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**Accessibility
Guidebook for
Ski Areas
Operating on
Public Lands**

2012 Update

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PREFACE

The purpose of this guidebook is to provide information for ski areas authorized, under a special-use permit from U.S. Department of Agriculture (USDA), Forest Service, to partner with the Forest Service to achieve common goals of managing and promoting active participation in year-round alpine recreation. This document provides information about program accessibility for ski areas. By working together, the agency and the ski area management can ensure equal opportunity for people with disabilities.

Ski areas operating under special-use authorization from the Forest Service are required to comply with both the Americans with Disabilities Act of 1990 (ADA) and Section 504 of the Rehabilitation Act of 1973 (Section 504). The ADA applies because the ski areas operate as “public accommodations,” that is, they are businesses open to the public. Section 504 applies because ski areas operate under special-use permits authorized by a Federal agency, the Forest Service. Implementation guidelines for Section 504 that apply to recreation special-use permit holders are located in Title 7, Code of Federal Regulations, Part 15b. By signing the special-use authorization, the ski area agrees to abide by these and all other applicable laws, regulations, and policies of the Federal Government.

Disclaimer

This document contains a number of citations to legal requirements. However, apart from these legal references, the program information contained in this document is not, and should not be construed as, a legal standard. The document was developed as a resource only and is not intended to impose additional requirements on resort operators. Deviations from the guidelines contained herein may be dictated by the circumstances of each individual situation, and operations and procedures may vary from resort to resort.

The information contained in this guidebook is intended to provide winter outdoor recreation service providers with a framework to better serve old and new customers. This framework should be thought of as a new approach to customer service, an approach that seeks to provide the right fit between the customers and the services provided.

The general information and opinions expressed here are not intended as legal advice. The Forest Service assumes no responsibility for the inappropriate application of the information. Those who make use of this guidebook are responsible for the accessibility and the safety of the programs they plan, design, and manage. Resorts should work with experienced legal counsel to advise them on legal issues relating to accessibility.

Acknowledgments

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Written comments are appreciated. Submit comments to Janet Zeller, National Accessibility Program

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INTRODUCTION

The Americans with Disabilities Act of 1990 (ADA) and other accessibility legislation has touched many lives, inspiring hope among many and anxiety among some. The goal of this guidebook is to address the legal mandates and to provide a positive and practical approach to serving all people, including people with disabilities, who wish to experience America's Great Outdoors. To this end, the guidebook explains legal mandates and provides helpful suggestions for meeting the needs of an important customer base.

A critical component of providing effective service is your employees' attitude while working with all of your customers. Negative attitudes are a major source of complaints. People with disabilities, like other customers, are going to respond first and foremost to what they perceive to be the employee's attitude toward them.

The primary focus of this guidebook is accessibility to *programs* and activities, sometimes referred to simply as "program access" and includes all activities provided by ski areas. Facility or structural accessibility will be referenced only briefly. This guidebook commonly uses the term "skiing" to refer to snowsliding activities that may also include snowboarding or other methods. Additionally, as ski areas are authorized to operate as year-round facilities, the guidebook addresses summer uses as well.

This guidebook will provide guidelines and suggestions about how to comply with the ADA, the

Rehabilitation Act of 1973 (Section 504) and Title 7, Code of Federal Regulations (CFR), Part 15b.

Suggestions for providing customer service in the spirit of equal opportunity are also provided. However, this guidebook does not take a “compliance driven” approach. Instead, it provides suggestions to enable you to provide high-quality services for the broadest range of customers.

FACILITY ACCESS VS. PROGRAM ACCESS

When most people think about a person with a disability, they think of a person who uses a mobility device, even though, according to the U.S. Census Bureau, only 8 million of the 54 million people with disabilities use a wheelchair, crutches, or a walker. Just as people who use wheelchairs represent a very small percentage of people with disabilities, providing wheelchair ramps represents a very small portion of what needs to be done to provide access. Nevertheless, facility accessibility is an important issue. Access to facilities is required under the ADA and the Architectural Barriers Act (ABA) through 7 CFR 15b if the facility has to be entered in order to participate in the program being offered.

