary document, and agency acquisition regulations that implement or supplement the FAR.

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#### **Building Codes and Industry Standards**

- International Building Code (IBC) 2012
- International Existing Building Code (IEBC) 2012
- ANSI A117.1 - 2003 (Accessible and Usable Buildings and Facilities)

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#### **Government Directives and Government Standards**

##### **Communication**

- [Electronic and Information Technology Accessibility Standards](#) (Section 508) (2000)
- [Telecommunications Act Accessibility Guidelines](#) (1998)

##### **Architecture**

- [ABA Accessibility Standards](#) (2006)
- [Public Rights of Way](#) (upcoming)
- [Notification Forms](#)
- [Entire Trail Exemption Form \(1017.2 Exception 2\)](#) (pdf)

[Entire Beach Access Route Exemption Form \(1018.2 Exception 2\) \(pdf\)](#)

### Transportation

[ADA Accessibility Guidelines \(ADAAG\) for Transportation Vehicles](#) (1991, amended 1998)

[Passenger Vessels](#) (upcoming)

[Part 2, Designing Sidewalks and Trails for Access](#) – U.S. Department of Transportation – Federal Highway Administration

### Housing

[Fair Housing Act Design Manual – A Manual to Assist Designers and Builders in Meeting the Accessibility Requirements of the Fair Housing Act](#)

### Modifications and Waivers

The Architectural Barriers Act authorizes the Administrator of the General Services Administration, the Secretary of the Department of Housing and Urban Development, the Secretary of the Department of Defense, and the United States Postal Service to modify or waive the accessibility standards for buildings and facilities covered by the Architectural Barriers Act on a case-by-case basis, upon application made by the head of the department, agency, or instrumentality of the United States concerned. The General Services Administration, the Department of Housing and Urban Development, the Department of Defense, and the United States Postal Service may grant a modification or waiver only upon a determination that it is clearly necessary. Section 502(b)(1) of the Rehabilitation Act of 1973 authorizes the Access Board to ensure that modifications and waivers are based on findings of fact and are not inconsistent with the Architectural Barriers Act. ([ABAAS F103](#))

Advisory F103 Modifications and Waivers. The provisions for modifications and waivers differ from the requirement issued under the Americans with Disabilities Act in that “equivalent facilitation” does not apply. There is a formal procedure for federal agencies to request a waiver or modification of applicable standards under the Architectural Barriers Act.

[Procedures for Submitting a Waiver or Modification Request](#)

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### National Park Service (NPS) Requirements

#### Management Policies

*Management Policies 2006* – [The Guide to Managing the National Park System](#)

See [Universal Design and Accessibility in NPS Management Policies 2006](#) for quick reference to all accessibility references in the management policies.

[The Secretary of the Interior’s Standards and Guidelines for the Treatment of Historic Properties](#)  
[The Secretary of the Interior’s Standards Illustrated Guidelines on Sustainability for Rehabilitating Historic Buildings](#)

## Sustainability

[The Sustainable Sites Initiative](#)

[The Guiding Principles for Sustainable New Construction and Major Renovations](#)

## Director's Orders (DOs)

[DO 2: Park Planning, chapter 2 of Management Policies 2006, "Park System Planning," and Planner's Sourcebook for General Management Planning](#)

[DO-7 Volunteers in Parks](#)

9.1 Because Volunteers-In-Parks (VIPs) are neither employees of nor applicants for employment with the NPS, they do not have access to the employment discrimination complaint process established by the Equal Employment Opportunity Commission. However, VIPs may contact their park's EEO counselors for assistance in resolving potential complaints based on section 504 of the Rehabilitation Act of 1973 (29 USC 794) and Executive Order 13160. Section 504 prohibits discrimination based on disability in any federally conducted program, and Executive Order 13160 bars discrimination based on race, sex, color, national origin, disability, religion, age, sexual orientation, and status as a parent, in federally conducted education and training programs. The protection afforded by section 504 and Executive Order 13160 applies to all individuals, not just employees and applicants. VIPs who have spoken to an EEO counselor and intend to file a formal complaint of discrimination in connection with section 504 or Executive Order 13160 should contact the NPS's EEO Program Manager in WASO to initiate such complaint.

[DO 11A: Information and Technology Management](#)

[DO 11C: Web Publishing PDF](#)

[DO 16A: Reasonable Accommodation for Applicants and Employees with Disabilities](#)

[DO 16B: Diversity in the National Park Service \(pdf file\)](#)

[DO 16D: Equal Employment Opportunity and Zero Tolerance for Discrimination \(pdf file\)](#)

[DO 16D: NPS Anti-Harassment Policy \(pdf file\)](#)

[DO 24: Museum Collections Management](#)

[DO 26: Youth Programs](#)

[DO 28: Cultural Resource Management](#)

[DO 36: NPS Housing Management](#)

[DO 42: Accessibility for Visitors with Disabilities in National Park Service Programs and Services.](#)

DO 42 provides information on accessibility specific to the NPS, including implementation strategies and NPS policies. It goes beyond the minimum requirements of the applicable laws and standards. The stated goal of this Director's Order is "that the NPS will seek to provide the highest level of accessibility that is reasonable, not simply provide the minimum level required by law." It also includes the concept of "universal design," which aims for sites and facilities to be usable by and accessible to all persons, without the need for adaptation or specialized design.

[DO 45: National Trails System](#)

## **NPS Memos**

- [ABAAS Adoption Memo](#) (pdf)
- [Disability Access in the National Park Service](#) (pdf)
- [GSA Adopts New Accessibility Standards Under the Barriers Act](#) (ABA)
- [NPS Audio-Visual Initiative](#) (pdf)
- [Service Animals](#) (pdf)

## **Denver Service Center (DSC)**

- [Accessible Route Design Standards](#)
- [NPS Universal Design and Accessibility Scoping Form - Facilities](#)
- [NPS Universal Design and Accessibility Scoping Form - Accessibility Guidelines for Outdoor Developed Areas](#)

## **Harpers Ferry Center (HFC)**

- [Programmatic Accessibility Guidelines for National Park Service Interpretive Media](#)

## **Park Documents**

- Foundation plan
- Superintendents Compendium
- Park historic structure reports
- Park cultural landscape reports
- Park wilderness plan
- Park interpretive plan and other park planning documents

## **Universal Design (UD)**

Facilities will be harmonious with park resources, compatible with natural processes, esthetically pleasing, functional, energy- and water-efficient, cost-effective, universally designed, and as welcoming as possible to all segments of the population. *NPS Management Policies 2006*

Programs and facilities provided in the national park system should incorporate the seven principles of universal design throughout the design process to provide programs and facilities that are useable by all.

## **The Seven Principles of Universal Design**

- Equitable Use – The design is useful and marketable to people with diverse abilities.
- Flexibility in Use – The design accommodates a wide range of individual preferences and abilities.
- Simple and Intuitive Use – Use of the design is easy to understand, regardless of the user's experience, knowledge, language skills, or current concentration level.
- Perceptible Information – The design communicates necessary information effectively to the user, regardless of ambient conditions or the user's sensory abilities.



Tolerance for Error – The design minimizes hazards and the adverse consequences of accidental or unintended actions.

Low Physical Effort – The design can be used efficiently and comfortably and with a minimum of fatigue.

Size and Space for Approach and Use – Appropriate size and space is provided for approach,

### **Specific Universal Design Goals for All Facilities**

Pedestrian Routes – Project is designed so that all users follow the same routes through the facility and site.

Entrance to Newly Constructed Facilities – Project is designed so the primary entrances (visitor and employee) of newly constructed facilities do not have steps. Staired secondary routes are included on sloped sites.

#### **Entrances to Facilities**

- Project is designed to provide a covered entry and roof drains away from entry walk and entrance.
- Distance from drop-off and closest accessible parking space (car and RV/bus) to accessible entrance of all accessible buildings is 200 feet or less.
- Doors – Visitor use buildings provide power assist door openers on main accessible entrances. Doors on accessible routes use lever or push hardware.

## Key Excerpts from National Laws, Regulations and Policies on Accessibility

Section 504 requirements for the National Park Service are found in the Code of Federal Regulations (CFR) in Title 43 Public Lands: Interior, Subtitle A - Office of the Secretary of the Interior.

43 CFR - Part 17 - NONDISCRIMINATION IN FEDERALLY ASSISTED PROGRAMS OF THE DEPARTMENT OF THE INTERIOR, Subpart B - Nondiscrimination on the Basis of Disability and Subpart E - Enforcement of Nondiscrimination on the Basis of Disability in Programs or Activities Conducted by the Department of the Interior

### [43 CFR Part 17 - Nondiscrimination in Federally Assisted Programs of the Department of the Interior - Subpart B - Nondiscrimination on the Basis of Disability](#) Requirements for concessioners and other contracted services

#### **§17.203 Discrimination prohibited.**

- (a) *General.* No qualified person with a disability shall, on the basis of disability, be excluded from participation in, be denied the benefits of, or otherwise be subjected to discrimination under any program or activity which receives Federal financial assistance.
- (b) *Discriminatory actions prohibited.* (1) A recipient, in providing any aid, benefit, or service, may not, directly or through contractual, licensing, or other arrangements, on the basis of disability:
- (i) Deny a qualified person with a disability the opportunity to participate in or benefit from the aid, benefit, or service;
  - (ii) Afford a qualified person with a disability an opportunity to participate in or benefit from the aid, benefit, or service that is not equal to that afforded others;
  - (iii) Provide a qualified person with a disability with an aid, benefit, or service that is not as effective as that provided to others;
  - (iv) Provide different or separate aids, benefits or services to persons with a disability or to any class of persons with a disability unless such action is necessary to provide qualified persons with a disability with aid, benefits, or services that are as effective as those provided to others;
  - (v) Aid or perpetuate discrimination against a qualified person with a disability by providing significant assistance to an agency, organization, or person that discriminates on the basis of disability in providing any aid, benefit, or services to beneficiaries of the recipient's program or activity;
  - (vi) Deny a qualified person with a disability the opportunity to participate as a member of planning or advisory boards; or
  - (vii) Otherwise limit a qualified person with a disability in the enjoyment of any right, privilege, advantage, or opportunity enjoyed by others receiving an aid, benefit, or service.
- (2) Aids, benefits, and services, to be equally effective, are not required to produce the identical result of level of achievement for persons with a disability or those without, but must afford persons with a disability equal opportunity to obtain the same result, to gain the same benefit, or to reach the same level of achievement, in the most integrated setting appropriate to the person's needs.

- (3) Despite the existence of separate or different aid, benefits, or services, a recipient may not deny a qualified person with a disability the opportunity to participate in all aid, benefits, or services covered by this subpart that are not separate or different.
  - (4) A recipient may not, directly or through contractual or other arrangements, utilize criteria or methods of administration (i) that have the effect of subjecting qualified persons with a disability to discrimination on the basis of disability, (ii) that have the purpose or effect of defeating or substantially impairing accomplishment of the objectives of the recipient's program or activity with respect to persons with a disability, or (iii) that perpetuate the discrimination of another recipient if both recipients are subject to common administrative control or are agencies of the same State.
  - (5) In determining the site or location of a facility, an applicant for assistance or a recipient may not make selections (i) that have the effect of excluding persons with a disability from, denying them the benefits of, or otherwise subjecting them to discrimination under any program or activity that receives Federal financial assistance or (ii) that have the purpose or effect of defeating or substantially impairing the accomplishment of the objectives of the program or activity with respect to persons with a disability.
  - (6) As used in this section, the aid, benefit, or services provided under a program or activity receiving Federal financial assistance includes any aid, benefit, or service provided in or through a facility that has been constructed, expanded, altered, leased or rented, or otherwise acquired, in whole or in part, with Federal financial assistance for the period during which the facility is used for a purpose for which the Federal financial assistance is extended or for another purpose involving the provision of similar services or benefits.
  - (7) Nothing in this section is to be construed as affecting the acquisition of historic sites or wilderness areas.
- (c) *Aid, benefits, or services limited by Federal law.* The exclusion of non-disabled persons from aid, benefits, or services limited by Federal statute or Executive Order to persons with a disability or the exclusion of a specific class of persons with a disability from aid, benefits, or services limited by Federal statute or Executive Order to a different class of persons with a disability is not prohibited by this subpart.
- (d) Recipients shall take appropriate steps to insure that communications with their applicants, employees, and beneficiaries are available to persons with impaired vision and hearing.

[47 FR 29546, July 7, 1982, as amended at 68 FR 51377, Aug. 26, 2003]

**§17.205 Remedial action, voluntary action, and self-evaluation.**

- (a) *Remedial action.* (1) If the Director finds that a recipient has discriminated against persons on the basis of disability in violation of section 504 or this subpart, the recipient shall take such remedial action as the Director deems necessary to overcome the effects of the discrimination.
- (2) Where a recipient is found to have discriminated against persons on the basis of disability in violation of section 504 or this subpart and where another recipient exercises control over the recipient that has discriminated, the Director, where appropriate, may require either or both recipients to take remedial action.

- (3) The Director may, where necessary to overcome the effects of discrimination in violation of section 504 or this subpart, require a recipient to take remedial action (i) with respect to persons with a disability who are no longer participants in the recipient's program or activity but who were participants in the program when such discrimination occurred or (ii) with respect to persons with a disability who would have been participants in the program or activity had the discrimination not occurred.
- (b) *Voluntary action.* A recipient may take steps, in addition to any action that is required by this subpart, to overcome the effects of conditions that resulted in limited participation in the recipient's program or activity by qualified persons with a disability.
- (c) *Self-evaluation.* (1) A recipient shall, within one year of the effective date of this subpart:
- (i) Evaluate, with the assistance of interested persons, including persons with a disability or organizations representing persons with a disability, its current policies and practices and the effects thereof that do not or may not meet the requirements of this subpart;
  - (ii) Modify, after consultation with interested persons, including persons with a disability or organizations representing persons with a disability, any policies and practices that do not meet the requirements of this subpart; and
  - (iii) Take, after consultation with interested persons, including persons with a disability or organizations representing persons with a disability, appropriate remedial steps to eliminate the effects of any discrimination that resulted from adherence to these policies and practices.
- (2) A recipient that employs fifteen or more persons shall, for at least three years following completion of the evaluation required under paragraph (c)(1) of this section, maintain on file, make available for public inspection, and provide to the Director upon request: (i) A list of the interested persons consulted, (ii) a description of areas examined and any problems identified, and (iii) a description of any modifications made and of any remedial steps taken.
- (3) A recipient, whose application is approved after the effective date of this regulation, shall within one year of receipt of the Federal financial assistance, be required to comply with the provisions of this section.

**§17.216 Accessibility.**

No person with a disability shall, because a recipient's facilities are inaccessible to or unusable by persons with a disability, be denied the benefits of, be excluded from participation in, or otherwise be subjected to discrimination under any program or activity to which this subpart applies.

**§17.217 Existing facilities.**

- (a) *Accessibility.* A recipient shall operate each program or activity so that when each part is viewed in its entirety it is readily accessible to and usable by persons with a disability. This paragraph does not require a recipient to make each of its existing facilities or every part of a facility accessible to and usable by persons with a disability.
- (b) *Methods.* A recipient may comply with the requirements of paragraph (a) of this section through such means as redesigning of equipment, reassignment of classes or other services to accessible buildings,

assignment of aides to beneficiaries, delivery of services at alternate accessible sites, alterations of existing facilities and construction of new facilities in conformance with the requirements of §17.218, or any other methods that result in making its program or activity accessible to persons with a disability. A recipient is not required to make structural changes in existing facilities where other methods are effective in achieving compliance with paragraph (a) of this section. In choosing among available methods for meeting the requirement of paragraph (a) of this section, a recipient shall give priority to those methods that serve persons with a disability in the most integrated setting appropriate.

