

DEPARTMENT OF AGRICULTURE**Forest Service**

RIN 0596-AB93

Forest Service Outdoor Recreation Accessibility Guidelines and Integration of Direction on Accessibility Into Forest Service Manual 2330**AGENCY:** Forest Service, USDA.**ACTION:** Notice of issuance of final directive.

SUMMARY: The Forest Service is issuing a final directive as an amendment to Forest Service Manual 2330, Publicly Managed Recreation Opportunities to ensure that new or reconstructed developed outdoor recreation areas on National Forest System lands are developed to maximize accessibility, while recognizing and protecting the unique characteristics of the natural setting. The amendment guides Forest Service employees regarding compliance with the Forest Service Outdoor Recreation Accessibility Guidelines (FSORAG). The amendment directs that new or reconstructed outdoor developed recreation areas in the National Forest System, including campgrounds, picnic areas, beach access routes, and outdoor recreation access routes, comply with these agency guidelines and applicable Federal accessibility laws, regulations, and guidelines. The FSORAG is linked to and referenced in this amendment.

The Architectural and Transportation Barriers Compliance Board (Access Board) is preparing to publish for public notice and comment proposed accessibility guidelines for outdoor developed areas that would apply to Federal agencies subject to the Architectural Barriers Act. When the Access Board finalizes its accessibility guidelines for outdoor developed areas, the Forest Service will revise the FSORAG to incorporate the Access Board's standards where those provisions are a higher standard, as supplemented by the Forest Service. The supplementation will ensure the agency's application of equivalent or higher guidelines and universal design, as well as consistent use of agency terminology and processes.

DATES: This final amendment is effective May 22, 2006.

ADDRESSES: The full text of the final amendment to FSM 2330 is available electronically on the World Wide Web at <http://www.fs.fed.us/im/directives>. The administrative record for this final amendment is available for inspection

and copying at the office of the Director, Recreation and Heritage Resources Staff, USDA Forest Service, 4th Floor Central, Sidney R. Yates Federal Building, 1400 Independence Avenue, SW., Washington, DC, from 8:30 a.m. to 4 p.m., Monday through Friday, except holidays. Those wishing to inspect the administrative record are encouraged to call Janet Zeller at (202) 205-9597 beforehand to facilitate access to the building.

FOR FURTHER INFORMATION CONTACT:

Janet Zeller, Recreation and Heritage Resources Staff, USDA Forest Service, (202) 205-9597.

1. Background

Although the Forest Service is committed to ensuring accessibility of agency facilities and programs to serve all employees and visitors, as well as complying with the Architectural Barriers Act of 1968 (ABA) and Section 504 of the Rehabilitation Act of 1973, agency accessibility requirements for outdoor developed recreation areas have not been integrated into the Forest Service Directives System.

The ABA requires facilities that are designed, constructed, altered, or leased by, for, or on behalf of a Federal agency to be accessible, as well as those funded in whole or in part by a Federal agency. To emphasize the need for accessibility guidelines for outdoor recreation areas, in 1993 the Forest Service developed Universal Access to Outdoor Recreation: A Design Guide. This guidebook blended accessibility into the recreation opportunity spectrum, ranging from urban areas in full compliance with the Uniform Federal Accessibility Standards, the ABA accessibility standards in place at that time, to primitive and wilderness areas.

The Access Board is the federal agency responsible for issuing accessibility guidelines for newly constructed and altered facilities subject to the ABA. The Forest Service served on the Access Board's Regulatory Negotiation Committee on Outdoor Developed Areas (Reg Neg Committee). In 1999, the Reg Neg Committee completed draft accessibility guidelines for outdoor recreation facilities and trails. However, the Access Board was not able to complete the rulemaking process for the guidelines at that time.

While awaiting completion of the rulemaking process for those guidelines, the Forest Service determined that it needed accessibility guidelines that would comply with the public notice and comment process for Forest Service directives pursuant to 36 CFR part 216. These guidelines, which are based on

the Reg Neg Committee's draft guidelines, meet the agency's need to integrate accessibility into the development of outdoor recreation facilities and trails. The Forest Service's guidelines incorporate universal design and agency terminology and processes and in some respects establish higher accessibility standards than the Reg Neg Committee's draft guidelines. The Forest Service's guidelines are in two parts, the FSORAG and the Forest Service Trail Accessibility Guidelines (FSTAG), both of which are available at <http://www.fs.fed.us/recreation/programs/accessibility>.

The Forest Service is issuing an amendment to Forest Service Manual (FSM) 2330, "Publicly Managed Recreation Opportunities," to require compliance with the FSORAG. The Forest Service published this policy for public notice and comment as a proposed amendment. Since this policy has been subjected to public notice and comment through publication in the **Federal Register**, the agency has decided to issue the final policy as an amendment to the FSM.