A primary basis of the accessibility laws, Section 504 of 1973 and the ADA of 1990, is that access goes well beyond physical structures. Access needs to include the programs and services provided by an agency, company, or organization. While access to physical facilities represents a major leap forward, the need to provide access to programs and services is a more profound change—and can be more confusing.

Program access means that a person with a disability has an equal opportunity to participate and gain the same benefits offered by a program or service. This is true whether the program or service offered is eating in a restaurant, visiting a historic site, or recreating outdoors. Perhaps the easiest way to think of program access is to think of the services that a ski area provides, for example, instruction, food service, equipment

sales/rental, and ensure those services are available to all qualified participants. Programs are not required to guarantee successful participation, but instead to offer equal opportunity for participation.

GENERAL INFORMATION

According to the 2010 U.S. Census, there are 54 million people with a disability living in the United States. This number is increasing by about 1 million people each year. When you consider that most people recreate with family and friends, as much as 50 percent of the U.S. population will benefit from accessible programs and services. In addition, the U.S. Census Bureau estimates that by the year 2030, more than 50 percent of the U.S. population will be more than 55 years of age. One thing is certain, with advances in medical technology and the aging of “baby boomers,” the percent of the U.S. population living with a disability will increase significantly, and these people will remain active over the next 25 years.

You probably know someone with a disability. It could be a family member, a friend, an acquaintance, or yourself. As you prepare to better serve people with disabilities, remember that you are also preparing to serve your current customers as they move into different stages of their lives.

Much is made about the differences between people with disabilities and people without disabilities. Certainly, there can be differences. The differences imposed by disability, however, are not usually what a nondisabled person thinks they are. People without disabilities tend to think of the loss of function, the inability to walk, see, or hear. Sometimes the biggest challenge a person with a disability faces is the change of attitude towards them by others. It is important to keep in mind that people who have disabilities are people first. Every person appreciates being treated with respect.

DISABILITY

Legal Definition

Accessibility laws use a definition that focuses on functional issues. It defines people with disabilities as those with one or more of the following:

- ◆ A physical or mental impairment that substantially limits one or more of the major life activities of such individual,
- ◆ A record of having such an impairment, or
- ◆ Being regarded as having such an impairment.

Examples of major life activities include, but aren't limited to, caring for oneself, performing manual tasks, seeing, hearing, eating, sleeping, walking, standing, lifting, bending, speaking, breathing, learning, reading, concentrating, thinking, communicating, and working.

Appropriate Language

The two terms most commonly used to describe a person who has a limitation are “handicapped” and “disabled.” A “disability” is a medically definable condition that causes a limitation. A “handicap” is a barrier. The barrier may be environmental, such as stairs that handicap a person using a wheelchair, or it may be a negative attitude, either held by the person who has the disability or by the person who does not.

The 1990 passage of the ADA established only two terms: “accessible” and “person with a disability.” The correct terms to use are a “person with a disability” or just “disability.” The term “handicapped” is offensive

to many people. The term accessible is to be used to refer to facilities, parking spaces, etc., that are in full compliance with the applicable accessibility guidelines/standards at the time they were constructed or altered. Since language forms the basis by which we perceive and communicate, carefully select the words you use in written and spoken communication. Do not use negative words like “cripple,” “invalid,” or “lame.” These words suggest images that evoke pity, guilt, or lack of ability. Other terms that may be offensive to some people are “physically challenged,” “differently abled,” and “specially enabled.” Use terminology based in the laws and that is least offensive to the majority of people.

Don't forget that people with disabilities are people. Remember to refer to the person before referring to a disability. For example, speak about a person who uses a wheelchair rather than “the wheelchair.” Refer to “people with disabilities,” not to “disabled people.” Avoid words such as “normal” or “able-bodied” when comparing people who have disabilities with other customers. The basic rule is to treat everyone with respect. Tips for interacting with people with disabilities are included at the end of this guidebook.

As a ski area manager, instructor, or employee, expand your working knowledge of disability issues by actively seeking more information than is provided in this guidebook. A good place to start is by talking directly to people with disabilities and people who are knowledgeable about the subject. Your local ADA Technical Assistance Center is a great resource. Find it at <http://www.adata.org.or> by calling 800-949-4232 (V/TTY). This is a national number so it automatically routes callers to the regional center nearest to them.