- (c) *Small recipients.* If a recipient with fewer than fifteen employees that provides services finds, after consultation with a person with a disability seeking its services, that there is no method of complying with paragraph (a) of this section other than making a significant alteration in its existing facilities, the recipient may, as an alternative, refer the person with a disability to other providers of those services whose facilities are accessible.
- (d) *Time period.* A recipient shall comply with the requirement of paragraph (a) of this section within sixty days of the effective date of this subpart except that where structural changes in facilities are necessary, such changes shall be made as expeditiously as possible, but in no event later than three years after the effective date of this subpart. New recipients receiving Federal financial assistance shall comply with the requirement of paragraph (a) of this section, except that where structural changes in facilities are necessary, such changes shall be made as expeditiously as possible, but in no event later than three years after the date of approval of the application.
- (e) *Transition plan.* In the event that structural changes to facilities are necessary to meet the requirement of paragraph (a) of this section a recipient shall develop, within one year of the effective date of this subpart, a transition plan setting forth the steps necessary to complete such changes. New recipients, receiving financial assistance after the effective date of this regulation, shall develop a transition plan within one year of receipt of the financial assistance. The plan shall be developed with the assistance of interested persons, including persons with a disability or organizations persons with a disability. A copy of the transition plan shall be made available for public inspection. The plan shall, at a minimum:
- (1) Identify physical obstacles in the recipient's facilities that limit the accessibility of its program or activity to persons with a disability;
  - (2) Describe in detail the methods that will be used to make the facilities accessible and usable;
  - (3) Specify the schedule for taking the steps necessary to achieve full accessibility under paragraph (a) of this section and, if the time period of the transition plan is longer than one year, identify steps that will be taken during each year of the transition period; and
  - (4) Indicate the person responsible for implementation of the plan.
- (f) *Notice.* The recipient shall adopt and implement procedures to insure that interested persons, including persons with impaired vision or hearing, can obtain information as to the existence and location of services, activities, and facilities that are accessible to and usable by persons with a disability.

[47 FR 29546, July 7, 1982, as amended at 68 FR 51377, Aug. 26, 2003]



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**43 CFR Part 17 - Nondiscrimination in Federally Assisted Programs of the Department of the Interior - Subpart E - Enforcement of Nondiscrimination on the Basis of Disability in Programs or Activities Conducted by the Department of the Interior Requirements for programs and services provided directly by the NPS**

**§17.501 Purpose.**

The purpose of this part is to effectuate section 119 of the Rehabilitation, Comprehensive Services, and Developmental Disabilities Amendments of 1978, which amended section 504 of the Rehabilitation Act of 1973 to prohibit discrimination on the basis of disability in programs or activities conducted by Executive agencies or the U.S. Postal Service.

**§17.502 Application.**

This part applies to all programs and activities conducted and/or administered and/or maintained by the agency except for programs or activities conducted outside the United States that do not involve persons with disabilities in the United States.

**17.503 Definitions.**

For purposes of this part, the term—

Agency means Department of the Interior.

Auxiliary aids means services or devices that enable persons with impaired sensory, manual, or speaking skills to have an equal opportunity to participate in, and enjoy the benefits of, programs or activities conducted by the agency. For example, auxiliary aids useful for persons with impaired vision include readers, Brailled materials, audio recordings, and other similar services and devices. Auxiliary aids useful for persons with impaired hearing include telephone handset amplifiers, telephones compatible with hearing aids, telecommunication devices for deaf persons (TDD's), interpreters, notetakers, written materials, and other similar services and devices.

Complete complaint means a written statement that contains the complainant's name and address and describe the agency's actions in sufficient detail to inform the agency of the nature and date of the alleged violation of section 504. It shall be signed by the complainant or by someone authorized to do so on his or her behalf. Complainant or behalf of classes or third parties shall describe or identify (by name, if possible) the alleged victims of discrimination.

Facility means all or any portion of buildings, structures, equipment, roads, walks, parking lots, outdoor recreation and program spaces, park sites, developed sites, rolling stock or other conveyances, or other real or personal property.

Person with a disability means any person who has a physical, mental, or sensory impairment that substantially limits one or more major life activities, has a record of such an impairment, or is regarded as having such an impairment. As used in this definition, the phrase:

(1) Physical, mental, or sensory impairment includes—

- (i) Any physiological disorder or condition, cosmetic disfigurement, or anatomical loss affecting one or more of the following body systems: Neurological; musculoskeletal; special sense organs;

respiratory, including speech organs; cardiovascular; reproductive; digestive; genitourinary; hemic and lymphatic; skin; and endocrine; or

(ii) Any mental or psychological disorder, such as mental retardation, organic brain syndrome, emotional or mental illness, and specific learning disabilities. The term “physical, mental or sensory impairment” includes, but is not limited to, such diseases and conditions as orthopedic, visual, speech, and hearing impairments, cerebral palsy, epilepsy, muscular dystrophy, multiple sclerosis, cancer, heart disease, diabetes, mental retardation, emotional illness, drug addiction, and alcoholism.

(2) Major life activities includes functions such as caring for one's self, performing manual tasks, walking, seeing, hearing, speaking, breathing, learning, and working.

(3) Has a record of such impairment means has a history of, or has been misclassified as having, a mental, physical, or sensory impairment that substantially limits one or more major life activities.

(4) Is regarded as having an impairment means—

(i) Has a physical, mental, or sensory impairment that does not substantially limit major life activities but is treated by the agency as constituting such a limitation;

(ii) Has a physical, mental, or sensory impairment that substantially limits major life activities only as a result of the attitudes of others toward such impairment; or

(iii) Has none of the impairments defined in paragraph (1) of this definition but is treated by the agency as having such an impairment.

Historic preservation programs means programs conducted by the agency that have preservation of historic properties as a primary purpose.

Historic properties means those properties that are listed or eligible for listing in the National Register of Historic Places or properties designated as historic under a statute of the appropriate state or local government body.

Qualified person with a disability means—

(1) With respect to preschool, elementary, or secondary education services provided by the agency, a person with a disability who is a member of a class of persons otherwise entitled by statute, regulation, or agency policy to receive education services from the agency.

(2) With respect to any other agency program or activity under which a person is required to perform services or to achieve a level of accomplishment, a person with a disability who meets the essential eligibility requirements and who can achieve the purpose of the program or activity without modifications in the program or activity that the agency can demonstrate would result in a fundamental alteration in its nature; or

(3) With respect to any other program or activity, a person with a disability who meets the essential eligibility requirements for participation in, or receipt of benefits from that program or activity.

(4) Qualified person with a disability is defined for purposes of employment in 29 CFR 1613.702(f), which is made applicable to this part by §17.540.

Section 504 means section 504 of the Rehabilitation Act of 1973 (Pub. L. 93-112, 87 Stat. 394 (29 U.S.C. 794)), as amended by the Rehabilitation Act Amendments of 1974 (Pub. L. 93-516, 88 Stat. 1617), and the Rehabilitation, Comprehensive Services, and Developmental Disabilities Amendments of 1978 (Pub. L. 95-602, 92 Stat. 2955). As used in this part, section 504 applies only to programs or activities conducted by Executive agencies and not to federally assisted programs.

Substantial impairment means a significant loss of the integrity of finished materials, design quality, or special character resulting from a permanent alteration.

**§17.510 Self-evaluation.**

(a) The agency shall, within one year of the effective date of this part, evaluate, with the assistance of interested persons, including persons with disabilities or organizations representing persons with disabilities, its current policies and practices, and the effects thereof, that do not or may not meet the requirements of this part, and, to the extent modification of any such policies and practices is required, the agency shall proceed to make the necessary modifications.

(b) The agency shall, for at least three years following completion of the evaluation required under paragraph (a) of this section, maintain on file and make available for public inspection—

- (1) A list of the interested persons consulted;
- (2) A description of areas examined and any problems identified; and
- (3) A description of any modifications made.

**§17.511 Notice.**

The agency shall make available to employees, applicants, participants, beneficiaries, and other interested persons such information regarding the provisions of this part and its applicability to the programs or activities conducted by the agency, and make such information available to them in such manner as the agency head finds necessary to apprise such persons of the protections against discrimination assured them by section 504 and this regulation.

**§17.530 General prohibitions against discrimination.**

(a) No qualified person with a disability shall, on the basis of disability, be excluded from participation in, be denied the benefits of, or otherwise be subjected to discrimination under any program or activity conducted by the agency.

(b)(1) The agency, in providing any aid, benefit, or service, may not, directly or through contractual, licensing, or other arrangements, on the basis of disability—

- (i) Deny a qualified person with a disability the opportunity to participate in or benefit from the aid, benefit, or service;
- (ii) Afford a qualified person with a disability an opportunity to participate in or benefit from the aid, benefit or service that is not equal to that afforded others;
- (iii) Provide a qualified person with a disability with an aid, benefit, or service that is not as effective in affording equal opportunity to obtain the same result, to gain the same benefit, or to reach the same level of achievement as that provided to others;
- (iv) Provide different or separate aid, benefits, or services to persons with a disability or to any class of persons with a disability than is provided to others unless such action is necessary to



provide qualified persons with a disability with aid, benefits, or services that are as effective as those provided to others;

(v) Deny a qualified person with a disability the opportunity to participate as a member of planning or advisory boards; or

(vi) Otherwise limit a qualified person with a disability in the enjoyment of any right, privilege, advantage, or opportunity enjoyed by others receiving the aid, benefit, or service.

(2) The agency may not deny a qualified person with a disability the opportunity to participate in programs or activities that are not separate or different, despite the existence of permissibly separate or different programs or activities.

(3) The agency may not, directly or through contractual or other arrangements, utilize criteria or methods of administration the purpose or effect of which would—

(i) Subject qualified persons with a disability to discrimination on the basis of disability; or

(ii) Defeat or substantially impair accomplishment of the objectives of a program or activity with respect to persons with a disability.

(4) The agency may not, in determining the site or location of a facility, make selections the purpose or effect of which would—

(i) Exclude persons with a disability from, deny them the benefits of, or otherwise subject them to discrimination under any program or activity conducted by the agency; or

(ii) Defeat or substantially impair the accomplishment of the objectives of a program or activity with respect to persons with a disability.

(5) The agency, in the selection of procurement contractors, may not use criteria that subject qualified persons with a disability to discrimination on the basis of disability.

(6) The agency may not administer a licensing or certification program in a manner that subjects qualified persons with a disability to discrimination on the basis of disability, nor may the agency establish requirements for the programs or activities of licensees or certified entities that subject qualified persons with a disability to discrimination on the basis of disability. However, the programs or activities of entities that are licensed or certified by the agency are not, themselves, covered by this part.

(c) The exclusion of nondisabled persons from the benefits of a program limited by Federal statute or Executive order to persons with a disability or the exclusion of a specific class of persons with a disability from a program limited by Federal statute or Executive order to a different class of persons with a disability is not prohibited by this part.

(d) The agency shall administer programs or activities in the most integrated setting appropriate to the needs of qualified persons with a disability.

#### **§17.540 Employment.**

No qualified person with a disability shall, on the basis of disability, be subjected to discrimination in employment under any program or activity conducted by the agency. The definitions, requirements and procedures of section 501 of the Rehabilitation Act of 1973 (29 U.S.C. 791), as established by the Equal Employment Opportunity Commission in 29 CFR part 1613, shall apply to employment in federally conducted programs or activities.

**17.549 Program accessibility: Discrimination prohibited.**

Except as otherwise provided in §17.550, no qualified person with a disability shall, because the agency's facilities are inaccessible to or unusable by persons with disabilities, be denied the benefits of, be excluded from participation in, or otherwise be subjected to discrimination under any program or activity conducted by the agency.

**43 CFR 17.550 - Program accessibility: Existing facilities.**

(a) General. The agency shall operate each program or activity so that the program or activity, when viewed in its entirety, is readily accessible to and usable by persons with a disability. This paragraph does not—

(1) Necessarily require the agency to make each of its existing facilities or every part of a facility accessible to and usable by persons with a disability;

(2) In the case of historic preservation programs, require the agency to take any action that would result in a substantial impairment of significant historic features of an historic property; or

(3) Require the agency to take any action that it can demonstrate would result in a fundamental alteration in the nature of a program or activity or in undue financial and administrative burdens. In those circumstances where agency personnel believe that the proposed action would fundamentally alter the program or activity or would result in undue financial and administrative burdens, the agency has the burden of proving that compliance with § 17.550(a) would result in such an alteration or burdens. The decision that compliance would result in such alteration or burdens must be made by the agency head or his or her designee after considering all agency resources available for use in the funding and operation of the conducted program or activity, and must be accompanied by a written statement of the reasons for reaching that conclusion. If an action would result in such an alteration or such burdens, the agency shall take any other action that would not result in such an alteration or such burdens but would nevertheless ensure that persons with disabilities receive the benefits and services of the program or activity.

(b) Methods— (1) General. The agency may comply with the requirements of this section through such means as redesign of equipment, reassignment of services to accessible locations, assignment of aides to beneficiaries, home visits, delivery of services at alternate accessible sites, alteration of existing facilities and construction of new facilities, use of accessible rolling stock, or any other methods that result in making its programs or activities readily accessible to and usable by persons with a disability. The agency is not required to make structural changes in existing facilities where other methods are effective in achieving compliance with this section. The agency, in making alterations to existing buildings, shall meet accessibility requirements to the extent compelled by the Architectural Barriers Act of 1968, as amended (42 U.S.C. 4151-415 7) and any regulations implementing it. In choosing among available methods for meeting the requirements of this section, the agency shall give priority to those methods that offer programs and activities to qualified persons with disabilities in the most integrated setting appropriate.

(2) Historic preservation programs. In meeting the requirements of paragraph (a) of this section in historic preservation programs, the agency shall give priority to methods that provide physical access to persons with a disability. In cases where a physical alteration to an historic property is not required because of paragraph (a)(2) or (a)(3) of this section, alternative, methods of achieving program accessibility include—

- (i) Using audio-visual materials and devices to depict those portions of an historic property that cannot otherwise be made accessible.
- (ii) Assigning persons to guide persons with disabilities into or through portions of historic properties that cannot otherwise be made accessible; or
- (iii) Adopting other innovative methods.

(3) Recreation programs. In meeting the requirements of paragraph (a) in recreation programs, the agency shall provide that the program or activity, when viewed in its entirety, is readily accessible to and usable by persons with a disability. When it is not reasonable to alter natural and physical features, accessibility may be achieved by alternative methods as noted in paragraph (b)(1) of this section.

(c) Time period for compliance. The agency shall comply with the obligations established under this section within sixty (60) days of the effective date of this part except that where structural changes in facilities are necessary, such changes shall be made within three years of the effective date of this part, but in any event as expeditiously as possible.

(d) Transition plan. In the event that structural changes to facilities are necessary to achieve program accessibility, the agency shall develop, within six months of the effective date of this part, a transition plan setting forth the steps necessary to complete such changes. The plan shall be developed with the assistance of interested persons, including persons with disabilities or organizations representing persons with a disability. A copy of the transition plan shall be made available for public inspection. The plan shall, at a minimum—

- (1) Identify physical obstacles in the agency's facilities that limit the accessibility of its programs or activities to persons with a disability;
- (2) Describe in detail the methods that will be used to make the facilities accessible;
- (3) Specify the schedule for taking the steps necessary to achieve compliance with this section and, if the time period of the transition plan is longer than one year, identify steps that will be taken during each year of the transition period;
- (4) Indicate the official responsible for implementation of the plan; and
- (5) Identify the persons or groups with whose assistance the plan was prepared.

**§17.551 Program accessibility: New construction and alterations.**

Each building or part of a building that is constructed or altered by, on behalf of, or for the use of the agency shall be designed, constructed, or altered so as to be readily accessible to and usable by persons with a disability. The definitions, requirements, and standards of the Architectural Barriers Act (42 U.S.C. 4151-4157) as established in 41 CFR 101-19.600 to 101-19.607 apply to buildings covered by this section.

**§17.560 Communications.**

(a) The agency shall take appropriate steps to ensure effective communication with applicants, participants, personnel of other Federal entities, and members of the public.

(1) The agency shall furnish appropriate auxiliary aids where necessary to afford a person with a disability an equal opportunity to participate in, and enjoy the benefits of, a program or activity conducted by the agency.

- (i) In determining what type of auxiliary aid is necessary, the agency shall give primary consideration to the requests of the person with a disability.
- (ii) The agency need not provide individually prescribed devices, readers for personal use or study, attendant services, or other devices of a personal nature.

(2) Where the agency communicate with applicants and beneficiaries by telephone, telecommunications devices for deaf persons (TDD's) or equally effective telecommunication systems shall be used.

(b) The agency shall ensure that interested persons, including persons with impaired vision or hearing, can obtain information as to the existence and location of accessible services, activities, and facilities.

(c) The agency shall provide signage at a primary entrance to each of its inaccessible facilities, directing users to a location at which they can obtain information about accessible facilities. The international symbol for accessibility shall be used at each primary entrance of an accessible facility.