The FSORAG will apply to newly constructed or altered camping facilities, picnic areas, beach access routes, outdoor recreation access routes, and other constructed features, including benches, trash, recycling, and other essential containers, viewing areas at overlooks, telescopes and periscopes, mobility device storage, pit toilets, warming huts, and outdoor rinsing showers in the National Forest System. The FSORAG is linked to and referenced in this amendment.

The FSORAG maximizes the accessibility of outdoor developed recreation areas for all people, while recognizing and protecting the unique characteristics of the natural setting of each outdoor developed recreation area within the National Forest System. The FSORAG integrates the Forest Service policy of universal design to ensure the development of programs and facilities to serve all people, to the greatest extent possible. Universal design requires that all new or reconstructed facilities and associated constructed features, rather than only a certain percentage of those facilities, be accessible to all people. Universal design provides for the integration of all people in outdoor developed recreation areas, without separate or segregated access for people with disabilities. In addition, the final amendment clarifies internal agency procedures and policies related to the accessibility of outdoor developed recreation areas, including compliance with the FSORAG.

Like the proposed accessibility guidelines developed by the Reg Neg Committee, the FSORAG establishes only one level of accessibility for all outdoor developed recreation areas and provides for application of conditions for departure and exceptions when necessary to preserve the uniqueness of each recreation area and when application of the FSORAG would cause a change in an area's setting. Compliance with the FSORAG will not always result in facilities that are accessible to all persons with disabilities because at some locations the natural environment might prevent application of some of the FSORAG's technical provisions.

The Access Board plans to publish a notice of proposed rulemaking (NPRM) seeking public comment on proposed accessibility guidelines for outdoor developed areas. The NPRM will contain the Reg Neg Committee's draft guidelines and will apply to Federal agencies subject to the ABA. The Forest Service will work with the Access Board and the other federal land management agencies as the Access Board develops final accessibility guidelines for outdoor developed areas. When the Access Board finalizes its accessibility guidelines for outdoor developed areas, the Forest Service will revise the FSORAG to incorporate the Access Board's standards, as supplemented by the Forest Service. The supplementation will ensure the agency's application of equivalent or higher guidelines and universal design, as well as consistent use of agency terminology and processes.

In a related notice published elsewhere in this part of today's **Federal Register**, the agency is publishing notice of a final directive to require compliance with the FSTAG, which will apply to trails that are designed for hiker/pedestrian use. The FSORAG and the FSTAG are both available electronically on the World Wide Web at <http://www.fs.fed.us/recreation/programs/accessibility>.

Copies also may be obtained by writing to USDA, Forest Service, Attn: Accessibility Program Manager, Recreation and Heritage Resources Staff, Stop 1125, 1400 Independence Avenue, SW., Washington, DC 20250-0003.

2. Public Comments on the Proposed Interim Directive

On February 17, 2005, the Forest Service published the proposed interim directive in the **Federal Register** (70 FR 8060) for public notice and comment. The proposed interim directive was also posted electronically on the World Wide Web on the **Federal Register** site at

<http://www.fs.fed.us/programs/recreation/accessibility>. The Forest Service received 37 letters or electronic messages in response to the proposed interim directive. Each respondent was grouped in one of the following categories:

Business: 1
Federal Agencies: 6
Federal Agency Employees: 25
Individuals (unaffiliated or unidentifiable): 5

Most respondents supported the FSORAG. A few respondents were not supportive. One respondent opposed access by people with disabilities on Federally managed lands. Another respondent opposed any improved access and was concerned that improved access would lead to more hunting. Many respondents commented on specific sections of the FSORAG. The agency appreciates the spelling, pagination, and other similar nonsubstantive comments and has incorporated them into the FSORAG posted on the Forest Service's accessibility Web page at <http://www.fs.fed.us/recreation/programs/accessibility>.

General Comments

Many respondents appreciated that application of the FSORAG would result in the natural setting being maintained. All respondents who commented on format supported addressing outdoor developed recreation areas in a separate document from trails, as well as integration of the scoping and technical provisions in each document. Several respondents also expressed appreciation for revisions in the order of the technical provisions in the Reg Neg Committee's draft guidelines.

Comment. Most respondents supported the Forest Service's policy of universal design. However, several respondents expressed concern that under this policy, developed recreation areas would be forced into a higher level of development or would all look alike, resulting in a change to their setting.

Response. The Forest Service policy on universal design is defined in FSM 2330.5 as "the design of programs and facilities to be usable by all people, to the greatest extent possible, while maintaining the natural setting, providing access to programs and facilities for all, without separate or segregated access for people with disabilities. New or reconstructed buildings, developed recreation sites, associated constructed features and alterations are to comply with the accessibility guidelines." Therefore, all constructed features are required to be

accessible, rather than only a certain percentage of those facilities, with few exceptions.