RELEVANT LAWS AND LEGAL CONSIDERATIONS

Significant legislation that preceded the Americans with Disabilities Act of 1990 included the Architectural Barriers Act of 1968 and the Rehabilitation Act of 1973, as amended.

ARCHITECTURAL BARRIERS ACT OF 1968 (42 U.S.C. 4151 et seq.)

The Architectural Barriers Act (ABA) was the first measure passed by Congress to ensure access to facilities. The ABA requires that all facilities built, bought, or leased by, for, or on behalf of a Federal agency or by an entity operating under a permit from a Federal agency, comply with the applicable accessibility guidelines and standards.

REHABILITATION ACT OF 1973 (29 U.S. Code 794 and 794d)

Section 504 of the Rehabilitation Act (Section 504) states: “No otherwise qualified individual with a disability in the United States shall, solely by reason of his disability, be excluded from participation in, be denied the benefits of, or be subjected to discrimination under any program or activity receiving Federal financial assistance or under any program or activity conducted by any Executive Agency.”

It should be noted that Section 504 seeks to ensure equal opportunity, but it does not require exceptional opportunity be provided for a person with a disability. In other words, people cannot be denied participation simply because they have a disability. A person with a disability, however, must follow the same regulations and meet the same eligibility criteria that are applied to all other people in order to participate. If the person with a disability does not meet the criteria, or abide by the regulations, that person can be denied participation in that program. Essential eligibility criteria will be discussed in more detail later in this guidebook.

Section 504, as amended, requires Federal agencies to provide accessible programs and facilities. It also requires agencies to ensure that the programs and facilities operated on federally managed land be accessible, whether they are conducted by the Federal agency or by a private entity, such as a ski area operating under a special-use permit or any other form of permit. Private business or organizations receiving Federal financial assistance, including the use of federally managed land, are also subject to the provisions of Section 504.

Federal agencies are working to bring the programs and services they operate into compliance with the accessibility requirements. They are also working with permit holders to ensure their programs and facilities are in compliance with the laws. All Federal agencies subject to these laws are required to develop and implement accessibility regulations with the federally assisted or conducted programs, which are the partners with whom they work. For Forest Service partners, those regulations are in Title 7, Code of Federal Regulations (CFR), Part 15b.

TITLE 7, CODE OF FEDERAL REGULATIONS, PART 15B *(effective December 19, 1990)*

Title 7, CFR 15b implements Section 504 and applies to all programs and activities that receive Federal financial assistance by the U.S. Department of Agriculture (USDA). Per 7 CFR 15b.3(g)(4), Federal financial assistance includes a commercial recreational special-use permit to use Federal lands.

This regulation addresses program accessibility; requirements for accessible programs in new, altered, and existing facilities; accessibility transition planning; accessible communication requirements; and compliance procedures.

THE AMERICANS WITH DISABILITIES ACT OF 1990, AS AMENDED

The Americans with Disabilities Act (ADA) was modeled on the ABA and Section 504. The ADA applies to State and local government services, public transportation, and public accommodations, including businesses that are open to the public.

To understand the ADA, it is important to remember several key points. First, the ADA is designed to protect the rights of people with disabilities.

An underlying concept of the ADA is that decisions involving employment or program participation are not to be based on stereotypes. Service providers must not base their decisions simply on the fact that an individual carries the label of a disability. Instead, decisions must be based on what that individual can do. If the individual can perform the basic functions of an activity, the essential eligibility requirements, he or she must be permitted to participate.

In addition, like Section 504, the ADA covers both facility access and access to programs and services. In other words, not only must buildings be accessible but the activities that take place within and outside those buildings must also be accessible.

Five Titles of the ADA

Title I, Employment

Title I prohibits discrimination against any qualified individual with a disability with regard to job application procedures, hiring, advancement, job training, and other terms of employment. For more information regarding employment, contact the Equal Employment Opportunity Commission at <http://www.eeoc.gov> or 800-669-4000 (Voice) or 800-663-6820 (TTY).

Title II, Public Services

Title II requires that State and local governments, or agencies providing services on behalf of State or local governments, provide access to all of their programs, services, benefits, and activities.