(d) This section does not require the agency to take any action that it can demonstrate would result in a fundamental alteration in the nature of a program or activity or in undue financial and administrative burdens. In those circumstances where agency personnel believe that the proposed action would fundamentally alter the program or activity or would result in undue financial and administrative burdens, the agency has the burden of proving that compliance with §17.560 would result in such alteration or burdens. The decision that compliance would result in such alteration or burdens must be made by the agency head or his or her designee after considering all agency resources available for use in the funding and operation of the conducted program or activity, and must be accompanied by a written statement of the reasons for reaching that conclusion. If an action required to comply with this section would result in such alteration or such burdens, the agency shall take any other action that would not result in such an alteration or such burdens but would nevertheless ensure that, to the maximum extent possible, persons with disabilities receive the benefits and services of the program or activity.

**§17.570 Compliance procedures.**

(a) Except as provided in paragraph (b) of this section, this section applies to all allegations of discrimination on the basis of disability in programs or activities conducted by the agency.

(b) The agency shall process complaints alleging violations of section 504 with respect to employment according to the procedures established by the Equal Employment Opportunity Commission in 29 CFR part 1613 pursuant to section 501 of the Rehabilitation Act of 1973 (29 U.S.C. 791).

(c) Responsibility for implementation and operation of this section shall be vested in the Director of the Office for Equal Opportunity. Complaints filed pursuant to this section shall be delivered or mailed to the Director, Office for Equal Opportunity, U.S. Department of the Interior, Washington, DC 20240. If any agency official other than the Director of the Office for Equal Opportunity receives a complaint, he or she shall immediately forward the complaint to the agency's Director of the Office for Equal Opportunity.

(d)(1) The agency shall accept and investigate all complete complaints for which it has jurisdiction. All complete complaints must be filed within 180 days of the alleged act of discrimination. The agency may extend this time period for good cause.

(2) If the agency Director for the Office of Equal Opportunity receives a complaint that is not complete, he or she shall notify the complainant, within thirty (30) days of receipt of the incomplete complaint, that additional information is needed. If the complainant fails to complete and submit the requested information within thirty (30) days of receipt of this notice the agency Director of the Office for Equal Opportunity shall dismiss the complaint without prejudice.

(3) The agency Director of the Office for Equal Opportunity may require agency employees to cooperate and participate in the investigation and resolution of complaints. Employees who are required to cooperate and participate in any investigation under this section shall do so as part of their official duties.

(e) If the agency receives a complaint over which it does not have jurisdiction, it shall promptly notify the complainant and shall refer the complaint to the appropriate government entity.

(f) The agency shall notify the Architectural and Transportation Barriers Compliance Board upon receipt of any complaint alleging that a building or facility that is subject to the Architectural Barriers Act of 1968, as amended (42 U.S.C. 4151-4157), or section 502 of the Rehabilitation Act of 1973, as amended (29 U.S.C. 792), is not readily accessible to and usable by persons with a disability.

(g) Within 180 days of the receipt of a complete complaint for which it has jurisdiction, the agency shall notify the complainant of the results of the investigation in a letter containing—

- (1) Findings of fact and conclusions of law;
- (2) A description of a remedy for each violation found; and
- (3) A notice of the right to appeal.

(h) Appeals of the findings of fact and conclusions of law or remedies must be filed by the complainant within ninety (90) days of receipt from the agency of the letter required by §17.570(g). The agency may extend this time for good cause.

(i) Timely appeals shall be accepted and processed by the Under Secretary.

(j) The agency shall notify the complainant of the results of the appeal within sixty (60) days of the receipt of the request. If the agency determines that it needs additional information from the complainant, it shall have sixty (60) days from the date it receives the additional information to make its determination on the appeal.

(k) The time limits cited in paragraphs (g) and (j) of this may be extended for an individual case when the Under Secretary determines that there is good cause, based on the particular circumstances of that case, for the extension.

(l) The agency may delegate its authority for conducting complaint investigations to other Federal agencies, except that the authority for making the final determination may not be delegated.

### **Section 508 Standards for Electronic and Information Technology**

Section 508 standards apply to electronic and information technology procured by the federal government, including computer hardware and software, websites, phone systems, and copiers. They were issued under section 508 of the Rehabilitation Act, which requires access for both members of the public and federal employees to such technologies when developed, procured, maintained, or used by federal agencies.

The section 508 standards are part of the Federal Acquisition Regulation (FAR) and address access for people with physical, sensory, or cognitive disabilities. They contain technical criteria specific to various types of technologies and performance-based requirements that focus on functional capabilities of

covered products. Specific criteria cover software applications and operating systems, web-based information and applications, computers, telecommunications products, video and multi-media, and self-contained closed products.

**Setting Priorities - Federal Management Regulation (FMR), Subchapter C—Real Property, Part 102-76—Design and Construction, Subpart C—Architectural Barriers Act**

**§102-76.60—To which facilities does the Architectural Barriers Act apply?**

(a) The Architectural Barriers Act applies to any facility that is intended for use by the public or that may result in the employment or residence therein of individuals with disabilities, which is to be—

(1) Constructed or altered by, or on behalf of, the United States;

(2) Leased in whole or in part by the United States;

(3) Financed in whole or in part by a grant or loan made by the United States, if the building or facility is subject to standards for design, construction, or alteration issued under the authority of the law authorizing such a grant or loan; or

(4) Constructed under the authority of the National Capital Transportation Act of 1960, the National Capital Transportation Act of 1965, or Title III of the Washington Metropolitan Area Transit Regulation Compact.

(b) The Architectural Barriers Act does not apply to any privately owned residential facility unless leased by the Government for subsidized housing programs, and any facility on a military reservation designed and constructed primarily for use by able bodied military personnel.

**§102-76.65—What standards must facilities subject to the Architectural Barriers Act meet?**

(a) GSA adopts Appendices C and D to 36 CFR part 1191 (ABA Chapters 1 and 2, and Chapters 3 through 10) as the Architectural Barriers Act Accessibility Standard (ABAAS). Facilities subject to the Architectural Barriers Act (other than facilities described in paragraphs (b) and (c) of this section) must comply with ABAAS as set forth below:

(1) For construction or alteration of facilities subject to the Architectural Barriers Act (other than Federal lease-construction and other lease actions described in paragraphs (a)(2) and (3), respectively, of this section), compliance with ABAAS is required if the construction or alteration commenced after May 8, 2006. If the construction or alteration of such a facility commenced on or before May 8, 2006, compliance with the Uniform Federal Accessibility Standards (UFAS) is required.

(2) For Federal lease-construction actions subject to the Architectural Barriers Act, where the Government expressly requires new construction to meet its needs, compliance with ABAAS is required for all such leases awarded on or after June 30, 2006. UFAS compliance is required for all such leases awarded before June 30, 2006.

(3) For all other lease actions subject to the Architectural Barriers Act (other than those described in paragraph (a)(2) of this section), compliance with ABAAS is required for all such leases awarded pursuant to solicitations issued after February 6, 2007. UFAS compliance is required for all such leases awarded pursuant to solicitations issued on or before February 6, 2007.

(b) Residential facilities subject to the Architectural Barriers Act must meet the standards prescribed by the Department of Housing and Urban Development.

(c) Department of Defense and United States Postal Service facilities subject to the Architectural Barriers Act must meet the standards prescribed by those agencies.

**§102-76.70—When are the costs of alterations to provide an accessible path of travel to an altered area containing a primary function disproportionate to the costs of the overall alterations for facilities subject to the standards in [§102-76.65\(a\)](#)?**

For facilities subject to the standards in [§102-76.65\(a\)](#), the costs of alterations to provide an accessible path of travel to an altered area containing a primary function are disproportionate to the costs of the overall alterations when they exceed 20 percent of the costs of the alterations to the primary function area. If a series of small alterations are made to areas containing a primary function and the costs of any of the alterations considered individually would not result in providing an accessible path of travel to the altered areas, the total costs of the alterations made within the three year period after the initial alteration must be considered when determining whether the costs of alterations to provide an accessible path of travel to the altered areas are disproportionate. Facilities for which new leases are entered into must comply with F202.6 of the Architectural Barriers Act Accessibility Standard without regard to whether the costs of alterations to comply with F202.6 are disproportionate to the costs of the overall alterations.

**§102-76.75—What costs are included in the costs of alterations to provide an accessible path of travel to an altered area containing a primary function for facilities subject to the standards in [§102-76.65\(a\)](#)?**

For facilities subject to the standards in [§102-76.65\(a\)](#), the costs of alterations to provide an accessible path of travel to an altered area containing a primary function include the costs associated with—

(a) Providing an accessible route to connect the altered area and site arrival points, including but not limited to interior and exterior ramps, elevators and lifts, and curb ramps;

(b) Making entrances serving the altered area accessible, including but not limited to widening doorways and installing accessible hardware;

(c) Making restrooms serving the altered area accessible, including, but not limited to, enlarging toilet stalls, installing grab bars and accessible faucet controls, and insulating pipes under lavatories;

(d) Making public telephones serving the altered area accessible, including, but not limited to, placing telephones at an accessible height, and installing amplification devices and TTYs;

- (e) Making drinking fountains serving the altered area accessible; and
- (f) Making parking spaces serving the altered area accessible.

**§102-76.80—What is required if the costs of alterations to provide an accessible path of travel to an altered area containing a primary function are disproportionate to the costs of the overall alterations for facilities subject to the standards in [§102-76.65\(a\)](#)?**

For facilities subject to the standards in [§102-76.65\(a\)](#), if the costs of alterations to provide an accessible path of travel to an altered area containing a primary function are disproportionate to the costs of the overall alterations, the path of travel must be made accessible to the extent possible without exceeding 20 percent of the costs of the alterations to the primary function area. Priority should be given to those elements that will provide the greatest access in the following order:

- (a) An accessible route and an accessible entrance;
- (b) At least one accessible restroom for each sex or a single unisex restroom;
- (c) Accessible telephones;
- (d) Accessible drinking fountains; and
- (e) Accessible parking spaces.

**§102-76.85—What is a primary function area for purposes of providing an accessible route in leased facilities subject to the standards in [§102-76.65\(a\)](#)?**

For purposes of providing an accessible route in leased facilities subject to the standards in [§102-76.65\(a\)](#), a primary function area is an area that contains a major activity for which the leased facility is intended. Primary function areas include areas where services are provided to customers or the public, and offices and other work areas in which the activities of the Federal agency using the leased facility are carried out.

**§102-76.90—Who has the authority to waive or modify the standards in [§102-76.65\(a\)](#)?**

The Administrator of General Services has the authority to waive or modify the standards in [§102-76.65\(a\)](#) on a case-by-case basis if the agency head or GSA department head submits a request for waiver or modification and the Administrator determines that the waiver or modification is clearly necessary.

**§102-76.95—What recordkeeping responsibilities do Federal agencies have?**

- (a) The head of each Federal agency must ensure that documentation is maintained on each contract, grant or loan for the design, construction or alteration of a facility and on each lease for a facility subject to the standards in [§102-76.65\(a\)](#) containing one of the following statements:
  - (1) The standards have been or will be incorporated in the design, the construction or the alteration.



- (2) The grant or loan has been or will be made subject to a requirement that the standards will be incorporated in the design, the construction or the alteration.
- (3) The leased facility meets the standards, or has been or will be altered to meet the standards.
- (4) The standards have been waived or modified by the Administrator of General Services, and a copy of the waiver or modification is included with the statement.
- (b) If a determination is made that a facility is not subject to the standards in [§102-76.65\(a\)](#) because the Architectural Barriers Act does not apply to the facility, the head of the Federal agency must ensure that documentation is maintained to justify the determination.

## Concessions

*Title 28 → Chapter 1 → Part 36. TITLE 28—Judicial Administration  
CHAPTER 1—DEPARTMENT OF JUSTICE  
PART 36—NONDISCRIMINATION ON THE BASIS OF DISABILITY BY PUBLIC ACCOMMODATIONS AND IN  
COMMERCIAL FACILITIES*

### **28 C.F.R. Part 36 - New Accessibility Requirements for Concessioners with Lodging and Tools to Evaluate Accessibility Compliance**

**United States Department of the Interior**  
NATIONAL PARK SERVICE 1849 C Street, N.W. Washington, D.C. 20240

**FEB 15 2012**

Memorandum

To: Regional Concession Chiefs

From: Chief, Commercial Services Program

Subject: New Accessibility Requirements for Concessioners with Lodging and Tools to Evaluate Accessibility Compliance

This memorandum provides information on new accessibility regulations that are applicable to some National Park Service (NPS) concessioners. The memorandum also identifies Commercial Services program tools to assist concession specialists in overseeing concessioner performance in this area.

#### **New Regulations**

New accessibility regulations (28 C.F.R. § 36, *Nondiscrimination on the Basis of Disability by Public Accommodations and in Commercial Facilities*) will go into effect March 15, 2012. They address requirements to make reservation systems more accessible and requirements for service animals in lodging facilities. A summary of the new regulatory requirements (Attachment 1) is provided as an attachment to this memorandum. Concession specialists should contact their concessioners to make them aware of these new regulations.

### **Compliance Oversight and Tools**

Accessibility requirements are extensive and complex. It can be challenging for concession specialists to know what key things to look for concerning accessibility when conducting periodic evaluations of concession facilities. Several tools are available to aid concession specialists.

A one-page NPS Commercial Services Accessibility Fact Sheet (Attachment 2) is provided as an attachment to this memorandum. This fact sheet outlines the laws, regulations and policies related to accessibility in NPS commercial services facilities.

Also attached are Commercial Services Accessibility Checklists for lodging, food and beverage and retail services (Attachment 3). Additional checklists are being developed for other services. The checklists highlight key operational and facility compliance items that may be reviewed during periodic inspections. These checklists augment the service-specific standards and evaluation forms which may also identify some key accessibility requirements to check. The fact sheet and checklists will be available on the NPS Commercial Services SharePoint Site in the Contract Management Concession Specialist Toolbox.

In addition to these fact sheets, concession specialists should refer to their concession's Comprehensive Condition Assessment. This document identifies accessibility design and construction requirements and deficiencies specific to each of their concessioner assigned facilities. Finally, if concession specialists have questions, they can contact their regional accessibility coordinator for further assistance. A list of these coordinators is available on the Inside NPS Accessibility Management site.

### **Distribution and Questions**

Please distribute this memorandum to parks in your region. For further information, contact Kurt Rausch, Contract Management Branch Chief, at 202/513-7202

### Attachment 1

SUMMARY OF NEW ACCESSIBILITY REQUIREMENTS in 28 C.F.R. Part 36

Nondiscrimination on the Basis of Disability by Public Accommodations and in Commercial Facilities

Highlights of the new requirements which have applicability to NPS concessioners are provided below.

- Concessioners that operate a place of lodging must ensure that individuals with disabilities can make reservations for accessible guest rooms during the same hours and in the same manner as individuals who do not need accessible rooms, whether through telephone, in-person, on-line, or third party systems. This means if a concessioner has an online reservation system for individuals without disabilities, this service must also be accessible to individuals who are disabled.
- The concessioner's reservation systems must identify and describe the accessible features in the lodging and the guest rooms offered through its reservation service in enough detail to reasonably permit individuals with disabilities to assess independently where the hotel or guest room meets their accessibility needs.
- The reservation system must ensure that accessible guest rooms are held for use by individuals with disabilities until all other guest rooms of that type have been rented and the accessible rooms are the

only remaining room of that type in inventory. This means the practice of releasing accessible rooms from the inventory to individuals without accessibility needs in advance is not permissible.

- The reservation system must be able to reserve accessible guest rooms and ensure the guest rooms requested are blocked and removed from all reservation systems. The reservation system must also guarantee that the specific accessible guest room reserved is held for the reserving customer.
- In addition to the lodging reservations requirement, the new regulations also includes a clarification that service animals refer to dogs and requirements that ticket sales for events must meet accessibility requirements.

Although the reservation system requirements apply specifically to lodging operations, they may also be appropriate for other concession service reservation systems as part of their program to provide reasonable accommodation under the Americans with Disabilities Act.

The bullets above provide summary information only. Concessioners are responsible for meeting all applicable laws including those related to accessibility. Concessioners should be encouraged to review the complete regulation and develop their own programs to meet these requirements.

## Attachment 2

### **NATIONAL PARK SERVICE (NPS) COMMERCIAL SERVICES**

#### **ACCESSIBILITY FACT SHEET**

##### **Accessibility Law**

The Americans with Disabilities Act (ADA) is the Federal civil rights law established in 1990 that prohibits the exclusion of people with disabilities from everyday activities in public accommodations. This law extended requirements established under the Architectural Barriers Act of 1968 and Section 504 of the Rehabilitation Act of 1973. The ADA requires businesses such as concessioners to make “**reasonable modifications**” that are “**readily achievable**” to their usual ways of doing business to accommodate people with disabilities. Any modification that would result in a “fundamental alteration” to the essential nature of the business is not required. Concession businesses and facilities must comply with ADA accessibility regulations for operations and facilities.