In the Forest Service's accessibility guidelines, the policy of universal design is applied by starting with the assumption that all areas and constructed features will be accessible to the extent provided in the guidelines. In contrast to application of universal design to picnic tables and toilet structures, which occupy a small area, application of universal design to camping units and their connecting routes (called "outdoor recreation access routes" or "ORARs") raises a potential concern of over-development. However, under the FSORAG, the uniqueness of the site is preserved because departure from the guidelines is permitted when certain conditions exist at a site. Therefore, not all camping units and ORARs may have to meet the guidelines. The intent of universal design is met by maximizing accessibility while maintaining the character and experience of the setting, given the natural constraints of a site and its level of development.

Page 16 of the Forest Service's Built Environment Image Guide states: "Under the ABA and other mandates, universal design requires complete integration of accessibility within our facilities. As with sustainable design elements, universal design principles applied to the site or facility from the outset seldom, if ever, have any obvious effect on the architectural character. When skillfully executed, universally designed facilities fit seamlessly within the natural and social environments."

Comment. One respondent expressed confusion concerning turning radius, clear floor or ground space, and other technical aspects of the guidelines.

Response. Graphics will be included in the final FSORAG and in the Forest Service Accessibility Guidebook for Outdoor Recreation and Trails, which will be available by the spring of 2006 at <http://www.fs.fed.us/recreation/programs/accessibility>. This guidebook will provide a clear explanation of the accessibility guidelines, with examples of best practices and illustrative photographs, graphics, and design tips.

Comment. One respondent requested that technical provisions for parking lots be included in the FSORAG.

Response. The FSORAG covers only the developed recreation elements that are not addressed in other accessibility guidelines. Parking lots are already addressed in the Architectural Barriers Act Accessibility Standards (ABAAS).

Comment. One respondent requested that the text of all ABAAS provisions cited in the technical provisions of the

FSORAG be integrated into the FSORAG, rather than appearing in an appendix.

Response. The Forest Service has decided not to accept this recommendation because many ABAAS provisions are cited repeatedly in the FSORAG. For example, the reference to controls (ABAAS 308 and 309) are referenced ten times in the FSORAG and appear multiple times on the same page in several instances. If these provisions were included each time they were cited, the FSORAG would become unwieldy, as well as difficult to follow. Once a designer has consulted the same ABAAS citation several times in the FSORAG appendix, the designer should become familiar with the ABAAS requirement and not have to reference the appendix as frequently.

Comment. One respondent believed that the FSORAG is not needed because there are enough laws and guidelines dealing with accessibility, such as the Americans With Disabilities Act, Section 504 of the Rehabilitation Act, the ADAAG, and the new ABAAS.

Response. The FSORAG is needed because no other accessibility guidelines that address outdoor developed recreation areas have completed the rulemaking process.

Comments on Specific Sections of the FSORAG

Section 1.1 Conditions for Departure. This section contains the conditions that would permit departure from a technical provision.

Comment. All but one respondent who commented on the phrase “or would not be consistent with the applicable forest land and resource management plan” in the second condition for departure were supportive.

Response. The National Forest Management Act requires each national forest and national grassland to develop a land management plan. These plans are developed through extensive public participation and generally are in effect for 10 to 15 years. These plans guide forest management, and the Forest Service is prohibited from authorizing actions that are inconsistent with the plans. The language regarding consistency with the plan was included in the second condition for departure because of this legal constraint.

Comment. One respondent requested a definition of the character, setting, and experience of a recreation site. This respondent also requested a quantifiable, formula-based method to determine whether compliance with the guidelines would result in a substantial change to these characteristics.

Response. The Forest Service uses the Recreation Opportunity Spectrum (ROS) to characterize a recreation site. The ROS was developed to identify more clearly the relationships among a site’s physical characteristics and the recreation activities and experience that the public expects at the site. More information about the ROS is available at <http://roadless.fs.fed.us/data/pdfdocs/rosguide.pdf>.

Determination of a substantial change to the characteristics of a site from compliance with the FSORAG cannot be standardized or quantified because the determination will vary greatly depending on the specific circumstances and because recreational experience is perception-based. “Managing for recreation requires different kinds of data and management concepts than does most other activities. While recreation must have a physical base of land or water, the product—recreation experience—is a personal or social phenomenon. Although the management is resource based, the actual recreational activities are a result of people, their perceptions, wants, and behavior” (Final Report of the Committee of Scientists for Implementation of Section 6 of the National Forest Management Act of 1976, February 22, 1979, 44 FR 26628, May 4, 1979). Since people’s expectations differ depending on the setting, it is impossible to quantify change, for example, by saying that removing a certain number of trees per acre constitutes substantial change.