Title III, Public Accommodations

Title III is the area of the ADA that affects ski areas. Private businesses that own, operate, lease, or sublease places of public accommodation are included under Title III. Public accommodations are, generally, any place that provides goods or services to the general public, such as hotels, golf courses, and stores.

Nonprofit organizations are also generally included under this title of the ADA.

Title III requires the removal of architectural barriers in existing facilities where such removal is readily achievable. When removal of barriers is not readily achievable, alternative services must be provided. Under Title III, new facilities or altered facilities must be in compliance with the current accessibility guidelines.

Although private clubs and religious organizations are not covered by Title III, an organized camp authorized under a special-use authorization and operated by a private club or religious organization would be affected by the provisions of Section 504 because its programs are dependent on the use of Federal managed lands.

Title IV, Telecommunications

Title IV requires that phone companies provide telecommunications relay services for people who have hearing or speech impairments.

Title V, Miscellaneous

Title V provides miscellaneous requirements that further enforce the law.

SKI AREA PERMIT REQUIREMENTS (FORM FS-2700-5B)

Special-use permits are legal instruments that authorize use and occupancy of National Forest System land. In signing a special-use permit, a holder agrees to comply with the terms and conditions of the authorization. Most ski areas are authorized under a “ski area permit,” using a standard form. With respect to accessibility, several ski area permit conditions are important to note:

- “The holder, in exercising the privileges granted by this term permit, shall comply with all present and future regulations of the Secretary of Agriculture and federal laws; and all present and future, state, county, and municipal laws, ordinances, or regulations which are applicable to the area or operations covered by this permit to the extent they are not in conflict with federal law, policy or regulation. The Forest Service assumes no responsibility for enforcing laws, regulations, ordinances and the like which are under the jurisdiction of other government bodies.” (Clause I.C)
- “Nondiscrimination. The holder and its employees shall not discriminate against any person on the basis of race, color, sex (in educational activities), national origin, age, or disability or by curtailing or refusing to furnish accommodations, facilities, services, or use privileges offered to the public generally. In addition, the holder and its employees shall comply with the provisions of Title VI of the Civil Rights Act of 1964 as amended, Section 504 of the Rehabilitation Act of 1973, as amended, Title IX of the Education Amendments of 1972, as amended, and the Age Discrimination Act of 1975, as amended.” (Clause IV.A.1)

- “Equal Access to Federal Programs. In addition to the above nondiscrimination policy, the holder agrees to insure that its programs and activities are open to the general public on an equal basis and without regard to any non-merit factor.” (Clause IV.B)

These provisions of the ski area special-use permit serve to reinforce the requirements of the ABA, ADA, and applicable Federal regulations by making compliance a requirement of the authorization.

SUMMARY OF THE ACCESSIBILITY LAWS

Both Section 504 and the ADA state that entities may not prohibit an individual with a disability from participating in or receiving the benefits of programs, services, and activities on the basis of disability. By operating on public lands, the services you provide at your ski area are covered by the ADA, Section 504, and 7 CFR 15b. You should, therefore, understand what is required and work toward providing it.

Facility Accessibility Guidelines

From a technical point of view, there are many similarities between the accessibility standards used for ABA compliance and the accessibility standards used for ADA compliance for buildings or facilities. The ABA accessibility standards are called the Architectural Barriers Act Accessibility Standards (ABAAS). The ADA standards are called the Americans with Disabilities Standards for Accessible Design (ADAADS). Under the ABA, the ADA, and 7 CFR 15b, any facilities newly constructed or altered must be made accessible in compliance with the current accessibility guidelines. Privately owned businesses operating under permit to a Federal agency are required to use ADAADS, or the local or State code if it has equal or more stringent requirements, for new construction and renovation.

However, 7 CFR 15b.19 (c) requires those businesses operating under permit from a USDA agency to follow the accessibility standards under the ABA. Since 2006, those ABA standards have been the ABAAS. The current enforceable accessibility standards are available on both the U.S. Access Board Web site at <http://www.access-board.gov/ada-aba/aba-standards-gsa.cfm> and the Forest Service Accessibility Web site at <http://www.fs.fed.us/recreation/programs/accessibility>.