##### **Accessibility Regulations**

Regulations implementing ADA are contained in *Nondiscrimination on the Basis of Disability by Public Accommodations and in Commercial Facilities*. They first went into effect on January 26, 1992, and cover both facilities and operational program requirements. In 2010, the Department of Justice issued revisions to the existing ADA regulations that clarified the definition of service animals, established new lodging reservation system requirements, event ticketing, and swimming pool accessibility requirements as well as updating technical design standards in the 2010 ADA Standards for Accessible Design. 28 CFR, Part 36,



**Accessibility Policy and Contractual Requirements**

In accordance with *NPS Management Policies 2006, Section 10.2.6.2 Accessibility of Commercial Services*, concessioners share the NPS’ responsibility to provide employees and visitors with the greatest degree of access to programs, facilities, and services that is reasonable, within the terms of existing contracts and agreements. In addition to compliance with requirements in laws and regulations, concessioners may be subject to applicable NPS policy on accessibility. For example, *Directors Order #42, Accessibility for Visitors with Disabilities in National Park Service Programs and Services* and associated guidance such as the NPS *Guide for Accessible Transportation Systems* establish accessibility requirements that exceed the legal requirements. Park-specific requirements may also be stipulated in the contract.

**Accessibility Information Sources**

The NPS Accessibility Management Program contains information and links on accessibility compliance. For additional compliance guidance on ADA business accommodations go to the U.S. Department of Justice (DOJ) ADA Home Page. The DOJ also operates a toll-free ADA Information Line (800-514-0301 voice and 800-514-0383 TDD) to help businesses with their ADA compliance effort. In addition, 10 regional centers funded by the Department of Education are available to provide technical assistance on the ADA. One toll free number connects to the center in your region: 800-949-4232 (voice & TTY).

**Accessibility Checklists**

The purpose of the NPS Commercial Services ADA Accessibility Checklists is to provide a handy reference for Concession Specialists to help identify some key visitor accommodation requirements required under the ADA and the new updated ADA regulations. Checklists are developed for key concession services. The checklists may be an assistance tool for concession specialists evaluating concession facilities and operations during periodic inspections. The checklists identify key issues to look for but do not include all requirements. Concessioners are responsible for understanding and complying with the full scope of regulatory requirements including those under the ADA.

Attachment 3

Note: This checklist identifies key accessibility requirements for use by NPS Concession Specialists in understanding and evaluating concession facilities and operations. It is not a comprehensive listing of all accessibility requirements. Concessioners are responsible for understanding and complying with all Applicable Laws and Concession Contract terms.

<b>GENERAL PROVISIONS - ALL PUBLIC ACCOMMODATIONS</b>	
<b>REQUIREMENTS</b>	<b>NOTES</b>
1. <b>Service Animals</b> used by disabled customers are allowed access to all public business facilities and service areas. Service animals are defined as dogs specially trained to do work or perform a task for an individual with a disability.	

2. <b>Wheel chairs and Mobility Devices</b> (include manually-operated or power wheelchairs and scooters) used by people with disabilities are allowed access to all areas where customers are permitted.	
3. <b>Communications with Visitors</b> include ways to effectively communicate to customers with vision, hearing, and speech disabilities.	
4. <b>Accessible Parking Spaces</b> are provided for cars and vans in numbers required by the ADA according to the size of the parking area (see attached Chart #1). Under the 2010 Standards, one of every six accessible spaces must be van accessible. An accessible parking space must have an access aisle, which allows a person using a wheelchair or other mobility device to get in and out of the car or van.	
5. <b>Accessible Entrances</b> are available to disabled customers. If the main entrance cannot be made accessible, an alternate accessible entrance can be used. A sign should be posted at the inaccessible entrance directing individuals to accessible entrances. Accessible entrances are open whenever the other public entrances are open.	
6. <b>Accessible Routes</b> are available to persons with disability. This is the route a disabled person takes to enter and move through a business. The route must be at least three feet wide and not be blocked by items such as vending or ice machines, display racks, furniture, or potted plants. Similarly, accessible toilet stalls, dressing rooms, or counters at a cash register must not be cluttered with merchandise or supplies.	
7. <b>Accessible Restrooms</b> are provided in each public and/or employee facility with at least one accessible stall/toilet, one accessible lavatory, and urinal, if provided.	
8. <b>Accessible Interior Directional and Location Signs</b> are provided and wall mounted at accessible levels for people who are blind or have low vision.	
9. <b>Accessible Public and House Telephone</b> are available (applies to telephones inside and/or outside the business facility.)	
10. <b>Accessible Elevators</b> are provided if the building has more than two stories, including a basement. A full-size passenger elevator should serve each level of the facility including the basement. Elevators should have floor designation signs placed on both jambs of elevator hoistway entrances with floor designation in raised letter and Braille characters. Elevators should be equipped with audible tones/bells or verbal enunciators that designate floor passage/arrival. Elevators must also have an accessible emergency communication system that does not require only voice communication (i.e. either TTY system or a system of emergency lights with signs).	
11. <b>Reasonable Modifications</b> to facilities and operations that are readily achievable have made to accommodate people with disabilities in accordance with the ADA.	
12. <b>NPS Accessibility Policy</b> requirements applicable to the Service are met.	
13. <b>Concession Contract Terms</b> that specify other accessibility requirements are met.	

<b>Chart #1 Accessible Parking Requirements (2010 ADA standards)</b>	
<b>Total Spaces in Lot</b>	<b>Accessible Spaces Required</b>
1 - 25	1 van
26 - 50	1 std. + 1 van
51 - 75	2 std. + 1 van
76 - 100	3 std. + 1 van
101 - 150	4 std. + 1 van
151 - 200	5 std. + 1 van
201 - 300	6 std. + 1 van
301 - 400	7 std. + 1 van



401 - 500	7 std. + 2 van
501 - 1000	2% of total spaces*
Standard Accessible (std.) parking space is 8 foot minimum + 5 foot access aisle	*One in every 8 accessible parking spaces must be van accessible space with an 8 foot wide access aisle.

## Universal Design and Accessibility in the NPS Management Policies 2006

### 1 The Foundation

*Beginning with Yellowstone, the idea of a national park was an American invention of historic consequences. The areas that now make up the national park system, and those that will be added in years to come, are cumulative expressions of a single national heritage. The National Park Service must manage park resources and values in such manner and by such means as will leave them unimpaired for the enjoyment of future generations.*

#### 1.9.2 Managing Information

The future of individual parks and of the Service as an accountable organization depends heavily on (1) the availability, management, and dissemination of comprehensive information, and (2) the Service's success in the long-term preservation of, management of, and access to that information. NPS information resources exist in a variety of different media, including paper records, electronic documents, maps, databases, photographs, videos, and audio recordings. ***The Service will implement professional quality programs to preserve, manage, and integrate these resources and make them accessible.*** The Service will also use tools and technologies that will enhance

- information capture in permanent and durable forms;
- information management that is required by NPS policy and by legal and professional standards, including information security;
- management of electronic, textual, and audiovisual information resources, including still images, for continuous accessibility by NPS staff and the public;
- Internet and World Wide Web capabilities, while maintaining information security;
- geographic information systems (GIS);
- the understanding and management of the nation's natural and cultural resources; and
- ***the accessibility and availability of information to persons with disabilities.***

#### 1.9.3 Accessibility for Persons with Disabilities

All practicable efforts will be made to make NPS facilities, programs, services, employment, and meaningful work opportunities accessible and usable by all people, including those with disabilities. This policy reflects the commitment to provide access to the widest cross section of the public and ensure compliance with the [Architectural Barriers Act of 1968](#), the [Rehabilitation Act of 1973](#), the [Equal Employment Opportunity Act of 1972](#), and the [Americans with Disabilities Act of 1990](#). Specific guidance for implementing these laws is found in the Secretary of the Interior’s regulations regarding enforcement of nondiscrimination on the basis of disability in Department of the Interior programs ([43 CFR Part 17, Subpart E](#)), and the General Services Administration’s regulations adopting accessibility standards for the Architectural Barriers Act ([41 CFR Part 102-76, Subpart C](#)).

A primary principle of accessibility is that, to the highest degree practicable, people with disabilities should be able to participate in the same programs, activities, and employment opportunities available to everyone else. In choosing among methods of providing accessibility, higher priority will be given to methods that offer programs and activities in the most integrated setting appropriate. Special, separate, or alternative facilities, programs, or services will be provided only when existing ones cannot reasonably be made accessible. The determination of what is practicable will be made only after careful consultation with persons with disabilities or their representatives. Any decision that would result in less than equal opportunity is subject to the filing of an official disability rights complaint under the departmental regulations cited above.

#### 1.9.5.2 Facilities

The National Park Service will provide visitor and administrative facilities that are necessary, appropriate, and consistent with the conservation of park resources and values. ***Facilities will be harmonious with park resources, compatible with natural processes, esthetically pleasing, functional, energy- and water-efficient, cost-effective, universally designed, and as welcoming as possible to all segments of the population.*** Park facilities and operations of all sizes will demonstrate environmental leadership by incorporating sustainable practices to the maximum extent practicable in planning, design, siting, construction, and maintenance.

## 2 Park System Planning

### 3 Land Protection

### 4 Natural Resource Management

### 5 Cultural Resource Management

*The National Park Service will protect, preserve, and foster appreciation of the cultural resources in its custody and demonstrate its respect for the peoples traditionally associated with those resources through appropriate programs of research, planning, and stewardship.*

#### 5.3.2 Physical Access for Persons with Disabilities

The National Park Service will provide persons with disabilities the highest feasible level of physical access to historic properties that is reasonable, consistent with the preservation of each property's significant historical features. Access modifications for persons with disabilities will be designed and installed to least affect the features of a property that contribute to its significance. Modifications to some features may be acceptable in providing access once a review of options for the highest level of access has been completed. However, if it is determined that modification of particular features would impair a property's integrity and character in terms of the Advisory Council's regulations at [36 CFR 800.9](#), such modifications will not be made. To the extent possible, modifications for access will benefit the greatest number of visitors, staff, and the public, and be integrated with or close to the primary path of travel for entrances and from parking areas. In situations where access modifications cannot be made, alternative methods of achieving program access will be adopted.

## **6 Wilderness Preservation and Management**

*All NPS lands will be evaluated for their eligibility for inclusion within the national wilderness preservation system. For those lands that possess wilderness characteristics, no action that would diminish their wilderness eligibility will be taken until after Congress and the President have taken final action. The superintendent of each park containing wilderness will develop and maintain a wilderness management plan or equivalent document. Wilderness considerations will be integrated into all planning documents to guide the preservation, management, and use of the park's wilderness area and ensure that wilderness is unimpaired for future use and enjoyment as wilderness.*

### **6.4.10 Accessibility for Persons with a disability**

The National Park Service has legal obligations to make available equal opportunities for people with disabilities in all programs and activities. This requirement includes the opportunity to participate in wilderness experiences. Management decisions responding to requests for special consideration to provide wilderness use by persons with a disability must be in accord with the [Architectural Barriers Act of 1968](#), the [Rehabilitation Act of 1973](#) (as amended in 1978), and section 507(c) of the [Americans with Disabilities Act of 1990 \(42 USC 12207\(c\)\)](#). Such decisions should balance the intent of access and wilderness laws and find a way of providing the highest level of protection to the wilderness resource.

Section 17.550 of the Secretary of the Interior's regulations regarding the enforcement of nondiscrimination on the basis of disability in Department of Interior programs ([43 CFR Part 17, subpart E](#)) states that agencies are not required to take any actions or provide access that would result in a fundamental alteration in the nature of a program or activity. However, the agency has the burden of proving that compliance would result in a fundamental alteration. This concept is also found in section 507 of the Americans with Disabilities Act.

## **7 Interpretation and Education**



*National parks are among the most remarkable places in America for recreation, learning, and inspiration. Interpretive programs are the methods the Service uses to connect people to their parks, with opportunities for all visitors to form their own intellectual, emotional, and physical connections to the meanings and values found in the parks' stories. Facilitating those opportunities through effective interpretive and educational programs will encourage the development of a personal stewardship ethic and broaden public support for preserving and protecting park resources so that they may be enjoyed by present and future generations.*

### **7.5.2 Access to Interpretive and Educational Opportunities**

National parks belong to all of the nation's people and should have opportunities to enjoy them. Efforts will be made to ensure that interpretive and educational programs are available to all people and consider the special needs of children, senior citizens, non-English speaking visitors, and the economically disadvantaged. Foreign-language translations of park publications will be provided as needed in those parks visited by substantial numbers of non-English-speaking visitors.

The National Park Service will also ensure that persons with disabilities receive the same interpretive opportunities as those without disabilities. Interpretive and educational programs, exhibits, publications, and all other interpretive media will comply with Department of the Interior regulations at [43 CFR Part 17, subpart E](#), and with standards required by the [Architectural Barriers Act of 1968](#). Accordingly, the Park Service will ensure that persons with disabilities have the opportunity to participate in all programs and activities in the most integrated setting appropriate. Additionally, the Service will take all feasible steps to ensure effective communication with individuals with hearing, visual, and cognitive disabilities. These steps should include but not be limited to providing sign language interpreters, audio/visual presentations, Braille, and large-print versions of printed materials.

## **8 Use of the Parks**

*National parks belong to all Americans, and the National Park Service will welcome all Americans to experience their parks. The Service will focus special attention on visitor enjoyment of the parks while recognizing that the NPS mission is to conserve unimpaired each park's natural and cultural resources and values for the enjoyment, education, and inspiration of present and future generations. The Service will also welcome international visitors, in keeping with its commitment to extend the benefits of natural and cultural resource conservation and outdoor recreation throughout the world.*

### **8.2 Visitor Use**

Enjoyment of park resources and values by the people of the United States is part of the fundamental purpose of all parks. ***The Service is committed to providing appropriate, high-quality opportunities for visitors to enjoy the parks, and the Service will maintain within the parks an atmosphere that is open, inviting, and accessible to every segment of American society.*** However, many forms of recreation

enjoyed by the public do not require a national park setting and are more appropriate to other venues. The Service will therefore

- provide opportunities for forms of enjoyment that are uniquely suited and appropriate to the superlative natural and cultural resources found in the parks;
- defer to local, state, tribal, and other federal agencies; private industry; and nongovernmental organizations to meet the broader spectrum of recreational needs and demands.
- To provide for enjoyment of the parks, the National Park Service will encourage visitor activities that
- are appropriate to the purpose for which the park was established; and
- are inspirational, educational, or healthful, and otherwise appropriate to the park environment; and
- will foster an understanding of and appreciation for park resources and values, or will promote enjoyment through a direct association with, interaction with, or relation to park resources; and
- can be sustained without causing unacceptable impacts to park resources or values.

#### **8.2.4 Accessibility for Persons with Disabilities**

All reasonable efforts will be undertaken to make NPS facilities, programs, and services accessible to and usable by all people, including those with disabilities. This policy reflects the commitment to provide access to the widest cross section of the public, and to ensure compliance with the intent of the [Architectural Barriers Act of 1968](#) and the [Rehabilitation Act of 1973](#). The Service will also comply with section 507 of the [Americans with Disabilities Act of 1990 \(42 USC 12207\)](#), which relates specifically to the operation and management of federal wilderness areas. Specific guidance for implementing these laws is found in the Secretary of the Interior's regulations regarding enforcement of nondiscrimination on the basis of disability in Department of the Interior programs ([43 CFR Part 17, Subpart E](#)), and General Service Administration regulations adopting accessibility standards for the Architectural Barriers Act ([41 CFR Part 102-76, Subpart C](#)).

One primary tenet of accessibility is that, to the highest degree reasonable, people with disabilities should be able to participate in the same programs and activities available to everyone else. In choosing among methods for providing accessibility, higher priority will be given to those methods that offer programs and activities in the most integrated setting appropriate. Special, separate, or alternative facilities, programs, or services will be provided only when existing ones cannot reasonably be made accessible. The determination of what is reasonable will be made only after careful consultation with

persons with disabilities or their representatives. Any decision that would result in less than equal opportunity is subject to the filing of an official disability rights complaint under the departmental regulations cited above.

