October 5, 2007

Office of Technical and Information Services
Architectural and Transportation Barriers Compliance Board
1331 F Street, N.W., Suite 1000
Washington, D.C. 20004-1111

RE: Docket No. 2007-02

Dear Members of the Access Board:

I am writing in behalf of the Appalachian Trail Conservancy (ATC) in response to the request for public comments on the proposed accessibility guidelines for outdoor developed areas designed, constructed, or altered by Federal agencies subject to the Architectural Barriers Act of 1968. The proposed guidelines appeared in the June 20, 2007, edition of the *Federal Register.*

The Appalachian Trail Conservancy (formerly known as the Appalachian Trail Conference) is a private, nonprofit, educational organization founded in 1925 to coordinate private-citizen as well as public-agency efforts to design, construct, and maintain the Appalachian Trail and to conserve and manage adjacent lands and resources. ATC has a membership base of 42,000 individuals and also is a federation of 30 affiliated hiking and outing clubs throughout the eastern United States, each of which maintains an assigned segment of the Appalachian Trail. The trail is a 2,175-mile footpath extending from Maine to Georgia through 14 states generally following the ridgelines and major valleys of the Appalachian Mountains range. The A.T., as it is known, received Federal recognition in 1968 through the National Trails System Act as the nation's first national scenic trail and today is administered as a unit of the National Park System. Notwithstanding its Federal status, from its earliest beginnings, the Appalachian Trail and its associated facilities (e.g., bridges, shelters, privies, signs) has been maintained largely by a corps of dedicated volunteers that today numbers more than 5,000 individuals who, each year, devote nearly 200,000 hours of labor annually on a wide range of trail-, resource-, and visitor-management issues.

With respect to the proposed guidelines, it should be noted that the Appalachian Trail Conservancy is no stranger to this issue. Indeed, two representatives of ATC—a member of its board and a member of its staff—served as a representative and alternate, respectively, on the Regulatory Negotiation Committee that was established by the Access Board in 1997 to explore the issue. More recently, representatives of ATC also actively participated in the formulation of the USDA Forest Service's accessibility guidelines including the Forest Service Trail Accessibility Guidelines (FSTAG) and the Forest Service Outdoor Recreation Accessibility Guidelines (FSORAG) that were adopted by that agency in 2006. Since that time, ATC and its affiliated clubs have applied those guidelines in many areas along the Appalachian Trail, including a number of significant trail-reconstruction projects where accessible segments and/or facilities have been successfully incorporated into the design.

In the comments that follow, we will address a number of the questions raised by the Access Board in its *Federal Register* notice and, where appropriate, we will compare and contrast the proposed guidelines to those adopted earlier by the USDA Forest Service with which we have gained some experience.

Comments on Questions:

Question 1: As noted above, ATC was actively engaged in the earlier regulatory-negotiation process and, as a result of that participation, we fully appreciate the challenges faced by the committee in developing an overarching framework for the application of accessibility guidelines for newly constructed trails and altered trails. While we initially favored the application of different standards based on physical characteristics or setting (e.g., front country/back country, Recreation Opportunity Spectrum or ROS classifications), ultimately we joined the majority of our colleagues on the committee in embracing the exceptions-based approach reflected in the committee report and in the proposed guidelines. Our reasons were two-fold: (1) The exceptions-based approach appeared to offer the greatest opportunity to infuse accessible design into the trail-design and -construction decision-making process; and, (2) an exceptions-based approach seemed less arbitrary than some other approaches (e.g., mandated percentages) while still permitting reasonable flexibility to the designer or land manager to adapt to the prevailing conditions of the setting. The experience we have gained in the intervening years since the regulatory-negotiation process in applying an exceptions-based approach have not caused us to reevaluate our earlier support for such an approach.