The B77.1 ANSI (American National Standards Institute) Standards of 2005 contain the requirements for the accessibility of ski area facilities including gondolas, chair lifts, and so forth.

INTERPRETING THE LAWS

Many business owners want hard-and-fast rules on how to implement the Americans with Disabilities Act (ADA), and they are frustrated when they get the answer “it depends.” With laws as broad ranging as the ADA and Section 504 of the Rehabilitation Act (Section 504), however, it takes time for standards to evolve, especially when those standards involve broad concepts such as programs and services. The ultimate legal impact of the accessibility laws will be determined as cases come to trial and are ruled on within the court system. In the meantime, we all seek to abide by the laws and provide equal opportunity for all.

SAFETY CONSIDERATIONS

Some situations may present a potential conflict between accessibility needs and safety concerns. Some anticipated conflicts, however, may simply be based on misperceptions, stereotypes, or misinformation about the access measures that are necessary. Evaluate the actual situation and make the decision accordingly. There is no legal requirement to compromise customer safety to provide for accessibility. Safety should not be compromised.

CIVIL PENALTIES FOR VIOLATING THE ADA

Civil penalties for violating the ADA vary somewhat according to the different sections of the law.

Title I, Employment

This section has the most severe penalties for violation. Since employment is not the emphasis of this guidebook, details are not provided here. Please note, however, that you may be liable for compensatory and punitive damages if you discriminate against people with disabilities in your employment practices.

Title II, Public Services

The penalty for publicly funded businesses is injunctive relief, which means they will have to “right the wrong.” In some instances, a plaintiff may seek damages.

Title III, Public Accommodations

This is the section that will affect ski areas. The primary penalty here is injunctive relief for righting the wrong. In other words, if an individual with a disability sues and wins, the ski area may have to provide the service that is being requested. In a suit brought by the U.S. Department of Justice, a court may award compensatory damages and impose a \$55,000 fine for the first offense and a \$110,000 fine for the second offense.

Title III of the ADA does not allow a private individual bringing a lawsuit to receive general, compensatory damages, including damages for pain and suffering, or punitive damages. However, the ADA does not prevent an individual from suing under State law for emotional distress or other monetary damages. Your State human rights laws, therefore, are much more likely to be relevant in the event of a lawsuit. Legal fees could be awarded to the prevailing party in a lawsuit.

LIABILITIES

PRODUCT LIABILITY

Although there are few black-and-white rules, generally speaking, safety equipment or safety features should not be modified. If you are unsure about a modification, don't do it. For example, beware of modifications that hinder detachment of the person from a piece of equipment, increase the risk of entanglement, or provide a false sense of control or security.

RISKS TO OTHERS

The Americans with Disabilities Act (ADA) states that legitimate safety requirements necessary for safe operation may be imposed. Those requirements, however, must be based on actual risks and not on speculation or stereotypes about people with disabilities. Ensure your employees are aware of situations that may put them at risk and have them seek assistance from management if they have questions.

The following are some situations that would pose a risk to employees.

For example, there is no legal requirement for a ski area to provide staff to lift, carry, etc., a customer. You are required, however, to inform each potential customer before he or she signs up for the program what physical requirements must be met to participate, including if these requirements may be met with the assistance of a companion who accompanies the customer. An appropriate place to identify these requirements is in the essential eligibility criteria for the program, per Title 7, Code of Federal Regulations (CFR), Part 15b.3.n (4).

Another situation would be individuals with easily communicable diseases, such as measles or chicken pox. Because employees and other customers would be at risk of catching the disease, you could deny participation in the ski area's program to a person with an easily communicable disease. You may not, however, deny individuals with AIDS (acquired immune deficiency syndrome) or other blood-borne pathogens participation because of their condition since these conditions are not easily transferred from one individual to another. These individuals are protected from discrimination, on the basis of their disability or disease, under the ADA. For more information, visit the U.S. Department of Justice ADA Web site at <http://www.ada.gov>.

MANAGING RISK

General suggestions for managing risk include the following:

1. Provide thorough employee training, especially on how to safely accommodate everyone, including people with disabilities. Trained instructors and employees are your best safety policy.
2. Pursue certification in adaptive instruction for your instructors through the Professional Ski Instructors of America (PSIA). Contact PSIA at <http://www.thesnowpros.org>/or 303-987-9390. PSIA certified instructors can take a 1- to 2-day PSIA Adaptive Clinic in a specific discipline if they want to obtain the skills needed to provide instruction to adaptive skiers.