## 9 Park Facilities

*The National Park Service will provide visitor and administrative facilities that are necessary, appropriate, and consistent with the conservation of park resources and values. **Facilities will be harmonious with park resources, compatible with natural processes, esthetically pleasing, functional, energy- and water-efficient, cost-effective, universally designed, and as welcoming as possible to all segments of the population.** NPS facilities and operations will demonstrate environmental leadership by incorporating sustainable practices to the maximum extent practicable in planning, design, siting, construction, and maintenance.*

### 9.1.1 Facility Planning and Design

The protection of each park's resources and values will be the primary consideration in facility development decisions. Facilities for visitor use and park management will be consistent with each park's authorizing legislation, and with approved general management plans, development concept plans, and associated planning documents. The planning and design of park facilities will be accomplished by interdisciplinary teams constituted to meet the resource stewardship, programmatic, and technical requirements of the project. Public input will be sought at the earliest stage of planning and design, particularly in those cases where controversy is likely.

Designs for park facilities, regardless of their origin (NPS, contractor, concessioner, or other), will use NPS facility models for space and function requirement and will be harmonious with and integrated into the park environment. ***They will also be subject throughout all phases of design and construction to the same code compliance; the same high standards of sustainable design, universal design, and functionality; and the same review and approval processes.*** NPS requirements for sustainable design and functionality include protection of the natural and cultural environments, resource conservation, energy conservation, pollution prevention, defensible space for fire safety, and fostering education about sustainable design and practices.

### 9.1.2 Accessibility for Persons with Disabilities

The Service will design, construct, and operate all buildings and facilities so they are accessible to and usable by persons with disabilities to the greatest extent reasonable, in accord with all applicable laws, regulations, and standards. This means that all new and altered buildings and facilities will comply with the General Services Administration's regulations adopting accessibility standards for the [Architectural Barriers Act of 1968 \(41 CFR Part 102-76, Subpart C\)](#), and [43 CFR, Part 17, Subpart E](#), Enforcement of Nondiscrimination on the Basis of Disability in Programs or Activities Conducted by the Department of

Interior. It also means that some buildings and facilities will be modified to ensure that programs can be provided in an accessible location.

Accessibility will be provided consistent with preserving park resources and providing visitor safety and high-quality visitor experiences. In most instances, the degree of accessibility provided will be proportionately related to the degree of human-made modifications in the area surrounding the facility and the importance of the facility to people visiting or working in the park. Accordingly, most administrative offices, some overnight visitor accommodations, some employee housing, and most interpretive and visitor service facilities will be accessible. Undeveloped areas, such as those outside the immediate influence of buildings and roads, will not normally be modified, nor will special facilities be provided for the sole purpose of providing access to all segments of the population. Accessibility to facilities in threshold areas will be determined on the basis of topography, the significance of the attraction, the number of physical modifications being made to the environment, and the modifications necessary to ensure programmatic accessibility.

Transportation systems in parks, including water transportation, will have a sufficient percentage of fully accessible vehicles or watercraft to provide effective services to persons with disabilities. In the case of existing systems, the necessary vehicles will be provided on a replacement or retrofit basis. Until the transportation system has been made fully accessible, a separate accessible vehicle will be provided, or disabled persons will be allowed to drive their personal vehicles on otherwise-restricted roadways. In meeting the goal of accessibility, emphasis will be placed on ensuring that persons with disabilities are afforded experiences and opportunities along with other visitors to the greatest extent reasonable. Separate facilities for people with disabilities are not a substitute for full accessibility to other park facilities, but they may be allowed where the need for specialized services is clearly demonstrated.

## **9.2 Transportation Systems and Alternative Transportation**

The location, type, and design of transportation systems and their components (e.g., roads, bridges, trails, and parking areas), and the use of alternative transportation systems, all strongly influence the quality of the visitor experience. These systems also affect, to a great degree, how and where park resources will be impacted. For these reasons, management decisions regarding transportation facilities require a full, interdisciplinary consideration of alternatives and a full understanding of their consequences. Traditional practices of building wider roads and larger parking areas to accommodate more motor vehicles are not necessarily the answer. The Service must find transportation solutions that will preserve the natural and cultural resources in its care while providing a high-quality visitor experience.

Depending on a park unit's size, location, resources, and level of use, the Service will, where appropriate, emphasize and encourage alternative transportation systems, which may include a mix of buses, trains, ferries, trams, and—preferably—nonmotorized modes of access to and moving within parks. In general, the preferred modes of transportation will be those that contribute to maximum visitor enjoyment of, and minimum adverse impacts on, park resources and values.

Before a decision is made to design, construct, expand, or upgrade access to or within a park, nonconstruction alternatives—such as distributing visitors to alternative locations—must be fully explored. If nonconstruction alternatives will not achieve satisfactory results, then a development solution should consider whether the project

- is appropriate and necessary to meet park management needs or to provide for visitor use and enjoyment;
- is designed with extreme care and sensitivity to the landscape through which it passes;
- will not cause unacceptable impacts on natural and cultural resources and will minimize or mitigate those impacts that cannot be avoided;
- will reduce traffic congestion, noise, air pollution, and adverse effects on park resources and values;
- will not cause use in the areas it serves to exceed the areas' visitor carrying capacities;
- will incorporate the principles of energy conservation and sustainability;
- is able to demonstrate financial and operational sustainability;
- ***will incorporate universal design principles to provide for accessibility for all people, including those with disabilities;***
- will take maximum advantage of interpretive opportunities and scenic values;
- will not violate federal, state, or local air pollution control plans or regulations;
- is based on a comprehensive and multidisciplinary approach that is fully consistent with the park's general management plan and asset management plan;
- will enhance the visitor experience by offering new or improved interpretive or recreational opportunities, by simplifying travel within the park, or by making it easier or safer to see park features.

### 9.2.2 Trails and Walks

Trails and walks provide the only means of access into many areas within parks. ***These facilities will be planned and developed as integral parts of each park's transportation system and incorporate principles of universal design.*** Trails and walks will serve as management tools to help control the distribution and intensity of use. All trails and walks will be carefully situated, designed, and managed to

- reduce conflicts with automobiles and incompatible uses;
- allow for a satisfying park experience;

- **allow accessibility by the greatest number of people; and**
- protect park resources.

**Heavily used trails and walks in developed areas may be surfaced as necessary for visitor safety, accessibility for persons with impaired mobility, resource protection, and/or erosion control.** Surface materials should be carefully selected, taking into account factors such as the purpose and location of a trail or walk and the potential for erosion and other environmental impacts.

The visitor use and management aspects of trails and walks are addressed in [section 8.2.2](#), “Recreational Activities.” In addition, trail planning will take into account NPS interest in cooperating with federal, state, local, and tribal governments, as well as individuals and organizations, to advance the goal of a seamless networks of parks. These partnership activities are intended to establish corridors that link together, both physically and with a common sense of purpose, open spaces such as those found in parks, other protected areas, and compatibly managed private lands.

### 9.2.2.3 Equestrian Trails

Equestrian trails and related support facilities, such as feed boxes and hitch rails, may be provided when they are consistent with park objectives and when site conditions are suitable. Horse camps should be designed with user interest in mind and consistency with NPS policy. Photovoltaic systems should be evaluated to power any necessary water systems. **Ramps for mounting the animals must be provided for persons with disabilities.**

## 9.3 Visitor Facilities

While striving for excellence in visitor services, the Park Service will limit visitor facility development to that which is necessary and appropriate. Facilities like gas stations and grocery stores may be necessary to park use and enjoyment, but it does not necessarily follow that these facilities must be located inside a park. The Park Service will encourage the development of private sector visitor services in gateway communities to contribute to local economic development, encourage competition, increase choices for visitors, and minimize the need for in-park facilities. When visitor facilities are found to be necessary and appropriate within a park, they will be designed, built, and maintained in accordance with accepted NPS standards for quality and the NPS commitment to visitor satisfaction.

### 9.3.1 Informational and Interpretive Facilities

Informational and interpretive facilities may be provided to assist park visitors in appreciating and enjoying the park and understanding its significance, provided that the facilities can be developed without impairing the park’s natural or cultural resources.

(See [Chapter 7: Interpretation and Education](#); [Accessibility for Persons with Disabilities 9.1.2](#))

### 9.3.1.3 Visitor Centers

When necessary to provide visitor information and interpretive services, visitor centers may be constructed at locations identified in approved plans. To minimize visual intrusions and impacts on major park features, visitor centers will generally not be located near such features. Where an in-park location would create unacceptable environmental impacts, authorization should be obtained to place a visitor center outside the park.

Visitor centers are not substitutes for personal or self-guiding on-site interpretation. They will be constructed only when it has been determined that indoor media are the most effective means of communicating major elements of the park story and that a central public contact point is needed.

As appropriate, a visitor center may include information services, sales of educational materials and theme-related items, audiovisual programs, museums, museum collections storage, exhibits, and other staffed or self-help programs and spaces necessary for a high-quality visitor experience. Additionally, the need for restrooms, drinking fountains, and other basic visitor requirements will be considered during the planning and design stage. The size and scope of all visitor centers will be evaluated using the Visitor Center Planning Model or similar tool before submitting any visitor center project to the Director for approval.

*(See [Park Management 1.4](#); [Environmental Leadership 1.8](#); [Nonpersonal Services 7.3.2](#); [Integration of Facilities into the Park Environment 9.1.1.2](#); [Accessibility for Persons with Disabilities 9.1.2](#); [Museum Collections Management Facilities 9.4.2](#))*

### **9.3.2 Overnight Accommodations and Food Services**

Overnight facilities and food services will be restricted to the kinds and levels necessary and appropriate to achieve each park's purposes. In many cases, overnight accommodations and food services are not needed within a park. In general, they should be provided only when the private sector or other public agencies cannot adequately provide them in the park vicinity. However, in-park facilities or services may be justified when the distance and travel time to accommodations and services outside the park are too great to permit reasonable use, or when leaving the park to obtain incidental services would substantially detract from the quality of the visitor experience. Certain activities, such as backcountry use, may require overnight stays. Types of overnight accommodations may vary from unimproved backcountry campsites to motel- or hotel-type lodging, as appropriate. Commercial facilities run by concessioners are addressed in greater detail in [chapter 10](#).

*(See [Accessibility for Persons with Disabilities 9.1.2](#); [Commercial Visitor Services Planning 10.2.2](#))*

### **9.3.3 Comfort Stations**

Comfort facilities will have waste disposal systems that meet Public Health Service standards. Levels of use will determine the size and nature of the utility systems provided. Low-water use or waterless (oil and composting) toilets will be considered in locations where there are water-supply and wastewater-disposal problems. Chemical toilets in portable enclosures may be used for temporary purposes when

necessary. Vault toilets and composting toilets that meet public health standards may be used where development or expansion of utilities may not be practical or cost-effective. Pit privies that meet public health standards may suffice in areas of infrequent use and when utility services are not readily available.

(See [General Policy 6.4.1](#); [Backcountry Use 8.2.2.4](#); [Accessibility for Persons with Disabilities 8.2.4](#); [Water Supply Systems 9.1.5.1](#); [Wastewater Treatment Systems 9.1.5.2](#); [Campgrounds 9.3.2.1](#).)

#### 9.4 Management Facilities

Where authorized by Congress, management facilities will be located outside park boundaries whenever the management functions being served can be adequately supported from such a location. When management facilities must be located inside the park, they will be located away from primary resources and features of the park and sited so as to not adversely affect park resources or values or detract from the visitor experience. Historic properties will be used to the maximum extent practicable, provided that the use will not affect their significance.

Modular, precut, or prefabricated structures may be used for management facilities, including administrative offices, employee housing, and maintenance structures, when products meeting design requirements are available. Standard plans will be modified to (1) reflect regional and park design themes and harmonize with the natural surroundings; (2) preserve the natural and cultural environments; (3) provide for resource conservation; (4) provide for energy efficiency or the use of renewable energy sources; (5) limit chemical emissions; and (6) foster education about sustainable design.

(See [Park Management 1.4](#); [Environmental Leadership 1.8](#); [Use of Historic Structures 5.3.5.4.7](#); [Accessibility for Persons with Disabilities 8.2.4](#); [Facility Planning and Design 9.1.1](#); [Accessibility for Persons with Disabilities 9.1.2](#).)

#### 10 Commercial Visitor Services

*Through the use of concession contracts or commercial use authorizations, the National Park Service will provide commercial visitor services that are necessary and appropriate for public use and enjoyment. Concession operations will be consistent to the highest practicable degree with the preservation and conservation of resources and values of the park unit. Concession operations will demonstrate sound environmental management and stewardship.*

##### 10.2.6.1 Design

Concession facilities will be of a size and at a location that the Service determines to be necessary and appropriate for their intended purposes. All concession facilities must comply with applicable federal, state, and local construction codes, and meet accessibility requirements as set forth in applicable accessibility guidelines. **Proposed concession facilities must conform to NPS standards for sustainable**



**design, universal design, and architectural design.** Concession development or improvement proposals must undergo review for compliance with the [National Environmental Policy Act of 1969](#) and section 106 of the [National Historic Preservation Act \(16 USC 470f\)](#), and proposals must be carried out in a manner consistent with applicable provisions of the [Secretary of the Interior's Standards and Guidelines for Archeology and Historic Preservation](#) and other applicable legal requirements.

In addition to general park design requirements, the Park Service will apply value analysis during the design process to analyze the functions of facilities, processes, systems, equipment, services, and supplies. Value analysis must be used to help achieve essential functions at the lowest life-cycle cost, consistent with required performance, reliability, environmental quality, and safety criteria and standards.

#### 10.2.6.2 Accessibility of Commercial Services

**Concessioners share the National Park Service's responsibility to provide employees and visitors with the greatest degree of access to programs, facilities, and services that is reasonable, within the terms of existing contracts and agreements.** Applicable laws include, but are not limited to (1) regulations issued under the authority of section 504 of the [Rehabilitation Act of 1973](#), as amended ([43 CFR Part 17](#)), which prohibits discrimination on the basis of disability in programs or activities conducted by federal executive agencies; and (2) the [Architectural Barriers Act of 1968](#), which requires physical access to buildings and facilities. **Where there is no specific language identifying applicable accessibility laws in an existing concession contract, the Park Service will address the issue of compliance in the annual concession operating plan.**

#### GLOSSARY

**Accessibility**— occurs when individuals with disabilities are able to reach, use, understand, or appreciate NPS programs, facilities, and services, or to enjoy the same benefits that are available to persons without disabilities. See also, “universal design.”

**Universal design**— the design of products and environments to be usable by all people to the greatest extent possible, without the need for adaptation or specialized design.



## NPS Section 504 Complaint Process Directive

EEO Technical Guidance  
United States Department of the Interior  
NATIONAL PARK SERVICE  
1849 C Street , N.W.  
Washington, D.C. 20240

IN REPLY REFER TO:  
P4217 (0008)

September 5, 2008

National Park Service Equal Opportunity Technical Guidance Series No. 2008-001

To: Director  
Deputy Directors  
Associate/Assistant Directors  
Regional Directors  
USPP Chief  
Regional EEO Managers  
Regional Accessibility Coordinators  
Superintendents

Subject: Complaints filed under Section 504 of the Rehabilitation Act of 1973, as Amended

The purpose of this directive is to communicate to you the Section 504 requirements and process for complaints of discrimination filed by visitors to our sites. Section 504 of the Rehabilitation Act of 1973, as amended, prohibits discrimination based on disability in federally conducted programs of the Department of the Interior (DOI). Section 504 provides for access to all programs, structural and non-structural. Non-structural programs relate to the provision of policies, procedures, and effective communication for program participants and employees with disabilities.

Access must be provided to all existing programs, structural and non-structural, unless it can be determined that it would be a direct threat, would alter the fundamental nature of the program or be an undue burden (significant difficulty or expense based on the resources of the entity). If one of these exceptions is demonstrated, the Agency must provide an alternative, effective method of access.

Please direct any questions to Mary Denery at (202) 354-1868 of my staff.

/s/

Dianne A. Spriggs

Equal Employment Opportunity Program Manager

Attachments

1. Complaint Process

## 2. Section 504 Requirements for Self-Evaluation and Transition Plan

### 3. Complaint Flow Chart

#### Attachment 1

#### Complaint Process

The Section 504 process covers filing of complaint through complete resolution. The NPS EEO Program Office has established procedures as follows:

Incoming complaints are received directly from the complainant, Department of Justice, and the Department of Interior (DOI) Office of Civil Rights. The complainant has 180 days after the incident of alleged discrimination to file a complaint. Section 504 provides that the NPS attempt to achieve voluntary compliance.

Complaints received by units of the NPS must be forwarded to the EEO Program Office within 14 days. The NPS EEO Program Office will begin the complaint investigation process resulting in an investigation report produced by the NPS EEO Specialist.

