

The following are common questions frequently asked by field personnel. This Information Bulletin (IB) addresses common questions and answers in order to facilitate a cohesive understanding of the Bureau of Land Management's (BLM) responsibility with regard to Accessibility.

1. Does the Americans with Disabilities Act (ADA) apply to the Bureau of Land Management?

No, with one exception. Except for the section that applies to Federal wilderness areas, the programs and facilities of Federal agencies are NOT governed by the Americans with Disabilities Act (ADA) of 1990.

The section of the ADA that does govern Federal agencies is Title V Section 507 of the ADA , which pertains to Federal wilderness areas. This section reaffirms that the 1964 Wilderness Act does not prohibit the use of wheelchairs and also that agencies are not required to change the character of wilderness areas in order to provide accessibility. It also defines the types of wheelchairs that can be used in federally designated wilderness. Facilities do not have to be constructed solely because a person with a disability might go to a wilderness area. However, if an agency decides to construct a facility, it must be accessible. For instance, in some areas of the Boundary Waters Canoe Area Wilderness, pit toilets have been provided for environmental reasons. The design of these toilets has been modified so that they are accessible.

2. What terminology do we use?

The correct term is "disability" - a person with a disability. Person-first terminology is used because the person is more important than his or her disability.

In 1992, when Section 504 of the Rehabilitation Act was renewed and amended, one of the amendments was to correct terminology. Recognizing the negative impact of certain terms, the word "handicapped" was replaced with the phrase "persons with disabilities."

Also in 1992, Federal agencies were directed to correct terminology in their regulations, policies, and other documents. When updating agency policies, handbooks or manuals, guidelines, field information bulletins or memorandums, and all other correspondence, correct the term "handicapped" and other references to "persons with disabilities" that do not place the person first.

3. Who handles accessibility at the state level?

Each state should designate an accessibility lead as the point of contact for all accessibility projects and related questions.

4. Must all new or reconstructed facilities be accessible?

Yes. Facilities must comply with the exception of those specifically under ABAAS (Architectural Barriers Accessibility Act Standards).

Example of Facilities – Toilet buildings, interpretive centers, government offices, etc.

5. When is a facility considered accessible?

A facility is accessible if it was constructed in compliance with the accessibility guidelines that were in force at the time of its construction. Many of our facilities predate accessibility laws, but all Federal facilities must be accessible, with few exceptions, regardless of age. Once we bring a facility up to current accessibility standards and guidelines, that facility is considered accessible even if there are changes to the standards and guidelines later. However, if a facility is altered, reconstructed, or replaced, it must be brought into compliance with the highest standard of Federal accessibility guidelines in place at that time.

6. How can existing buildings be retrofitted to make them accessible?

Existing facilities that will remain in use and are not currently accessible must be evaluated for accessibility. An action or transition plan must be developed and implemented for each facility. Older facilities can be made accessible when they have steps at the entrances, bathrooms that are too small, doors that are too narrow, kitchenettes with unreachable sinks, no elevators, and so forth. Budgeting for corrections and creative problem-solving are the keys to achieving accessibility in most cases. States should compile a list of their facilities with accessibility deficiencies so as funding becomes available, corrective actions can occur.

7. Must outdoor developed areas be accessible?

No. Sustainability of the resource is the BLM's number one priority by law and mandate. Accessibility laws and regulations do not change or infringe upon the resource having priority status under those sites governed by the "Guidelines for Outdoor Developed Areas." Accessibility laws require equal treatment and access to recreational facilities, sites, and information. These laws do not grant or advocate, in any way, a special opportunity or exemption to persons with impairments and accessibility needs.

However, the presence of a disability does not automatically exempt a person from complying with agency rules and regulations. Federal law under Section 504 of the Rehabilitation Act does not mandate the BLM must make every part of their management areas accessible and usable to accommodate a disabled member of the public. Access may be denied if the BLM has established legitimate conditions for exceptions, and the denial is not based solely on an individual's disability.

Example of Outdoor Developed Areas – Picnic sites, boat ramps, trails, etc.

8. Where do we go for design help?

It is recommended each state maintain a person who has the professional capability and expertise to provide accessible design. The following professions are qualified to provide design

assistance: Registered Landscape Architect (RLA), Professional Engineer (PE), or Licensed Architect (AIA) who has completed accessibility training.

If internal BLM assistance is not available, qualified contractors are available to assist with design and construction services. The use of this option should be determined in conjunction with the state accessibility lead and the national accessibility coordinator.

9. When should accessibility be considered during the project planning?

At the outset and not viewed as add-on criteria. Inclusive site design incorporates accessibility identifying opportunities and constraints creating a more cohesive and sustainable environment. As we gain a better understanding of how to incorporate accessibility into the outdoor developed environment, the need of corrective actions should diminish.

Early planning stages initiated at the field level should include a cross-disciplinary team. A recreation planner and landscape architect should be a part of all projects involving accessibility.

10. What program is assigned the responsibility for administering the accessibility regulations and compliance?

Responsibility for accessibility within the BLM is assigned to the Division of Recreation and Visitor Services (WO-250). WO-250 is tasked with developing policy, guidelines, training, and overall coordination.

11. What are the minimum requirements to achieve accessibility?

Minimum requirements are met when facilities are in compliance with the Federal accessibility guidelines.

However, the BLM should not approach accessibility compliance as minimal required. It is imperative to embrace the intent of the law and not just meet the letter of the law. By focusing on the intent and not minimum compliance, a better and more cohesive environment will ensue.

12. How do you evaluate projects for compliance with accessibility guidelines?

The term "accessible" means in compliance with the Federal Accessibility Guidelines in place at the time the facility or feature was designed, constructed, altered, or leased.

A site, facility, or program either meets the requirements of the Federal accessibility standards and guidelines, or it does not meet the requirements and is not accessible. Accessibility is only evaluated using these standards and guidelines. *There is no such thing as "partially accessible,"* although it is possible for parts of a facility to be accessible while other parts are not.

For instance, a parking space either meets the requirements and is accessible, or it does not meet the requirements and is not accessible. The specific surfacing, slope, size, and walkway connection requirements must be met, regardless of the conditions around the parking space.

"Almost" or "we tried" does not satisfy the requirements and, therefore, the parking space is not accessible.

As with all building codes, facilities must comply with the accessibility standards and guidelines in effect when they are constructed. Once a facility is brought up to current accessibility standards and guidelines, that facility is considered accessible even if there are changes to the standards and guidelines later. However, if a facility is altered, reconstructed, or replaced, it must be brought into compliance with Federal accessibility guidelines in place at that time.

13. Can we use NPS guidelines for interpretation?

The guidelines recently published in a National Association Recreation Resource Professionals article refer to interpretive media and are not official U.S. Access Board policy at this point. These guidelines address in detail the subject of interpretation. Since the guidelines were developed for the National Parks Service, the BLM may reference them. At some point, the U.S. Access Board may use these interpretative guidelines as a base reference and revise and adopt them into the Accessibility Guidelines for Outdoor Developed Areas.

14. What is program accessibility?

Section 504 of the Rehabilitation Act of 1973 requires that individuals with disabilities have an equal opportunity to participate in all federally conducted and federally assisted programs and activities. For example, if an interpretive program has been held in an amphitheater that is not accessible, it should be conducted at an accessible location until the amphitheater deficiencies are corrected and brought up to current accessible compliance.

14. Are concessionaires, outfitters, and partners required to follow accessibility laws?

Yes, when operating on behalf of the BLM, Federal accessibility laws apply.