GUIDELINES FOR DEVELOPING AN ACCESSIBILITY STRATEGY

ESSENTIAL ELIGIBILITY CRITERIA

Under the Americans with Disabilities Act (ADA) (Title III, Sec. 301 as detailed in the ADA regulations of 2010 at http://www.ada.gov/regs2010/titleIII_2010/titleIII_2010_regulations.htm#a301) and in Section 504 of the Rehabilitation Act (Section 504) per Title 7, Code of Federal Regulations (CFR), Part 15b.3.n (4), a person with a disability cannot be denied participation in a ski area's program that is available to people who do not have disabilities, **unless** the person with a disability does not meet the "essential eligibility criteria" that are applied to all people prior to participation in that ski area's program.

Strategies for Essential Eligibility Criteria

Ski areas provide a wide spectrum of activities and programs. Essential eligibility criteria is a tool within the laws that is designed to state what the safety criteria are for every person who is interested in participating in that particular program or instruction. The purpose of essential eligibility criteria is to establish whether or not an individual can participate in an activity based on his or her ability to perform the basic safety functions required for the activity. In order to participate in an activity, all potential customers must be able to meet the nondiscriminatory essential eligibility criteria you established for that specific activity.

Apply the essential eligibility criteria for each program to all potential customers. If the essential eligibility criteria are only applied to potential customers who have disabilities, the criteria could be considered to be discriminatory if put to a legal challenge.

Strategies for Developing Essential Eligibility Criteria

The purpose of developing essential eligibility criteria is to give both the ski area employees and the potential customer the information they need to make an accurate, objective assessment when deciding if the abilities are appropriate for a specific program. This means that employees should be able to clearly explain the criteria for participation. The criteria should be based on functional components and applied equally to every potential customer. For example, instead of a ski instructor disqualifying a person from participating in a particular ski lesson because the potential customer uses a wheelchair, the instructor should apply the criteria for safe participation in that level of instruction.

In reality, the concept of essential eligibility criteria is something most ski areas already apply to potential customers—that is, following your own goals, concepts, and guidelines in determining which potential customers are likely to be able to participate successfully in the program. The problem often is that the ski area operator orally communicates his or her program's traditions to staff members instead of having written criteria. If essential eligibility criteria are not written down, two mistakes may be made in applying the criteria to a potential customer who has a disability:

- ◆ **Subjectivity:** The employee hears the owner discuss the importance of various criteria for participation and passes along this information to potential customers as best as he or she can recall using nonspecific terminology. As a result, the information conveyed may be incomplete, leading to confusion, a safety issue, and/or a claim of discrimination. Documenting your eligibility criteria will make them clearer to employees and customers.

- ◆ **Stereotyping:** Those providing programs for the public are forced to make quick assessments of a potential customer's abilities without any real knowledge of the potential customer's capabilities. Many people have some stereotypes about the abilities of people with disabilities. When these stereotypes shape those quick assessments within the decision process, a potential customer, who has a disability, may be discriminated against.

Developing essential eligibility criteria is similar to developing a job description. Employers should identify the essential and nonessential functions of a job and, then, determine whether the individual can perform those essential functions. Following this logic, identify the basic eligibility criteria of the experience your program is providing and, then, determine whether the individual can safely perform those functions.

In determining whether a person can successfully participate in your services, you must base your decision on what an individual can do—not subjective items or a stereotype. If they can perform the basic functions of an activity, they can participate. Caution: the ADA Title III sec.302 (b)(2)(A)(i) states that it is discriminatory to impose essential eligibility criteria that screen out or tend to screen out individuals with disabilities from the full and equal enjoyment of the program being provided. Be sure to keep the focus of the essential eligibility criteria you develop on safety and not use discriminatory language.

Steps To Developing Essential Eligibility Criteria

Developing guidelines based on what you need your customers to be able to do should be an easy process. You may already know your guidelines, you just need to write them down. The following steps will help you in this process.