The NPS EEO Specialist will establish a file that is a structured compilation and repository of all documents and information, within the agency's possession, pertaining to the case. The investigation report will contain jurisdiction information, identification of the basis and issues, identification of the applicable legal theories, conclusions gathered from the analysis of the data or other evidence already gathered, description of the documentary, testimonial and statistical evidence, anticipated sequences of the case activities (including onsite visits if needed), anticipated timeframes for obtaining and analyzing evidence, and approach to complaint resolution.

Within 5 days of receipt of a complaint, the EEO Program Office will provide an acknowledgement letter to the complainant.

Within 45 days of the date of the receipt of the complaint, the EEO Program staff will review the complaint, communicate with the Park by telephone and/or electronic mail, and follow up with a written memorandum from the EEO Program Manager to the appropriate Regional Director noting the allegations, relevant requirements, and requesting a self-evaluation and transition plan. (See Attachment 2 for information concerning the self-evaluation and transition plan.) The memorandum will also request that steps be taken for resolution if the allegations are true and violate Section 504. For each new complaint received, the original self-evaluation and transition plan must be reviewed based on the current allegations.

The Regional Director's status response and the self-evaluation and transition plan will be reviewed by the EEO Program staff within 60 days and a decision closing the complaint will be provided if no violation exists. If a violation exists, EEO Program staff will request further information and/or provide further clarification and technical assistance regarding Section 504 requirements.



The DOI regulations implementing Section 504 provides that within 180 days of receiving a complaint, EEO Program Staff will notify the complainant of the results of its investigation. After the 180 day period the EEO Program staff will continue to monitor, as necessary by phone, electronic mail, or written memorandum, steps taken by the unit to resolve any violations.

EEO Program staff, based on its review and interactive communications with Regional staff and complainants, will establish timelines for resolutions. These timelines may be different for the various types of construction and non-structural actions necessary to achieve compliance. The goal for complete resolution is one year from the unit's initial response to the EEO Program Office. It must be recognized that the resolution of some violations may be accomplished at little or no cost and time while others may require considerable cost over a much longer period of time. The EEO Program staff will work with all parties involved toward a resolution of violations in the shortest period of time possible. If the unit is still not in compliance, the case is then referred to the DOI Office of Civil Rights to conduct an on-site compliance review at the unit's expense. Any correspondence from the EEO Program Office to a unit or complainant will be copied to the complainant and respondent. A status report will be required from the unit on a monthly or quarterly basis, depending upon the number and nature of actions required.

Section 504 also provides that the complainant, if dissatisfied with the findings regarding the allegations and the complaint resolution, has the right to file an appeal with the Deputy Secretary of the Department of the Interior within 90 days of receiving results of the investigation. The Department of the Interior shall notify the complainant of the results of the appeal within 60 days.

It is appropriate to initiate settlement negotiations at any time during an investigation of a Section 504 complaint. The remedies to Section 504 violations should be tailored to cure the specific situation that gave rise to the alleged violation; i.e., to specifically address the issue (s) of the complaint.

## Attachment 2

### Section 504 Requirements for Self-Evaluation and Transition Plan

In accordance with Section 504 the Agency should conduct a self-evaluation of accessibility of its programs, policies, and practices to determine whether accessibility may be addressed through changes in the way such programs and services are provided. In the event that structural changes are necessary to meet the requirements of section 504, then a transition plan shall be developed setting forth the steps necessary to complete such changes. The transition plan should include the following:

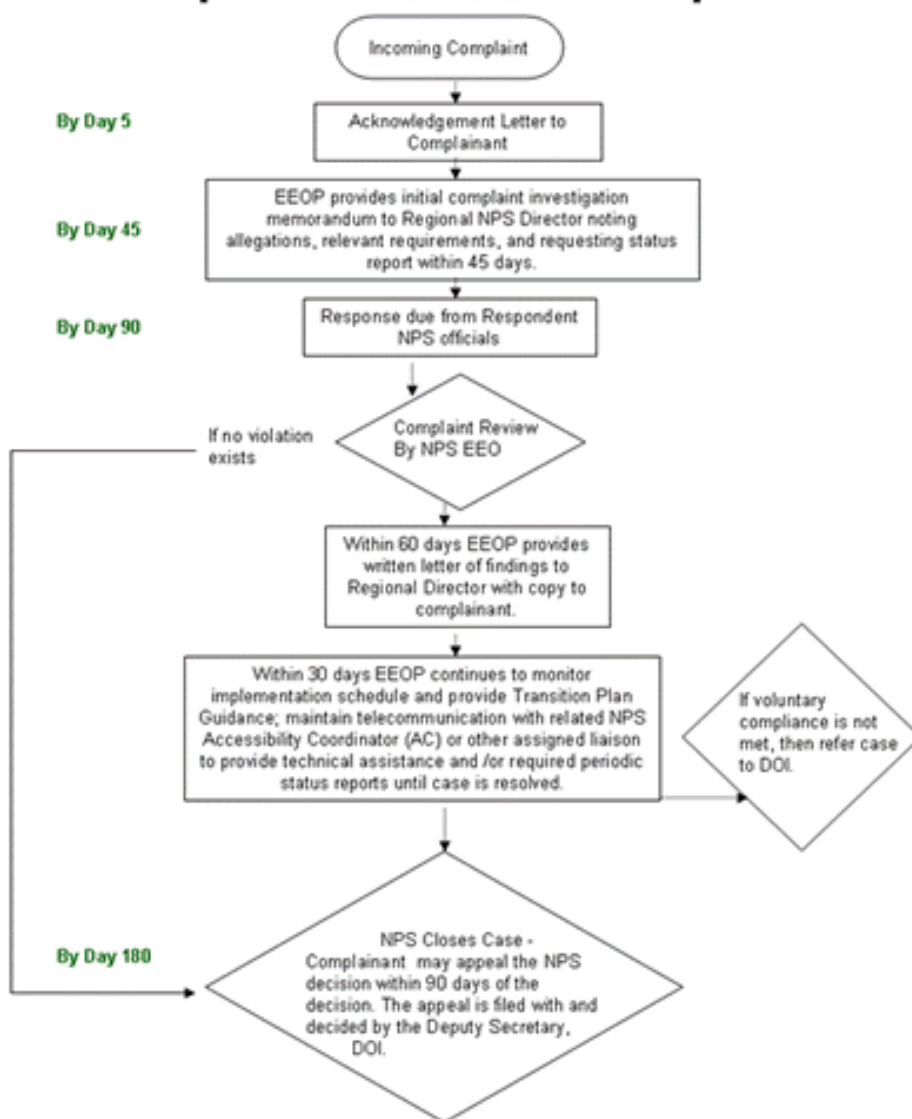
Identify physical obstacles in the park that limit the accessibility of its programs or activity to individuals with disabilities.

Describe in detail the methods that will be used to make the program or facility readily accessible and usable.

Specify the schedule for taking the steps necessary to achieve full program accessibility and if the transition plan is longer than one year, identify steps that will be taken during each year of the transition plan period.

Identify the person responsible for implementation of the transition plan.

**U.S. Department of the Interior/ National Park Service  
EEO Program Processing Flowchart  
for Civil Rights Federally Conducted Cases  
[Section 504 of Rehabilitation Act of 1973]**



**(ABA) Architectural Barriers Act.** The ABA requires access to facilities designed, built or altered with Federal dollars or leased by Federal agencies. The law covers a wide range of facilities, including post offices, social security offices, prisons, and national parks. It also applies to non-government facilities that have received Federal funding, such as certain schools, public housing, and mass transit systems. Passed in 1968, the ABA stands as the first measure by Congress to ensure access to the built environment. Facilities that predate the law generally are not covered, but alterations or leases undertaken after the law took effect can trigger coverage.

**(ABAAS) Architectural Barriers Act Accessibility Standards.** This document contains scoping and technical requirements for accessibility to sites, facilities, buildings, and elements by individuals with disabilities. The requirements are to be applied during the design, construction, addition to, alteration, and lease of sites, facilities, buildings, and elements to the extent required by regulations issued by Federal agencies under the Architectural Barriers Act of 1968 (ABA).

**(ADA) Americans with Disabilities Act.** The ADA prohibits discrimination on the basis of disability in employment, State and local government services, transportation, public accommodations, commercial facilities, and telecommunications. Unlike the ABA, the ADA's coverage is not tied to the presence of Federal funding. For more information, contact a regional Disability and Business Technical Assistance Center (DBTACs) or the appropriate Federal agency.

**(ADAAG) Americans with Disabilities Act Accessibility Guidelines.** This document contains scoping and technical requirements for accessibility to buildings and facilities by individuals with disabilities under the Americans with Disabilities Act (ADA) of 1990. These scoping and technical requirements are to be applied during the design, construction, and alteration of buildings and facilities covered by titles II and III of the ADA to the extent required by regulations issued by Federal agencies, including the Department of Justice and the Department of Transportation, under the ADA.

**(ANSI) American National Standards Institute.** The Institute oversees the creation, promulgation and use of thousands of norms and guidelines that directly impact businesses in nearly every sector: from acoustical devices to construction equipment, from dairy and livestock production to energy distribution, and many more. ANSI is also actively engaged in accrediting programs that assess conformance to standards – including globally-recognized cross-sector programs such as the ISO 9000 (quality) and ISO 14000 (environmental) management systems.

**(API) Asset Priority Index.** The API is a balanced scorecard approach that allows park managers and decision-makers to compare the relative importance of facilities in relation to one another. This metric, in conjunction with other asset management considerations, can be used to create an overall asset management strategy. Parks faced with budget cuts and shrinking resources may use this metric as a

compelling, data-driven case for reducing maintenance to one facility type where similar facilities exist. Similarly, it may indicate where assets could be targeted for disposition during long-range planning, as well as project funding priorities.

**(CFR) Code of Federal Regulations.** The Code of Federal Regulations (CFR) annual edition is the codification of the general and permanent rules published in the Federal Register by the departments and agencies of the Federal Government. It is divided into 50 titles that represent broad areas subject to Federal regulation.

**(CLR) Cultural Landscape Report.** These reports serve two important functions: it is the principle treatment document for cultural landscapes and the primary tool for long-term management of those landscapes. A CLR guides management and treatment decisions about a landscape's physical attributes, biotic systems, and use when that use contributes to historical significance.

**(DBTAC) Disability and Business Technical Assistance Center.** DBTACs perform a wide range of activities to promote public awareness of the ADA. The DBTACs provide ADA training and technical assistance to covered individuals and entities in order to facilitate employment for individuals with disabilities and accessibility in public accommodations and government services.

**(DO) Director's Order.** Director's Orders supplement and may amend Management Policies. Reference Guides or Manuals contain comprehensive information in support of field and programmatic operations. A typical handbook or reference manual will include relevant legislation, regulations, management policies, other instructions or requirements issued through a Director's Order, as well as examples, illustrations, recommended practices, forms, etc.

**(EO) Executive Order.** [United States Presidents](#) issue executive orders to help officers and agencies of the [executive branch](#) manage the operations within the federal government itself. Executive orders have the full force of law when they take authority from a power granted directly to the Executive by the Constitution, or are made in pursuance of certain [Acts of Congress](#) which explicitly delegate to the President some degree of discretionary power ([delegated legislation](#)). Like statutes or regulations promulgated by government agencies, executive orders are subject to judicial review, and may be struck down if deemed by the courts to be unsupported by statute or the Constitution.

**(ETIC) Electronic Technical Information Center.** The National Park Services' electronic database of plans and other documents, site plans, floor plans, and construction documents.

**(FMSS) Facility Management Software System.** All work described in the PMIS project component will have parallel work identified in the associated parent component work order in FMSS.

**(GMP) General Management Plan.** Standard National Park Service operating procedures call for each unit within the system to develop, using the required National Environmental Policy Act (NEPA) public involvement process, a general plan to govern the agency's management of that park unit.

**(GSA) Government Services Administration.** The General Services Administration (GSA) is an [independent agency of the United States government](#), established in 1949 to help manage and support the basic functioning of federal agencies. The GSA supplies products and communications for U.S. government offices, provides transportation and office space to federal employees, and develops government-wide cost-minimizing policies, and other management tasks.

**(HSR) Historic Structures Report.** The historic structure report is an optimal first phase of historic preservation efforts for a significant building or structure, preceding design and implementation of preservation, rehabilitation, restoration, or reconstruction work.

**(IBC) International Building Code.** The International Building Code (IBC) is a [model building code](#) developed by the [International Code Council](#) (ICC). It has been adopted throughout most of the [United States](#).

**(IEBC) International Existing Building Code.** The provisions of the *International Existing Building Code* shall apply to the *repair, alteration, change of occupancy, addition* and relocation of *existing buildings*.

**(IDT) Integrated Design Team.** The Integrated Design Team is the full group of people involved in the charrette at the park unit. This team may include architects, landscape architects, interpretive rangers, maintenance, facility manager, resource managers (natural and cultural), and accessibility technicians.

**(NCA) National Center on Accessibility.** NCA was established through a cooperative agreement between Indiana University and the National Park Service. Their research investigates the critical issues and challenges facing recreation professionals as they work to make their programs and facilities fully inclusive of people with disabilities.

**(NPS) National Park Service.** The National Park Service (NPS) is an [agency](#) of the [United States federal government](#) that manages all [U.S. national parks](#), many [American national monuments](#), and other conservation and historical properties with various title designations.<sup>[1]</sup> It was created on August 25, 1916, by [Congress](#) through the [National Park Service Organic Act](#).

**(ORAR) Outdoor Recreation Access Route.** The outdoor recreation access route is a continuous unobstructed path designated for pedestrian use that connects accessible elements within a picnic area, camping area, or designated trailhead. Examples include the paths connecting parking spaces to a picnic or camp unit, or a picnic unit to a toilet building, or those connecting accessible picnic tables to other accessible camping elements. Outdoor recreation access routes do not include pathways such as sidewalks, pathways in amusement parks, visitor center, commercial theme parks, or carnivals and between buildings on college campuses.

**(PMIS) Project Management Information System.** A project management [information system](#) (PMIS) is the coherent organization of the information required for an organization to execute projects successfully. A PMIS is typically one or more software applications and a methodical process for collecting and using project information. These electronic systems "help [to] plan, execute, and close



[project management](#) goals."<sup>[1]</sup> PMIS systems differ in scope, design and features depending upon an organization's operational requirements.

**(SAP) Self-evaluation Services, Activities, and Programs Assessment.** Documents the programs, services, and activities provided in each park area.

**(SETP) Self-evaluation and Transition Plan.** A Self-evaluation and Transition Plan is a living plan that is reviewed and updated periodically to document work accomplished and identify new programs or new solutions for providing access. This plan for a park is to be used as a guide for staff to remove barriers to accessibility and to incorporate universal design, accessibility, and sustainability into future projects taking place throughout the park.

**(UFAS) Uniform Federal Accessibility Standards.** This document sets standards for facility accessibility by physically persons with disabilities for Federal and federally-funded facilities. These standards are to be applied during the design, construction, and alteration of buildings and facilities to the extent required by the Architectural Barriers Act of 1968, as amended.

**ABAAS Guide to the Standards - Chapter 2: Alterations, Additions, Leases**


This guide provides an introduction to the scoping requirements of the [ABA Standards](#) and is intended to be used with a complete copy of the ABA Standards since it does not contain or address the full content of the Standards. It is important that users familiarize themselves with the specific scoping requirements contained in the ABA Standards.

General [[§F202.1](#)]

Additions and alterations undertaken at existing facilities are covered by the ABA Standards. The extent of application is largely determined by a project’s scope of work as the standards apply to those elements or spaces that are altered or added. Additional requirements apply to projects that affect or could affect the usability of, or access to, an area containing a primary function. The standards also require certain elements and spaces to comply in existing facilities leased by Federal agencies.