In particular, during the regulatory-negotiation process we strongly advocated for several of the four conditions for exception incorporated into the guidelines and we continue to support those conditions as both reasonable and essential in order to adapt to the widely varying conditions encountered in outdoor versus built environments. We also support the limitations on the applicability or scope of the guidelines solely to trails or trail segments connecting to designated trailheads or to other accessible trail segments. In that regard, we note that, while that limitation of scope is clearly stated with respect to "alterations" under T202.3, it is not explicitly stated earlier in the initial scoping language (T201.1). Under T201.1 it is stated that "all newly designed and constructed trails…and altered portions of existing trails…shall comply with these requirements," which could be interpreted to suggest that all newly constructed trails—even those "in the middle of nowhere"—must meet the guidelines. This does not appear to be consistent with the intent. Indeed, later, under T203.1, it is stated that "where trails connecting to designated trailheads or accessible trails are provided, they shall comply with T303." The language is even clearer in the advisory note accompanying T203.1, where it is stated that "these technical provisions apply only to newly designed and constructed trails, and altered portions of existing pedestrian trails that connect to an accessible trail or designated trailhead." Still, we recommend that the language in T202.1 be revised to clarify at the outset that, with respect to newly designed and constructed trails as well as altered trails, the guidelines apply only to trails or trail segments that connect to designated trailheads or to an accessible trail or trail segment.

Notwithstanding our support for the exceptions-based approach, we acknowledge that the process of applying the guidelines can be complex and challenging especially in a distributed decision-making environment—one that often places considerable reliance upon citizen volunteers, which is quite common to many trails and trails systems. For this reason—both through the regulatory-negotiation process and in the more recent Forest Service process—we have consistently encouraged both the Access Board and the affected Federal land-managing agencies to assign greater emphasis and resources to education and training of both agency personnel and private-sector partners who play an active role in the design, construction, and maintenance of trails and associated facilities.

Question 2: We support Condition 4, which provides for exceptions from the technical provisions where compliance would not be feasible due to terrain or prevailing construction practices. We also support the inclusion of the word "practicable" to further clarify that the use of the term "not feasible" should not be construed as "not do-able." There are many instances, particularly in primitive settings, in which compliance with a given technical provision could be met but only through extraordinary

efforts that could seriously undermine the character of the recreational setting, impose adverse environmental impacts, require unrealistic outlays of resources beyond the means of the trail builder, and/or violate the recreational expectations of the visitor. In those instances, while compliance may be do-able, it is not practicable.

Question 3: We do not support the suggested use of the International Symbol of Accessibility for trails that comply with the technical standards for the reasons cited in the Notice: Such a designation could lead a visitor to falsely conclude that the trail segment provides the same degree of accessibility as the built environment, which rarely will be the case along many trails, especially those in the backcountry. We are more sympathetic to the notion of providing some degree of descriptive signage, such as at designated trailheads or major entry points, that enables visitors to make an informed decision about whether or not conditions that are likely to be encountered along the trail segment are within his/her capabilities. However, we also share the concern voiced by some that such signs could become overly complicated and might even prove confusing to many visitors. The reality is that conditions such as slope, cross slope, barriers, and especially surface conditions can vary widely and frequently along even a relatively short segment of trail. We also believe it is inappropriate to micromanage land managers by prescribing overly detailed signage. For all of these reasons, we believe the best approach is simply to provide managers (through an appendix or guidelines supplement) with some examples of different approaches to signage that can be adapted as appropriate.

Question 9: This question is related to the degree of firmness and stability of a trail surface. As acknowledged in the Notice, extensive information already is provided in the advisory note to T303.3. While we have no objection to the notion of offering further guidance with respect to surface conditions based on length of travel, intended use, or direction of traffic, we strongly believe that such guidance should remain *advisory*—not as a requirement or guideline—given that surface conditions can vary widely, even on a relatively short trail segment, due to weather conditions, seasonal fluctuations, degree of maintenance, etc.—especially along trail segments that rely on natural (e.g., soil) surfacing, which is the norm along many trails. For this reason, we also suspect that prescribing any elaborate firmness/stability-measurement approach will prove impractical in the field. Instead, some simple, commonsense method—one that does not require special equipment or foot-by-foot computations—should be developed for practical application by the land manager, such as the guidance currently provided in the Forest Service Trail Accessibility Guidelines.