The ROS assists landscape architects and recreation managers in evaluating all the factors that affect recreational experiences, including changes to the setting. For example, far more change can occur at a developed site before the effect would be substantial than at a site that has never been developed. Similarly, the surface at a site that has been worn down from heavy use may need to be hardened to accommodate the public’s desire to recreate there and to protect the surrounding environment, and a significant amount of change may occur without substantially affecting the setting. However, at a site with a worn-down surface that is located in an environmentally sensitive area, the threshold of substantial change may be lower, and different measures may need to be taken, such as precluding public use of parts of the site or site rehabilitation instead of hardening. Any design solution needs to consider the full range of managerial and environmental needs.

Comment. One respondent requested a definition for “significant natural feature.”

Response. A significant natural feature generally has some special meaning and is held in some esteem in its locale. That meaning may be based on its uniqueness, rarity, beauty, historical significance, or other factors. The FSORAG includes a discussion of significant natural features. A significant natural feature may include a large rock, outcrop, tree, or body of water that would block or interfere with or would directly or indirectly be altered or destroyed by construction of the outdoor recreation facility or element at that point. Significant natural features also could include areas protected under Federal or State laws, such as areas with threatened or endangered species or wetlands that could be threatened or destroyed by full compliance with the technical provisions in the FSORAG or areas where compliance would, directly or indirectly, substantially harm natural habitat or vegetation.

Significant cultural features include areas such as archaeological sites, sacred lands, burial grounds and cemeteries, and tribal protected sites. Significant historical features include properties listed or eligible for listing in the National Register of Historic Places and other places of recognized historic value. Significant religious features include tribal sacred sites and other properties held sacred by an organized religion.

Comment. One respondent requested a definition for “significant harm.”

Response. The FSORAG and the Reg Neg Committee’s draft guidelines utilize the term “substantial harm,” not “significant harm.” The term “substantial harm” is used in the guidelines in conjunction with the term “significant feature” in the first condition for departing from the technical provisions. Therefore, this measure of the substance of the change and the harm that change would cause is not to be taken lightly. In this context, to cause “substantial harm,” the proposed change would have to have a considerable negative effect on the feature that has been identified as “significant” in that locale.

Comment. A number of respondents requested that “infeasible” be replaced with “impractical” in the fourth condition for departure.

Response. The American Heritage Dictionary of the English Language, 4th edition (2000), cites “impractical” as the definition for “infeasible.” Since the words are interchangeable and “impractical” is used more commonly, the Forest Service has changed “would not be feasible” to “would be impractical” in the section-by-section

analysis for the fourth condition for departure and in the fourth condition for departure.

Section 1.2 Definitions. This section includes definitions of terms used in the FSORAG, including terminology used by the Forest Service.

Camp Living Area and Parking Spur

Comment. All respondents who commented on the terminology used to designate specific areas within a camping unit supported the use of that terminology.

Response. For clarity, the FSORAG distinguishes between a camp living area and a parking spur. A parking spur is divided into a vehicle parking area and a driveway, each of which has its own technical provisions. This differentiation allows the designer to integrate a parking spur into the terrain. In many cases, designers need the flexibility to work with each component separately to accommodate a camp living area near a parking spur in a way that respects the lay of the land. In some cases, the camp living space may not be located immediately next to the parking spur because the terrain will not permit it.

Developed Recreation Site and General Forest Area

Comment. All respondents who commented on the distinction between a developed recreation site and a general forest area were supportive.

Response. The Forest Service distinguishes in its management between developed recreation sites and general forest areas. The Forest Service's Infrastructure database defines a developed site as "a discrete place containing a concentration of facilities and services used to provide recreation opportunities to the public and evidencing a significant investment in facilities and management under the direction of an administrative unit in the National Forest System." Developed recreation sites provide visitor convenience and comfort while protecting natural resources. Most of the agency's recreational improvements are located at developed recreation sites.

The Forest Service defines general forest areas as "all lands available for recreation use and outside of Wilderness, developed sites, trails and administrative sites. Amenities or constructed features inside general forest areas are primarily for resource protection rather than for visitor comfort." While some constructed features (such as picnic tables, fire rings, and toilet buildings) may be provided in general forest areas, these constructed features are usually for resource

protection rather than visitor convenience. Any constructed features in general forest areas must be designed appropriately for the setting and must comply with the FSORAG's accessibility requirements.

It is important to the recreating public that not all National Forest System lands be developed to the same extent, level, or intensity.

The FSORAG requires that any constructed feature (such as a picnic table, fire ring, or bench) in a general forest area meet the applicable technical provisions. However, a connection to an ORAR is not required in general forest areas to ensure that these areas are not developed beyond what is desirable from managers' and visitors' perspectives. As a result, accessibility is maximized within the constraints of the outdoor environment, without requiring a fundamental change in the nature of the program.

Section 2.0 Outdoor Recreation Access Routes (ORARs). This section of the FSORAG includes the technical specifications for the pathways that connect constructed features in a picnic or camping area or at a trailhead.