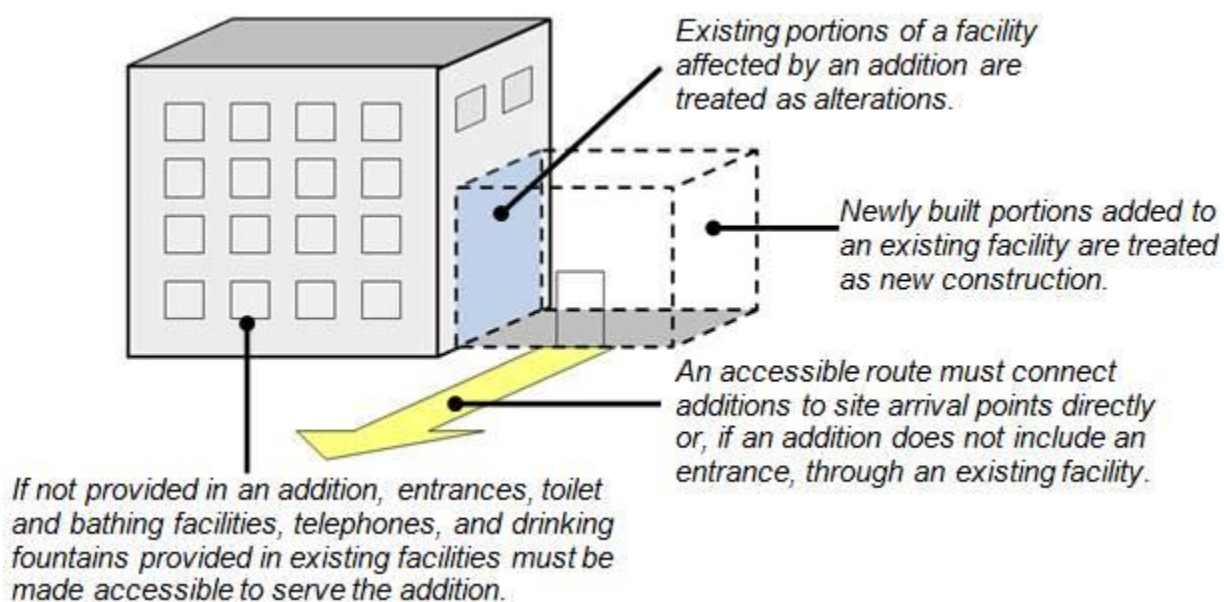
Additions [[§F202.2](#)]

Projects that increase, expand, or extend a facility’s gross floor area or height of a facility are considered additions (as defined in §F106.5) and must comply with requirements of the standards applicable to new construction. However, existing elements and spaces affected by an addition are treated as alterations and qualify for certain allowances or exceptions that are not permitted in new construction.



*Additions, alterations, and leasing actions may require retrofit of existing elements. Existing elements that meet earlier editions of the ABA standards, such as the [Uniform Federal Accessibility Standards](#), do not have to be modified to meet the current standards unless altered (§F203.2).*

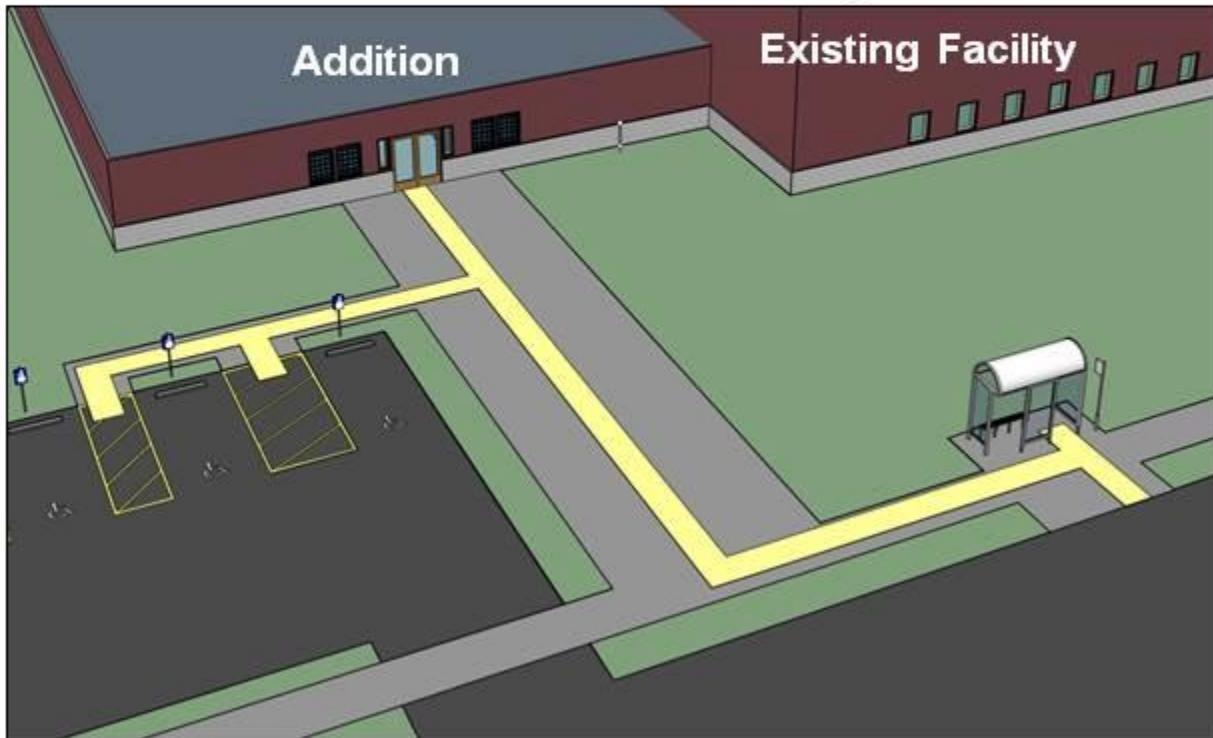
Application of the Standards in Additions



### Requirements for Additions

*If not included in an addition, these elements and spaces must be made accessible in the existing facility, where provided:*

- *toilet and bathing facilities for each sex (an accessible unisex facility is allowed where only 1 toilet or bathing facility is provided or where compliance to multi-user facilities is technically infeasible)*
- *a public telephone*
- *a drinking fountain*



*At least 1 accessible route is required from site arrival points (accessible parking, passenger loading zones, public streets and sidewalks, and transit stops, where provided) to an accessible addition entrance. If the addition does not have its own entrance, an entrance of the existing facility must be made accessible to serve the addition and an accessible route must serve all accessible spaces and elements of the addition.*

*These requirements apply fully to all additions. Cost caps based on “disproportionality” are not recognized for additions (but are permitted for a path of travel to altered primary function areas).*

#### Alterations [§F202.3]

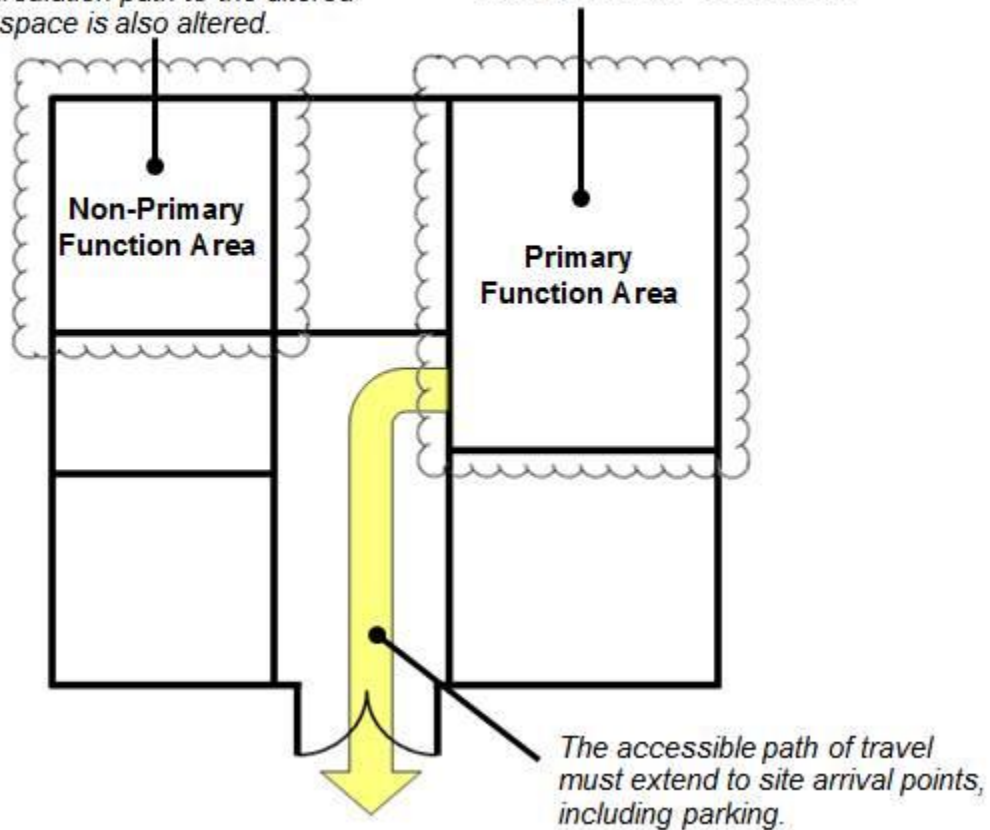
Alterations are defined in the standards (§F106.5) as “a change in a building or facility that affects or could affect the usability of a building or facility or portion thereof.” Many types of projects are covered as “alterations,” including remodeling, renovation, rehabilitation, reconstruction, restoration, resurfacing of circulation paths or vehicular ways, and changes or rearrangement of structural parts, elements, or walls. Normal maintenance, reroofing, painting or wallpapering, or changes to mechanical and electrical systems are not considered alterations unless they affect a facility’s usability. For example, a project limited to an HVAC system that includes the addition of thermostats would affect a facility’s usability because it involves elements (operable parts) covered by the standards.

The standards ensure that the opportunities for accessibility presented by an alteration are taken. How and to what extent the standards apply is determined by the scope of a project and the elements and spaces altered. Only those elements or spaces altered are required to comply, but alterations made to areas containing a primary function (a major activity for which a facility is intended) also require an accessible path of travel.

Application of the Standards in Alterations

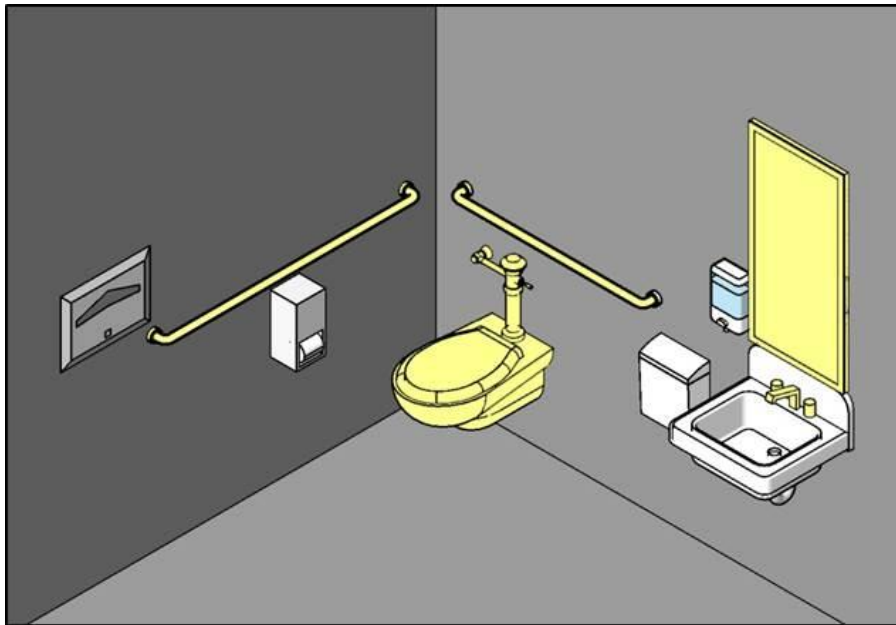
*Altered elements and spaces are required to comply. In areas not containing a primary function, an accessible route to an altered element or space is required only when the circulation path to the altered element or space is also altered.*

*Alterations made to areas containing a primary function also require an accessible path of travel to the extent that it is not "disproportionate" to the cost.*



If alterations are limited only to elements in a room or space, then the standards apply only to the elements altered. Similarly, where spaces are altered, the standards apply to those spaces that are altered. If a room or space is completely altered (or built new as part of an alteration), the entire room or space is fully subject to the standards. Compliance is required to the extent that it is technically feasible.

Example: Toilet Room Alterations



*In a restroom project involving alterations to the toilet, grab bars, faucet controls, and mirror, the standards apply to these elements but not to those that remain unaltered. In more extensive projects where additional elements are altered, application of the standards is greater, commensurate with the scope of work.*

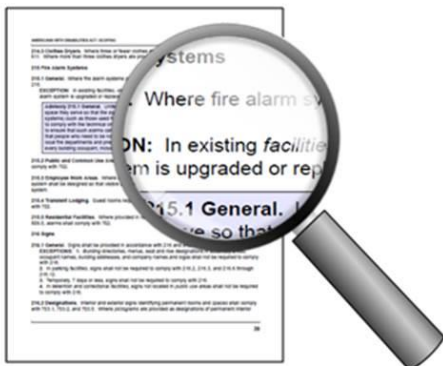


*Recommendation:* While only those elements altered are required to comply, it is advisable to maximize opportunities for accessibility in alterations. Alteration of multiple elements in a room or space may provide a cost-effective opportunity to make the entire room or space fully accessible.

The standards do not require alterations to exceed the level of access required in new construction. For example, spaces that are exempt in new construction are also exempt in alterations.

**Prohibited Reduction in Access**

New construction requirements also set the baseline for any alteration that would effectively reduce existing accessibility. Alterations that reduce accessibility below the level that would be required in new construction are prohibited. Reductions in access are allowed only where, and to the extent that, the minimum level required in new construction is exceeded. For example, if an alteration will reduce the number of parking spaces on a site, accessible parking spaces can be proportionately reduced as long as the minimum required in new construction (based on the parking facility's new total) is met. Elements that are not required by the standards to be provided for accessibility, such as phones, can be completely removed from a site.



### Special Provisions for Alterations

The standards apply the same requirements used in new construction to alterations but also include provisions unique to alterations. Some provisions clarify application, while others are structured as exceptions that limit coverage or relax technical criteria under certain conditions. Located throughout the standards at the relevant scoping or technical requirement, these provisions and exceptions are distinguished by references to “alterations” or “existing facilities.”



#### Vertical Access

An accessible route to stories and mezzanines is required in alterations (or additions) where stairs or escalators are added where none existed previously and major structural modifications are necessary (§F206.2.3.1) (or as needed to provide an accessible path of travel to an altered primary function area if not disproportionate to the cost (§F202.4)), unless the building is exempt from the requirement for access between stories.



#### Elevators

If elevators are altered, all cars programmed to respond to the same call control must be similarly modified (§F206.6.1).



#### Fire Alarms

Compliant fire alarm systems are required only in alterations where fire alarm systems are installed new, replaced, or upgraded (§F215.1, Ex. 1).



#### Ramps

Slightly steeper running slopes are permitted for short ramps (maximum 6” rise) where space is limited (§405.2, Ex.).



#### Stairs

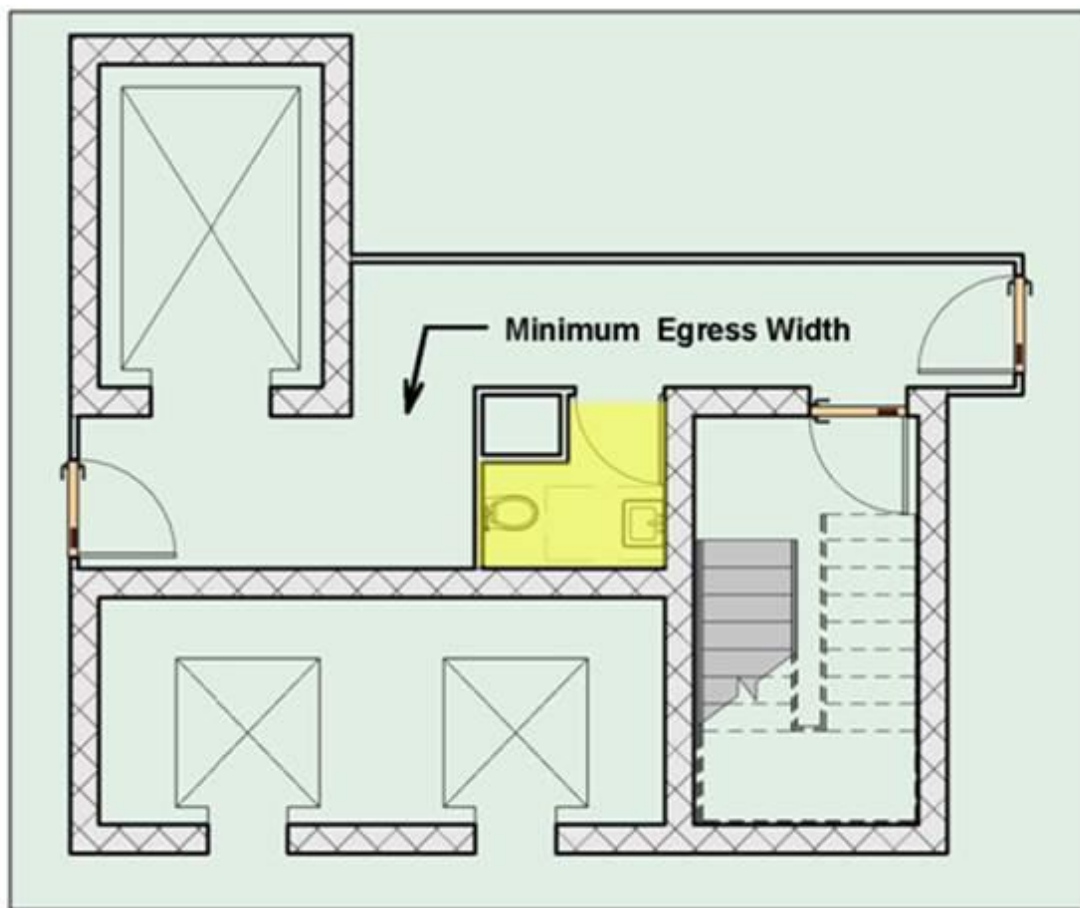
Full handrail extensions at stairs are not required where they would project hazardously into circulation paths (§505.10, Ex. 3).