Question 10: This question pertains to the number of required accessible outdoor elements such as picnic tables, fire rings, and benches. Along most portions of the Appalachian Trail and its connecting side trails, and probably along most backcountry trails in general, these prescriptions are largely academic for the simple reason that the provision of such elements is quite rare. At a very limited number of designated campsites, occasionally a picnic table may be provided, but it is rarely "fixed." In the case of fire rings, where they are provided in campsite areas, they typically are little more than a pile of rocks rather than a prefabricated design. Based on our interpretation of the present guidelines, the accessibility requirements for such elements would apply only where such elements are provided and only where they are "fixed" (in the case of picnic tables) or where they are constructed or of a prefabricated design (in the case of fire rings or other cooking surfaces or grills). In those very limited instances, we support the guideline.

Question 13: Here the Board asks if construction tolerances should be different for outdoor environments—for example, should they be greater for trails, picnic areas, or camping facilities. In general, we believe it may be appropriate to provide greater flexibility related to tolerances affecting trails and certain elements in outdoor environments by prescribing tolerance *ranges*. In fact, a number of the technical specifications for trails and certain other elements provided in the current guidelines

already are written as “up to a maximum of,” while in other instances exceptions are provided such that some flexibility on the part of the designer and builder is permitted. For example, tread cross-slope can be up to 5 percent maximum, so a designer may specify that the trail should be built with a cross slope in a particular area of 3 to 5 percent in order to provide for adequate drainage. The builder then has the flexibility to construct the trail within that range. It should be understood, however, that, in an outdoor environment, with the passage of time and based on the frequency or volume of use, the cross slope may increase to greater than 5 percent. This reality illustrates one of the differences between built versus outdoor environments: In outdoor environments conditions often change over time.

Another example might be benches. The present guideline prescribes a height range of 17 to 19 inches. This range typically should provide the designer or builder with sufficient flexibility.

However, with certain types of structures, such as privies or camping shelters, especially in more remote locations, it could be argued that construction tolerances should be more flexible since it is not uncommon for construction materials to include native stone or logs rather than masonry or dimensional lumber. For this reason, at least with respect to certain elements, it may be appropriate to prescribe different tolerances based on setting (e.g., front-country/backcountry) or degree of remoteness or perhaps based on the type of construction materials used. Further discussion of this issue, however, is beyond the scope of these comments.

Question 14: Here it is noted that the committee could not agree on whether elements such as benches, picnic tables, or toilet rooms located on a trail should be required to be accessible where the access trail is not accessible. While some may question the utility of providing accessible elements along trails that do not meet accessibility guidelines, in the past several years our practice has been to strive for improved accessibility of certain elements such as shelters (lean-tos) and privies in designated campsite areas even if the trail leading to the campsite does not meet accessible standards. We would, therefore, support language *encouraging* managers to consider the use of accessible elements where they are provided, even where the access trail is not accessible, since the modifications required to meet the applicable technical requirements typically are relatively minor in scope. Regardless of whether or not any provided elements are accessible, we strongly oppose any requirement that the trail connecting such elements must meet the standards of an outdoor recreation access route. This appears to be consistent with Exception 1 under T204.2, where it is noted that “elements located on trails shall not be required to be connected by an outdoor recreation access route.”

Question 19: This question concerns the technical provisions for cross slope with open drainage structures. The question raised is: Are open structures the only drainage structures where cross slopes of 10 percent should be permitted? It is important to define open drainage structures. The most common form of open drainage structure is a drainage dip (also known by a number of other names, including grade dip). Another open drainage structure commonly used on pedestrian trails is a cross drain that is typically lined or armored with flat stones to allow water to flow across the trail without eroding the trail tread. Those two examples are the most common forms of open drainage structures. There are other approaches to provide drainage along trails. For example, the bottom point of a tread grade reversal also will collect water and drain it away. However, while this feature also is considered a drainage technique, it is not a constructed feature as such.