1. Determine the physical and mental abilities necessary for participation in your programs and activities.

Consider questions such as the following: What abilities are necessary to participate in the specific activities of the program, such as riding a ski lift? Does the person have to be smart? Does the person have to have a specific type of physical strength? Does he or she have to understand directions? Does the person have to understand any highly technical factors of equipment operation? Can he or she use adaptive equipment to load onto the lift?

2. Break the activity into the basic stages of participation (for example, putting on equipment, using equipment, and returning equipment to a specific area). In effect, you need to separate the program into the discrete activities or variables that make up the program.

3. Consider the abilities necessary to remain safe. For example, what are the most likely causes of death or injury involved with that activity, and what does someone need to do to avoid them?

4. Prioritize the stages described in number 2 into the critical abilities needed to be safe. For example, in the case of riding a bike, essential abilities would include balancing, steering, and stopping the bike. These abilities are a higher safety priority than the abilities to shift gears or read a map. Do not use limiting words like walk, climb, or see, instead describe the end result that must be accomplished in nondiscriminatory terms, such as access, ascend, or identify.

5. Consider basic rules or etiquette that the participant must follow. These include issues such as yielding to others who have the right of way or waiting for the rest of the group to catch up.

6. Determine if the guidelines may be satisfactorily met with the help of a companion. An individual may not be able to perform a function independently, but that same individual might easily do it with the help of a friend, family member, employee, or attendant.

7. Edit for simplicity. Stick to the basic physical or mental abilities necessary to participate—the fewer the better. Refer to an activity in terms of who can participate, rather than in terms of who can't.

Examples of Essential Eligibility Criteria Guidelines

Example:

Essential eligibility criteria that are necessary for controlled and safe skiing might include the ability to—

- Properly put on and take off the skiing or boarding equipment, independently or with the assistance of a companion.
- Load, ride, and unload the lifts safely, either independently or with the assistance of a companion.
- Ski or ride on appropriate trails and areas, control speed, and return to the base area, either independently or with the assistance of a companion.
- Get off of the ski trail, independently or with the help of a companion, if he or she falls down and get into the position necessary to continue skiing or riding, independently or with the help of a companion.
- Follow “Your Responsibility Code.”

Essential eligibility criteria focus on ability, rather than disability. Referring to an activity in terms of who can participate, rather than in terms of who can't, counteracts the tendency to stereotype what a person with a disability can do.

“Your Responsibility Code” is another example of essential eligibility criteria because it must be applied to all skiers and riders, those with and without disabilities.

“Your Responsibility Code”:

- Always stay in control.
- People ahead of you have the right-of-way.
- Stop in a safe place for you and others.
- Whenever starting downhill or merging, look uphill and yield.
- Use devices to help prevent runaway equipment.
- Observe signs and warnings and keep off closed trails.
- Know how to use the lifts safely.

–Courtesy of the National Ski Areas Association

Methods of Providing the Essential Eligibility Criteria

You can provide potential customers with the essential eligibility criteria by placing it on your Web site as a portion of the specific program’s description, on any brochures or other materials provided to potential customers, and as part of the registration materials signed by the customer.

Essential Eligibility Criteria and Providing Equal Opportunity in the Most Integrated Setting

The accessibility laws state that programs shall be provided in the most integrated setting possible. The most integrated setting is the one that enables interaction among people with and without disabilities as much as possible.

People with disabilities who meet the essential eligibility criteria may not be denied the right to participate in any activity, even if a separate program for people who have disabilities is available. Separate programs specifically for people with disabilities are only acceptable when necessary to provide equally effective benefits and services. The laws require that programs offer equal opportunity for participation.

The laws do not require that programs guarantee successful participation.

SKI AREAS AND EQUIPMENT ALLOWED TO BE USED AT RESORTS

Determine which types of equipment may and may not be used based on safety and operational considerations. Based on your determination, develop a written policy and make it available to the public through postings and other means of easy access. The policy must be applied to all.

For equipment that will not be allowed, specify why in the policy statement. Make any decisions about the prohibition of use of specific types of equipment based on documentable safety concerns and operational needs. Do not simply state a decision is based on safety without documenting the basis upon which that decision was made.