### Technical Infeasibility

Compliance in an alteration is not required where it is “technically infeasible.” The term is defined as “something that has little likelihood of being accomplished because existing structural conditions would require removing or altering a load-bearing member that is an essential part of the structural frame; or because other existing physical or site constraints prohibit modification or addition of elements, spaces, or features that are in full and strict compliance with the minimum requirements.”

Where technical infeasibility is encountered, compliance is still required to the maximum extent technically feasible.

#### Example of Technical Infeasibility



*It may be technically infeasible in an alteration to enlarge a toilet room confined in size by structural supports, elevator shafts, mechanical rooms and chases, stairways, or required egress routes not affected by the project. In this case, the toilet room must be sized and other requirements, including those for plumbed fixtures, must be met to the maximum extent technically feasible. However, the concept of technical infeasibility remains relative to the planned scope of work. If the entire building is significantly renovated or gutted, constraints of this type would likely not exist.*



Other examples where compliance could potentially be technically infeasible include:

- conflicts with applicable building, plumbing, life safety or other codes (such as when combining two toilet stalls to create an accessible stall would violate the plumbing code’s required fixture count);
- meeting slope requirements on existing developed sites located on steep terrain where necessary re-grading and other design solutions are not feasible; or
- work that would impact load-bearing walls and other essential components of the structural frame, including structural reinforcement of the floor slab.

#### Alterations Affecting Primary Function Areas [§F202.4]

Additional requirements apply when alterations are made to areas containing a “primary function,” which is a major activity intended for a facility. Examples of primary function areas include dining areas of a restaurant, retail space in a store, exam rooms in a doctor’s office, classrooms in a school, and offices and other work areas where the activities of a covered entity are carried out. Spaces not considered primary function areas include entrances, corridors, restrooms, break rooms, employee locker rooms, and mechanical or electrical closets. Restrooms are not primary function areas unless their provision is the primary purpose of a facility, such as a highway rest stop.



#### **Accessible Path of Travel**

When alterations are made to a primary function area, an accessible path of travel to the area must be provided. The accessible path of travel must extend from the altered primary function area to site arrival points, including public sidewalks and parking and passenger loading zones provided on the site. The path of travel also includes access to restrooms, telephones, and drinking fountains, where provided to serve the primary function area.

#### **Disproportionality (20%)**

The accessible path of travel is required to the extent that it is not “disproportionate” to the total cost. Regulations and directives implementing the standards define “disproportionate” as exceeding 20% of the total cost of alterations to the primary function area. The 20% cap applies only to costs associated with the accessible path of travel, including an accessible route to the primary function area, entrances, and retrofits to restrooms, telephones, and drinking fountains.

#### **Prioritization**

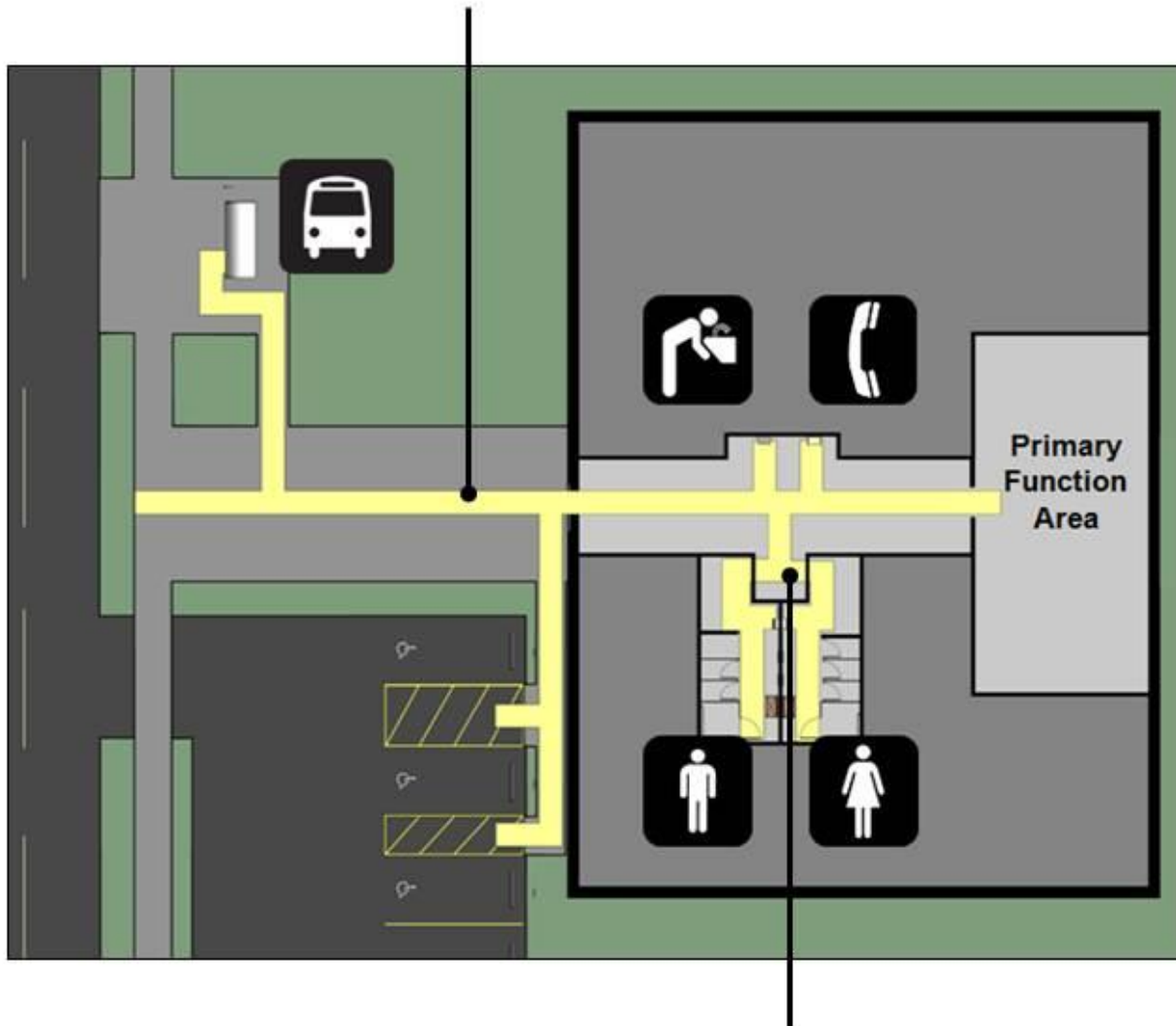
Compliance is required up to the point the 20% cost cap is reached, even where it does not result in a fully accessible path of travel. Where costs exceed this cap, ABA standard-setting agencies recommend compliance in this order of priority:

1. an accessible entrance
2. an accessible route to the primary function area
3. restroom access
4. an accessible telephone
5. an accessible drinking fountain
6. accessible parking

*Additional information on the requirements for alterations to primary function areas is provided in [regulations and directives](#) implementing the ABA standards.*

Accessible Path of Travel

*The accessible path of travel extends from the altered primary function area to site arrival points (public sidewalks, parking, passenger loading zones, public transit stops located on the site).*



*The path of travel also includes an accessible restroom (for each sex unless only unisex restrooms are provided), telephone, and drinking fountain serving the primary function area, where such elements are provided.*

Alterations to Qualified Historic Facilities [[§F202.5](#)]

THIS PROPERTY  
HAS BEEN PLACED ON THE  
NATIONAL REGISTER  
OF HISTORIC PLACES

The standards contain specific provisions for qualified historic facilities which are defined as buildings or facilities that are “listed in or eligible for listing in the National Register of Historic Places or designated as historic under an appropriate State or local law.”

Like other existing facilities, the requirements for alterations apply in relation to the planned scope of work. Alterations provisions and exceptions, including those based on technical infeasibility, and requirements for path of travel to primary function areas, apply equally to historic facilities.

The standards also provide several exceptions where compliance with the standards would threaten or destroy the historic integrity or significance of a facility as determined by the appropriate State Historic Preservation Official or Advisory Council on Historic Preservation. These exceptions apply to requirements for accessible routes (§F206.2) entrances (§F206.4), and toilet rooms (§F213.2).

**Exceptions for Qualified Historic Facilities**

*(where compliance would threaten or destroy a facility’s historic significance)*

**Vertical access** to stories above or below the accessible story is not required (§F206.2.3, Ex. 7).



At least 1 unisex **toilet room** or 1 men’s and 1 women’s room is required to comply (§F213.2, Ex. 2).



At least 1 **accessible route** is required from a site arrival point to an accessible entrance (§F206.2.1, Ex. 1).

At least 1 **public entrance** is required to be accessible (if that would also threaten the historic significance, access can be provided to a non-public entrance but a notification or remote monitoring system is required for locked entrances) (§F206.4, Ex. 2).

Leases [[§F202.6](#)]

Existing facilities leased in whole or in part by federal agencies must meet a minimum level of access specified in the standards. These requirements apply when a new lease is negotiated, even when the space was previously occupied by a federal agency. Compliance is not required at facilities that are either leased:

- for 12 months maximum without renewal or extension options; or
- on a temporary, emergency basis for government officials providing disaster relief services.

Certain elements, spaces, and routes are required to comply to ensure a minimum level of usability. Other elements are required to comply only if altered or added. Facilities that are built for leasing by federal agencies must fully comply with standards as new construction.



*The General Services Administration (GSA) leases facilities on behalf of many federal agencies. [Regulations from GSA and other agencies implementing the ABA standards further explain leasing actions covered.](#)*

Requirements for Federally Leased Space



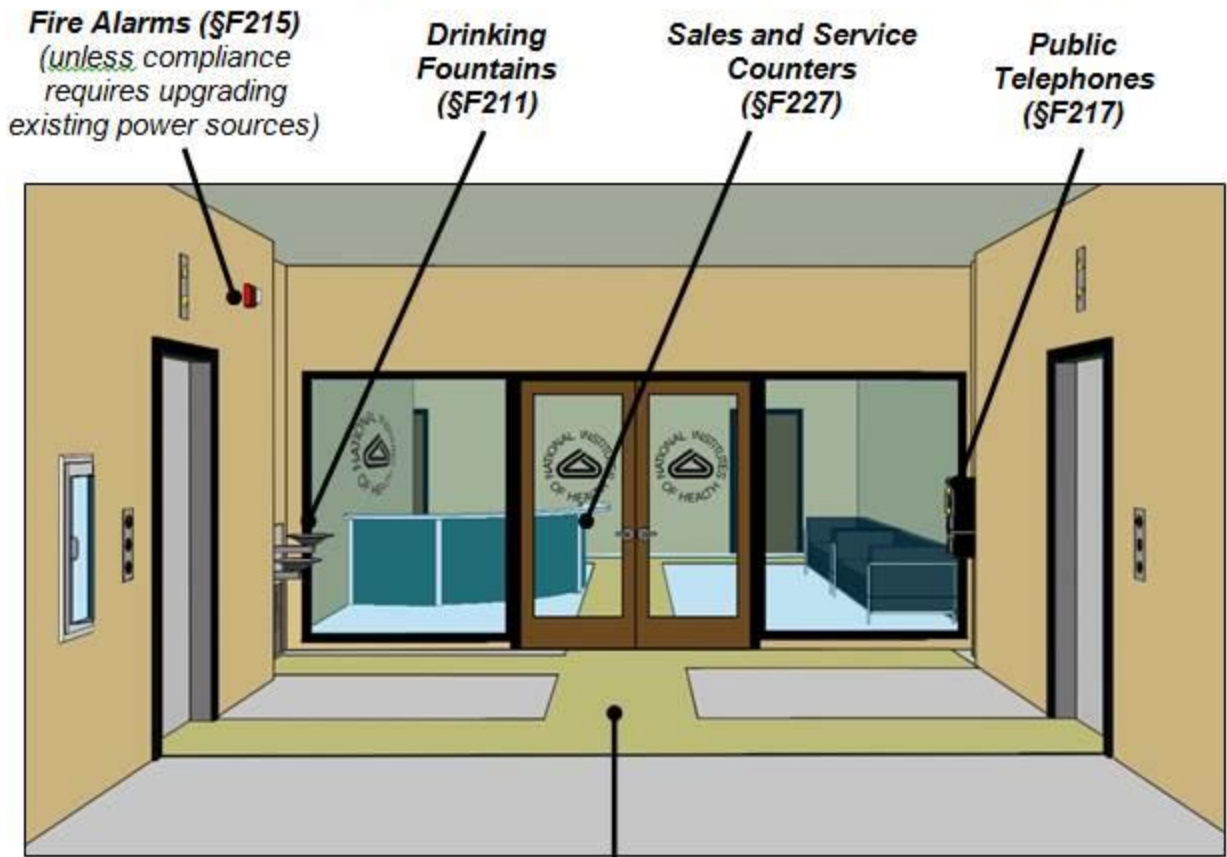
**Parking (§F208)**

*Accessible parking, including van spaces, must be provided based on the number of spaces provided. In multi-tenant facilities, compliance can be limited to the portion allotted the federal tenant.*

**Accessible Route (§F206)**

*At least 1 accessible route is required from site arrival points (accessible parking, passenger loading zones, public streets and sidewalks, and transit stops, where provided) to an accessible entrance.*

Compliance is required where these elements and spaces are provided to serve the leased space (whether located within the space or in joint-use areas serving other building tenants).



**Accessible Route (§F206)**

At least 1 accessible route from site arrival points to elements and spaces required to comply and to areas containing a primary function (a major activity for which the facility is intended)



**Toilet and Bathing Facilities (§F213)** At least 1 for each sex on each floor with toilet facilities serving the leased space (access to a unisex facility is allowed in buildings with only 1 men's and 1 women's room)



**Assembly Areas (§F221) and Assistive Listening Systems (§F219)**



**Depositories, Vending Machines, Change Machines, and Mail Boxes (§F228)**



**Dining and Work Surfaces (§F226)**



**Residential Facilities (§F233)**

Existing elements that meet UFAS or other previous ABA standards do not have to be brought into compliance with the current standards unless they are altered.

## Common Questions

### *What requirements of the standards apply in an alteration?*

Application of the standards in an alteration is determined by the scope of work and whether it involves areas containing a primary function. Altered elements or spaces must comply with relevant provisions of the standards except where compliance is technically infeasible. Where compliance is technically infeasible, compliance is required to the maximum extent feasible. If alterations are made to an area containing a primary function (a major activity for which a facility is intended), an accessible path of travel from the area to site arrival points, as well as the restrooms, telephones, and drinking fountains serving the area, must be made accessible as part of the work to the extent it is not “disproportionate” (more than 20% of the total cost).

### *How is “technically infeasible” determined in an alteration?*

Determining “technical infeasibility” requires a site-specific assessment of constraints or complications in relation to the planned scope of work. The term, as defined in the standards (§106), is intended to encompass design, site, engineering or other constraints that prohibit compliance. Examples include work that would impact a facility’s structural frame or that would conflict with applicable codes or building requirements.

### *Do the standards apply to existing facilities that are not being altered?*

The ABA Standards only address existing facilities where alterations or additions occur or where facilities are leased by federal agencies. However, the Rehabilitation Act (section 504) requires access to federally funded or conducted programs and may necessitate retrofits to existing facilities where no other alterations are planned. The obligation to provide “program access” can sometimes be satisfied operationally, such as by relocating a program, but retrofits to remove existing access barriers are often necessary.