Question 20: Here, the Board seeks further comment as to whether or not there should be exceptions from the technical provisions for outdoor recreation access routes—noting that the present guidelines permit departures from the technical provisions for specific elements but not for the outdoor recreation access routes that connect those elements. As we indicated under question 14, we strongly

believe that, where elements are provided along trails that do not meet accessibility guidelines, there should be no requirement to connect the elements with an outdoor recreation access route. Such a requirement would prove overly burdensome and impractical in many backcountry settings and might actually create unintentional disincentives for managers to provide accessible elements. The current language related to scoping requirements under T204 is somewhat confusing in this regard: On the one hand, outdoor recreation access routes are defined as "a continuous unobstructed path designated for pedestrian use that connects accessible elements within a picnic area, camping area, or designated trailhead." The language goes on to prescribe that "outdoor recreation access routes are required to connect elements required to be accessible" and, with reference to cooking grills and picnic tables provided in an accessible camp site, an outdoor recreation access route is required to connect those elements. However, elsewhere in the guidelines it is noted that elements such as benches or picnic tables located along a trail are not required to be connected by an outdoor recreation access route. Under Exception 1, T204.2, this exclusion appears to go even farther since it is stated unequivocally that "elements located on trails shall not be required to be connected by an outdoor recreation access route." We believe it would be clearer to state throughout the guidelines document that, where elements are provided along trails, whether or not such elements are accessible, they are not required to be connected by an outdoor recreation access route. An example might be the language contained in the USDA Forest Service's FSTAG, where it is noted that the pathways connecting certain elements, or what the Forest Service terms "associated constructed features" (e.g., shelters, privies), are not considered to be outdoor recreation access routes.

Question 21: This question concerns potential exceptions from the provisions for slope on outdoor recreation access routes, unrelated to whether elements associated with the ORAR comply with the applicable technical provisions. Two options are noted: The first would permit a greater degree of slope, while the second would rely upon the conditions described in T302 (Conditions for Exceptions). Among those two options, we would be inclined to favor the second one because, at least under that approach, allowances could be made for prevailing site conditions. However, as noted elsewhere in these comments, in general we believe the prescribed standards for outdoor recreation access routes with respect to slope, cross slope, surface, etc., while perhaps appropriate for highly developed camp sites or picnic areas, are far too stringent to be applicable in the vast majority of backcountry or remote settings. It is for that reason that we support Exception 1 under T204.2: "Elements located along trails shall not be required to be connected by an outdoor recreation access route." Even given this exception, in those rare instances in which a camp site is accessed by a trail that meets accessibility guidelines and the elements provided at the site also meet accessibility standards, the designer/builder still would have the option of connecting those elements with a pathway that meets or closely approximates the standards for an outdoor recreation access route.

Question 25: This question pertains to required signage. It is noted that the committee recommended a requirement that trails or trail segments that comply with T303 must be demarcated by a sign at the trail head and at all designated access points and that such sign(s) must display a symbol designating that the trail or trail segment is accessible along with an indication of total distance and the location of the first point of departure from the technical provisions. However, the committee did not reach a consensus on a particular type of sign and the Board is requesting further comment on these signs and other options.

As noted in our response to Question 3 regarding the use of the International Accessibility Symbol, we believe it is inappropriate to micromanage land managers by prescribing overly detailed signage. To the extent any requirements are prescribed in the guidelines, they should be kept to a minimum, with further guidance provided through examples included in the appendices or in separate design manuals. Again, one example might be the guidelines prescribed by the USDA Forest Service in FSTAG. There the Forest Service requires that signage include information describing typical and

maximum trail grade, typical and maximum cross slope, minimum clear tread width, surface type and firmness, and obstacles and should clarify that such information reflects the condition of the trail when it was constructed. Even these modest requirements could prove burdensome to land managers, given that the vast majority of trails have only minimal to nonexistent signage, but at least the Forest Service recognizes that certain conditions such as cross slope and especially surface firmness can change over time—even from day to day—as a result of use levels, weathering, storm events, and other factors. The more detailed the required information becomes, the more burdensome it will be for Federal land managers and their partners to monitor and maintain the information in an accurate state and the greater the likelihood will be of misleading the would-be trail visitor.