Comment. All respondents who commented on this provision supported the exception for slope, which is permitted for alterations only, not new construction. One respondent recommended that the same exception for slope permitted in alteration of ORARs should also be permitted in alteration of beach access routes.

Response. Due to the terrain where a campground or picnic area was constructed, it may not be possible to meet the running slope requirements of an ORAR during alteration of the site without substantially changing the natural setting. Therefore, exceptions to slope requirements for alteration of ORARs are necessary.

The FSORAG permits exceptions to slope requirements only when an area is being reconstructed or altered. These exceptions are not permitted in new construction because selection of the most appropriate site is part of the new construction process.

While a campground may have been constructed some years ago at a location that would not now be considered appropriate because of its terrain, the location of a beach is generally determined by the best location for accessing the water. Therefore, exceptions to slope requirements for alteration of beach access routes are not appropriate.

Comment. All except one respondent who commented on the provision exempting general forest areas from the

requirement for ORARs supported the exception.

Response. The FSORAG states that ORARs are not required in general forest areas. In general forest areas, a path connecting associated constructed facilities, as well as a path connecting them to a trail, must comply with the technical provisions for a trail enumerated in section 7.0 of the FSTAG. These paths are not ORARs and are not required to meet the technical provisions for ORARs in the FSORAG. ORARs are not required in general forest areas because the resulting additional construction and site modification would substantially alter the nature of the setting.

While some constructed features (such as picnic tables, fire rings, and toilet buildings) may be provided in general forest areas, these constructed features are usually for resource protection rather than visitor convenience. Any constructed features in general forest areas must be designed appropriately for the setting and must comply with the FSORAG so that the facilities can be used by persons with a disability.

Comment. Two respondents believed that handrails on ORARs are not appropriate in a recreation setting.

Response. The agency agrees. References to handrails on ORARs have been deleted from the FSORAG, just as handrails on ORARs are not included in the Reg Neg Committee's draft guidelines.

Comment. One respondent believed that because all picnic tables in a picnic area must be accessible, each picnic table would have to be located along an ORAR, which would result in numerous pathways through picnic areas. One respondent believed that the Reg Neg Committee's draft guidelines would require fewer picnic tables to be located along an ORAR than the FSORAG.

Response. The FSORAG does not require all picnic tables to be located along an ORAR. Rather, the FSORAG requires that 20 percent of all picnic tables at a site be located along an ORAR. This requirement yields the same density of picnic tables located along ORARs as the Reg Neg Committee's draft guidelines. The Reg Neg Committee's draft guidelines require that 50 percent of all picnic tables at a site, but no fewer than two, be accessible, and that 40 percent of these accessible picnic tables be located along an ORAR. The FSORAG requirement of 20 percent of 100 percent of the picnic tables at a site equates to the requirement in the Reg Neg Committee's draft guidelines of 40 percent of 50 percent of the picnic

tables at a site. For example, under the FSORAG, if a site has 8 picnic tables, $8 \times .20$ or 1.6 (rounded up to 2) of them must be located along an ORAR. Under the Reg Neg Committee's draft guidelines, if a site has 8 picnic tables, $8 \times .50$ or 4 must be accessible, and $4 \times .40$ or 1.6 (rounded up to 2) of those 4 must be located along an ORAR.

Section 2.7 Protruding Objects. This section includes the requirements for clear headroom on a trail.

Comment. All respondents who commented on protruding objects supported the exception to the requirement for clear headroom or a warning barrier.

Response. The FSORAG provides an exception to the requirement for 80 inches of clear headroom if a warning barrier is installed. However, on a narrow pathway through a cave or through certain types of trees, such as the walkway through the historic cherry trees around the Tidal Basin in Washington, DC, conditions may make it impossible to place a warning barrier and permit passage. In those types of situations, the FSORAG permits an exception to the requirement for 80 inches of clear headroom and installation of a warning barrier. This exception must be retained to address unusual situations in the natural environment.

Section 3.0 Beach Access Routes. This section includes technical specifications for pedestrian routes that access beaches.

No comments were received on this section.

Section 4.0 Constructed Features for Developed Picnic Areas. This section includes technical specifications for picnic units in developed recreation areas.

No comments were received on this section.

Section 5.1 Parking Spurs. This section includes technical specifications for parking spurs in camping units.

Comment. All respondents who commented on the distinction between a camping unit and a parking spur and the further breakdown of a parking spur into parking and driveway areas were supportive of those distinctions.

Response. The FSORAG identifies two typical components of a camping unit: (1) A camp living area and (2) a parking spur. A parking spur is further divided into a vehicle parking area and a driveway. These distinct components are identified to facilitate application of the scoping requirements and to integrate parking spurs into camping units in an environmentally sensitive manner that maximizes accessibility.

Comment. Many respondents agreed that the width of an accessible parking spur may have an impact on the natural setting.