Question 26: This question pertains to the technical requirements related to protruding objects. The present guidelines prescribe an 80-inch vertical clearance along trails but permit an exception provided that a barrier is placed to warn persons with visual impairments of reductions in clearance. As noted in the Notice language, this represented a compromise reached by committee members. The Forest Service provides somewhat greater flexibility. Like the committee, the Forest Service allows for a departure from the 80-inch rule provided a warning barrier is installed. However, the Forest Service also acknowledges that there may be certain situations in which the placement of a barrier is impractical, such as where the trail passes through caves or through certain types of tree canopies. In those instances the Forest Service permits an exception from the requirement for the placement of a warning barrier. We support greater flexibility with respect to the vertical clearance guidelines and we believe an additional exception is warranted for those instances in which placement of a warning barrier is not feasible or practicable. It also should be understood that, while the maintenance standard for a given trail may strive for an 80-inch vertical clearance, such clearances can be transitory given snow loads and other factors that can have the effect of reducing vertical clearance.

The Proposed Guidelines and FSTAG:

A number of differences among the USDA Forest Service FSTAG and the guidelines proposed by the Access Board have been noted above with respect to signage, requirements affecting certain elements or "associated constructed features" along trails and the related issue of outdoor recreation access routes, and technical provisions applicable to protruding objects. However, there are other differences that warrant further comment.

Format: FSTAG includes a "process overview" or decision-making flow chart that illustrates for the trail designer or land manager how the general exceptions and conditions for exception from specific technical requirements can be applied in the trail-design and -construction process. We believe such a flow chart can be quite helpful—especially to those who are not well versed in "ABA-speak." While the inclusion of such a flow chart or process diagram may represent a departure from the Access Board's normal format, we believe the Board should seriously consider the inclusion of such a flow chart at least in the appendices.

Definitions: The present guidelines proposed by the Access Board contain only a very limited number of definitions related to trails (e.g., trail, trail head, and trail width), whereas FSTAG includes definitions for quite a number of trail-related terms. While some of those terms may be specific to the Forest Service (e.g., "general forest areas"), others are generally understood among many of the Federal land-managing agencies as an outgrowth of the development of Federal Interagency Trail Data Standards. Since the focus of the subject guidelines is limited to the Federal land-managing agencies, it may be appropriate to include a broader lexicon of trail-related terminology in the guidelines document since, presumably, it is the trail designers and land managers within those agencies as well as their cooperating partners who will be tasked with implementing the guidelines. One example of where the inclusion of additional definitions may be relevant is illustrated in the

Condition for Exception 2. There, the Access Board allows for a departure "where compliance would substantially alter the nature of the setting or the purpose of the facility…." In FSTAG, the language for this exception states "where compliance would substantially change the physical or recreation setting *or the trail class, designated use, or managed use* of the trail or trail segment or would not be consistent with the applicable forest land and resource management plan." To the extent that terms such as trail class, designated use, or managed use hold meaning to the Federal agencies and might aid them in determining whether or not a condition for exception is warranted, it may be helpful to include these terms among the definitions provided in the guidelines.