Response. The FSORAG requires the same number of 20-foot-wide parking areas for recreational vehicles that are required under the Reg Neg Committee's draft guidelines. The rest of the parking spurs in a campground must be 16 feet wide, where that width would not substantially change the nature of the setting. If that width is not feasible because of the presence of a condition for departure, the width may be reduced to 13 feet. If the 13-foot width would not be possible without substantially changing the nature of the setting, the parking spur is exempt from the technical provisions.

This technical provision provides the flexibility to design accessible parking spurs, while taking into account varying terrain. This flexibility in design results in facilities that are not only universally usable, but also respectful of the natural environment, which is a primary reason people recreate outdoors.

Unlike the Reg Neg Committee's draft guidelines, the FSORAG includes technical provisions for parking spur driveways. Because parking spur driveways are not required to be as wide as parking spurs at the end of the driveways that are adjacent to the living area, parking spur driveways have less visual impact on the natural setting than parking spurs. The FSORAG takes this difference into account, thus maximizing accessibility while ensuring the best environmental fit on the ground.

Comment. Several respondents thought the parking chart in Figure 5.1 of the February 2005 draft of the FSORAG was confusing.

Response. The Forest Service agrees. That chart has been removed from the FSORAG. The only parking chart that appears in the current version of the FSORAG addresses the minimum number of 20-foot-wide parking spurs for recreational vehicles that is required. The FSORAG requires the same percentage of 20-foot-wide parking spurs for recreational vehicles as the Reg Neg Committee's draft guidelines.

Section 5.2 Tent pads and platforms. This section includes the technical specifications for tent pads and platforms.

Comment. All respondents who commented on this provision supported the flexibility in the FSORAG to determine whether edge protection should be required.

Response. The FSORAG states that edge protection, where provided, is to be at least 3 inches high, whereas the

Reg Neg Committee's draft guidelines require that all tent platforms have 3-inch edge protection. The FSORAG allows the designer to determine where edge protection should be provided for safety and where edge protection is not needed due to the design or location of a tent platform or absence of a drop-off that would preclude access. Thus, the FSORAG requires edge protection only where it is necessary.

Comment. All respondents who commented on the tent pad and platform provisions supported them as they appear in the FSORAG.

Response. The FSORAG requires that at least 20 percent of the tent pads or platforms provided at a developed recreation site meet the FSORAG's technical provisions and be connected to an ORAR. The FSORAG requires 5 percent of the tent pads or platforms in a general forest area to meet the technical provisions, but does not require connection to an ORAR in a general forest area. This difference in scoping and the requirement for connection to an ORAR reflects the differences between developed recreation sites and general forest areas. The agency agrees with the respondent who stated that this distinction gives the designer a realistic and reasonable ability to comply with accessibility requirements. Where an area's natural terrain permits, 100 percent of the tent pads or platforms may be accessible and connected to an ORAR.

Section 5.3 Fire Rings. This section includes the technical specifications for fire rings.

Comment. All except one respondent who commented on this section supported the exception in general forest areas to the requirement for the height of the fire-building surface. The dissenting respondent suggested that rock circles in general forest areas be piled higher and that soil be added inside the rocks to achieve the height required for the fire-building surface at developed recreation sites.

Response. To permit the use of a circle of rocks or other low-profile campfires in remote or wilderness settings, the FSORAG provides an exception in general forest areas to the height of the fire-building surface if one or more conditions for departure exist. Without this exception, the fire-building surface in a fire ring would have to be at least 9 inches above the ground, which could have a substantial negative impact in a wilderness setting. The Forest Service is not accepting the suggestion to provide for rock circles in general forest areas to be piled higher and for soil to be added inside the rocks to achieve a 9-inch height for the fire-

building surface because the agency is concerned about the safety of such a structure.

Comment. Several respondents expressed concern that the design for accessible fire rings is unsightly and therefore unpopular.

Response. The primary accessibility requirement for fire rings is that the fire-building surface be at least 9 inches above the ground. This requirement does not preclude fire ring designs that are innovative, attractive, and appropriate in developed recreation settings. Fifteen years ago, the most common fire ring design that supposedly was accessible looked like a barrel. Today the most common accessible fire ring design is not unattractive. Designers can be creative and check other sources for appropriate designs that fit the developed recreation setting and that are accessible.

Section 5.4 Wood Stoves and Fireplaces. This section includes technical specifications for wood stoves and fireplaces at developed recreation sites.

No comments were received on this section.

Section 5.5 Utilities. This section includes technical specifications for utilities at developed recreation sites.

No comments were received on this section.

Section 5.6 Utility Sinks. This section includes technical specifications for utility sinks at developed recreation sites.

No comments were received on this section.

Section 6.1 Benches. This section includes technical specifications for benches at developed recreation sites.

No comments were received on this section.

Section 6.2 Trash and Recycling Containers. This section includes technical specifications for trash and recycling containers.

Comment. One respondent recommended that bear-proof storage containers be addressed in the FSORAG because none with accessible controls are readily available.

Response. The Forest Service agrees. The phrase, "other essential containers" has been added to the heading and text of section 6.2. "Other essential containers" includes trash, recycling, food storage, and other animal-resistant containers.

Section 6.3 Viewing Areas at Overlooks. This section includes technical specifications for viewing areas at overlooks.

No comments were received on this section.

Section 6.4 Telescopes and Periscopes. This section includes

technical specifications for telescopes and periscopes.

Comment. All respondents who commented on this section supported the provision that does not appear in the Reg Neg Committee's draft guidelines for telescopes and periscopes.

Response. Unlike the Reg Neg Committee's draft guidelines, the FSORAG requires maneuvering space at each accessible telescope and periscope. Maneuvering space is needed to ensure that telescopes and periscopes are accessible to a person who uses a wheelchair.

Section 6.5 Mobility Device Storage. This section includes technical specifications for storage facilities for mobility devices at developed recreation sites.

No comments were received on this section.

Section 6.6 Pit Toilets. This section includes technical specifications for pit toilets.

Comment. All except one respondent who commented on this section supported the specifications in the FSORAG, including the exception to the requirement for a level entrance into a pit toilet. One respondent believed that there should never be an exception to the requirement for a level entrance to a pit toilet, regardless of the difficulties presented by the structure or location of a pit toilet's waste disposal system.

Response. The FSORAG requires that the clear floor or ground space adjacent to a pit toilet comply with ABAAS requirements for toilets. The FSORAG clarifies that pit toilets are permitted only in general forest areas and that privacy screens rather than walls are commonly used for pit toilets in remote areas. To address safety concerns, the agency clarified the FSORAG to provide that grab bars are to be installed only on walls that will withstand 250 pounds of force, in accordance with ABAAS. In addition, the FSORAG now specifies the orientation of the riser inside the pit toilet structure to maximize accessibility of the toilet's interior. These additions will ensure that pit toilets are designed and installed to be accessible for people with disabilities.

The FSORAG permits exceptions to the requirement for a level entrance into a pit toilet. Providing for exceptions is necessary because some pit toilet floors have to be located above the ground due to operation and maintenance requirements of the toilet's waste disposal system. Where the entrance cannot be located at ground level, a trail or ramp, if feasible, must be provided from the ground to the entrance. Where a trail or ramp is not feasible and no other alternative is possible because of

the presence of one or more conditions for departure, transfer steps meeting specifications similar to those for play areas in Chapter 10 of ABAAS may be provided. These exceptions allow trail planners and facility designers to work with an area's topography and other physical characteristics, rather than forcing planners and designers to alter the natural setting unreasonably.

Section 6.7 Warming Huts. This section includes technical specifications for warming huts at developed recreation sites.

No comments were received on this section.

Section 6.8 Outdoor Rinsing Showers. This section includes technical specifications for outdoor rinsing showers at developed recreation sites.

No comments were received on this section.

3. Regulatory Certifications

Environmental Impact

Section 31.12, paragraph 2, of Forest Service Handbook (FSH) 1909.15 (67 FR 54622, August 23, 2002) excludes from documentation in an environmental assessment or environmental impact statement "rules, regulations, or policies to establish Service-wide administrative procedures, program processes, or instructions." The agency concludes that this amendment falls within this category of actions and that no extraordinary circumstances exist which would require preparation of an environmental assessment or environmental impact statement.

Regulatory Impact

This amendment has been reviewed under USDA procedures and Executive Order 12866 on regulatory planning and review. The Office of Management and Budget (OMB) has determined that the amendment is significant because of its relationship to the accessibility guidelines to be established by the Access Board. Accordingly, this amendment has been reviewed by OMB pursuant to Executive Order 12866. A cost and benefits analysis of this action was developed and is available at <http://www.fs.fed.us/programs/recreation/accessibility>. The remaining portions of the proposed amendment, which addressed other aspects of the agency's accessibility program not related to the accessibility guidelines, were not deemed significant by OMB and were issued as a final interim directive on July 13, 2005.

Moreover, this amendment has been considered in light of the Regulatory Flexibility Act (5 U.S.C. 602 *et seq.*). It

has been determined that this amendment will not have a significant economic impact on a substantial number of small entities as defined by the act because the amendment will not impose record-keeping requirements on them; it will not affect their competitive position in relation to large entities; and it will not affect their cash flow, liquidity, or ability to remain in the market. The amendment will establish accessibility guidelines that will apply internally to the Forest Service and that will have no direct effect on small businesses. No small businesses have been awarded contracts for construction or reconstruction of recreation facilities covered by these accessibility guidelines.