The definition of "alteration" is of particular interest and, again, there are differences in the definition of this term between FSTAG and the Access Board guidelines. In the case of FSTAG, alteration is defined simply as "a change in the original purpose, intent or design of a trail." In the case of the Access Board guidelines, the distinction between maintenance and alteration is somewhat murkier. On the one hand, the Access Board does include a fairly extensive discussion of alteration versus maintenance in an advisory note to T202.3. There, the Access Board states "as a general rule, alterations are performed to change the original purpose, intent, or design of a facility," whereas maintenance and repair actions are described as "to return a facility to the standards or conditions to which it was originally designed and built…this type of work is not an alteration because it does not change the original purpose, intent, or design of a facility." However, in the definitions sections of the guidelines (T104.4), alteration is defined as "a change to a facility or site that affects or could affect the usability of the facility or site or portion thereof" (while no definition is provided for maintenance). The difference between the explanation provided in the advisory note and the actual definition provided under T104.4 is more than mere semantics: There could be instances in which certain types of trail construction or reconstruction activities could affect the usability of the trail but not alter its original purpose, intent, or design. One example might be a short relocation of a trail segment in order to avoid a badly eroded area where the trail designer or land manager determines that it is more cost-effective or more desirable from the standpoint of resource management to abandon the eroded segment rather than reconstruct it, and to replace it in a nearby location with a newly constructed trail segment. In that instance, the original purpose, intent, or design of the trail segment has not changed. However, construction of the new or replacement trail segment could affect its usability. In such a circumstance, would construction of the relocated segment constitute a maintenance action or an alteration? (In any case, if the replacement segment does not connect to a designated trailhead or to an accessible trail segment, presumably the technical provisions would not apply given the general limitation of scope per T202.3).

General Exception(s): There also are differences between the FSTAG provisions related to general exceptions and those provided in the Access Board guidelines. Whereas FSTAG describes two different general exceptions, the Access Board guidelines describe only one (albeit with five "sub-conditions"). With respect to the general exception described in the Access Board guidelines (T303.2), we find the fifth condition (or "sub-condition") to be less than clear. There, the language states "the trail is not required to comply with any of the technical provisions in T303 for more than 15 percent of the length of the trail." This exception arises from earlier discussions by members of the Regulatory Negotiation Committee around what was commonly referred to as the "what's the point exception." In other words, it was intended to address situations in which multiple conditions for exception or departure from certain technical provisions are encountered along a given trail section to such an extent that it would serve no useful purpose to attempt to meet other technical provisions because, realistically, the affected trail segment would never be truly "accessible." However, as currently worded in the guidelines, the language could be interpreted to mean that only 15 percent of any trail segment is required to meet the various technical provisions. The language here should be rewritten to be consistent with the intent.

Technical Provisions: Finally, there are a number of differences among exceptions related to certain technical provisions described in FSTAG from those contained in the Access Board guidelines. One such difference already has been noted with respect to technical provisions related to protruding objects, vertical clearances, and warning barriers. Another example involves tent pads and platforms (T318). This section prescribes requirements related to clear space, surface, slope, and edge protection (in the case of platforms). Under T318.3.4 edge protection (three-inch-high minimum) is required, whereas under FSTAG, edge protection is not required although, where provided, it must meet the three-inch standard. We favor the more permissive language under FSTAG.

While on the subject of tent pads and platforms, we will once again note, as we did during the regulatory-negotiation process, that the requirements related to tent pads may prove problematic in relation to the types of backcountry campsites situated along many trails where tent sites often represent little more than a small clearing in the forest where undergrowth has been removed but where the native-soil surface may be uneven, sloping, and may or may not be "firm and stable." Although our recent practice along the Appalachian Trail has been to shift toward constructed tent pad sites utilizing cut-and-fill excavation on side slopes as a means of limiting tent-site sprawl, many trail organizations probably continue to rely on simple, roughed out tent sites. In short, the prescriptions provided under T318 may be appropriate for highly developed campsites but may be less suitable for many primitive or backcountry campsites.

Thank you for the opportunity to comment on the accessibility guidelines. As noted at the outset of these comments, the Appalachian Trail Conservancy shares the desire of the Access Board to improve accessibility for persons with disabilities to outdoor environments including along trails and in campsites. In the past several years, we have gained experience in applying many of the guidelines along new or altered segments of the Appalachian Trail and to a number of our backcountry campsite facilities. We will continue to incorporate accessible design in our trail-design and -construction processes and to strive wherever feasible to provide for improved access along appropriate segments of the Appalachian Trail and within our designated campsite areas.

Sincerely,

David N. Startzell
Executive Director