No Takings Implications

This amendment has been analyzed in accordance with the principles and criteria contained in Executive Order 12630. It has been determined that this amendment does not pose the risk of a taking of private property.

Civil Justice Reform

This amendment has been reviewed under Executive Order 12988 on civil justice reform. After adoption of this amendment, (1) All State and local laws and regulations that conflict with this amendment or that impede its full implementation will be preempted; (2) no retroactive effect will be given to this amendment; and (3) it will not require administrative proceedings before parties may file suit in court challenging its provisions.

Unfunded Mandates

Pursuant to Title II of the Unfunded Mandates Reform Act of 1995 (2 U.S.C. 1531–1538), which the President signed into law on March 22, 1995, the agency has assessed the effects of this amendment on State, local, and Tribal governments and the private sector. This amendment will not compel the expenditure of \$100 million or more by any State, local, or Tribal government or anyone in the private sector. Therefore, a statement under section 202 of the act is not required.

Federalism and Consultation and Coordination With Indian Tribal Governments

The agency has considered this amendment under the requirements of Executive Order 13132 on federalism and has determined that the amendment conforms with the federalism principles set out in this Executive Order; will not impose any compliance costs on the States; and will not have substantial direct effects on the States, the

relationship between the Federal government and the States, or the distribution of power and responsibilities among the various levels of government. Therefore, the agency has determined that no further assessment of federalism implications is necessary.

Moreover, this amendment does not have Tribal implications as defined by Executive Order 13175, "Consultation and Coordination with Indian Tribal Governments," and therefore advance consultation with Tribes is not required.

Energy Effects

This amendment has been reviewed under Executive Order 13211 of May 18, 2001, "Actions Concerning Regulations That Significantly Affect Energy Supply, Distribution, or Use." It has been determined that this amendment does not constitute a significant energy action as defined in the Executive Order.

Controlling Paperwork Burdens on the Public

This amendment does not contain any record-keeping or reporting requirements or other information collection requirements as defined in 5 CFR part 1320 that are not already required by law or not already approved for use. Accordingly, the review provisions of the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 *et seq.*) and its implementing regulations at 5 CFR part 1320 do not apply.

Dated: April 10, 2006

Dale N. Bosworth,

Chief, Forest Service.

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DEPARTMENT OF AGRICULTURE

Forest Service

RIN 0596-AB92

Forest Service Trail Accessibility Guidelines and Integration of Direction on Accessibility Into Forest Service Manual 2350

AGENCY: Forest Service, USDA.

ACTION: Notice of issuance of final directive.

SUMMARY: The Forest Service is issuing a final directive as an amendment to Forest Service Manual 2350, Trail, River, and Similar Recreation Opportunities to ensure that new or altered trails designed for hiker/pedestrian use on National Forest System lands are developed to maximize accessibility for all people, including people with disabilities,

while recognizing and protecting the unique characteristics of the natural setting of each trail. The amendment guides Forest Service employees regarding compliance with the Forest Service Trail Accessibility Guidelines (FSTAG) and directs that these trails comply with the FSTAG and applicable Federal laws, regulations, and guidelines. In addition, the amendment clarifies agency procedures and policies related to the accessibility of trails. The FSTAG is linked to and referenced in this amendment.

The Architectural and Transportation Barriers Compliance Board (Access Board) is preparing to publish for public notice and comment proposed accessibility guidelines for outdoor developed areas that would apply to Federal agencies subject to the Architectural Barriers Act. When the Access Board finalizes its accessibility guidelines for outdoor developed areas, the Forest Service will revise the FSTAG to incorporate the Access Board's standards where those provisions are a higher standard, as supplemented by the Forest Service. The supplementation will ensure the agency's application of equivalent or higher guidelines and universal design, as well as consistent use of agency terminology and processes.

DATES: This final directive is effective May 22, 2006.

ADDRESSES: The full text of the amendment is available electronically on the World Wide Web at <http://www.fs.fed.us/im/directives>. The administrative record for this final amendment is available for inspection and copying at the office of the Director, Recreation and Heritage Resources Staff, USDA Forest Service, 4th Floor Central, Sidney R. Yates Federal Building, 1400 Independence Avenue, SW., Washington, DC, from 8:30 a.m. to 4 p.m., Monday through Friday, except holidays. Those wishing to inspect the administrative record are encouraged to call Janet Zeller at (202) 205-9597 beforehand to facilitate access to the building.

FOR FURTHER INFORMATION CONTACT: Janet Zeller, Recreation and Heritage Resources Staff, USDA Forest Service, (202) 205-9597.

SUPPLEMENTARY INFORMATION:

1. Background

Although the Forest Service is committed to ensuring accessibility of agency facilities and programs to serve all employees and visitors, as well as to comply with the Architectural Barriers Act of 1968 and section 504 of the Rehabilitation Act of 1973, agency