Once a decision is made to restrict the public's use of a certain type(s) of equipment, do not allow your own staff to use that type of equipment for nonoperational purposes. Operational purposes could include, without limitation, such things as ski area staff using snowcats for grooming or snowmobiles to reach and transport injured skiers, access lifts for maintenance purposes, or operate a race course. You can document this operational use in your snowmobile use policy, if you have one. (See the discussion of "Other Power-Driven Mobility Devices" below for sample policy language.)

Your equipment use policy should also include clear direction that a person who has a disability is allowed to utilize any equipment that is designed and manufactured solely for use by individuals who have disabilities. That allowance is in accordance with ADA section 36.302(b)(2)(A)(ii)* requirements concerning reasonable modifications in policies, practices, or procedures, unless the entity can demonstrate that making such modifications would fundamentally alter the nature of such goods, services, facilities, privileges, advantages, or accommodations.

*Section 36.302 (a) of the ADA “Discrimination is a failure to make reasonable modifications in policies, practices, or procedures, when such modifications are necessary to afford such goods, services, facilities, privileges, advantages, or accommodations to individuals with disabilities, unless the entity can demonstrate that making such modifications would fundamentally alter the nature of such goods, services, facilities, privileges, advantages, or accommodations.”

Limitations on Types of Recreational Equipment Allowed

You may deny the use of specific types of recreational equipment if your ski area—

- Has documentable safety issues regarding the use of that type of equipment in your area.
- Has written policy addressing types of devices (dated and signed).
- Clearly posts (Web site, ticket counter, etc.) the information as to which devices are not allowed to be operated on site
- Clearly posts that a person who has a disability is allowed to utilize any equipment that has been designed and manufactured solely for use by individuals who have disabilities. Examples of such ski equipment include but are not limited to sitskis, monoskis, outriggers, blind bibs, etc. Equipment examples in other seasons include any device that meets the definition of a wheelchair and where

bicycles are allowed to be operated, hand cycles are also allowed. Consult the manufacturer's Web site if unsure.

If the ski area prohibits the all skiers from using certain types of ski equipment due to a documental safety issue keep in mind that Department of Justice includes routine administrative_uses in that application to "all". So be very cautious of conflicting uses by the areas employees or volunteer staff.

The Forest Service doesn't decide what ski equipment will or will not be allowed to be used at a ski area. That is the decision of the ski area, based on their local areas conditions and the laws.

Ski Areas are NOT required to, nor should they, "fundamentally alter" the safety based type of decisions ...just because a person states they have a disability. If there are documentable safety issues with the use of that type of equipment at that ski area, then it would unsafe for any skier.

Example ski-bikes: some people who have disabilities find them to be helpful to use. A ski that's not designed and manufactured solely for use by individuals who have disabilities is a general use device.

A ski area that prohibits the use of ski-bikes for ALL due to a documentable safety issue does not have to modify that ski bike safety based prohibition policy for people who have disabilities. That documentable safety issue is a safety issue for all at that ski areas.

CAUTION: the disability related laws are clear. If an area does NOT have a documentable safety issue at their area with a particular type of ski equipment, there is no legal basis on which to deny the use by a person who has a disability.

If the ski area prohibits the public from using certain devices, the area should state in its written and posted policy if there will be any staff use of certain types of equipment and then ensure that use is very limited.

The Forest Service doesn't decide what types of ski equipment will or will not be allowed to be used at a ski area. That is the decision of the ski area, based on their local areas safety conditions and the laws.

However ski areas are not required to alter the documentable safety based prohibitions because a person has a disability. If there are documentable safety issues with the use of that type of equipment at that ski area, then it would be unsafe for any skier to use at that location and would be a fundamental alteration of the program.

SAMPLE - Ski Area Equipment Use Policy Posting

_____ ***Ski Area LOGO***

_____ **Ski Area—Ski-Equipment Use Policy**

When operated in accordance with the rules and regulations of the _____Ski Area, ski equipment is allowed, with the exception of ski bikes (and any other prohibited equipment), which are prohibited at _____Ski Area due to

A person who has a disability is allowed to utilize any specialized equipment that has been designed and manufactured solely for use by individuals who have disabilities, for example on snow monoskis, biskis, outriggers, and sitskis. That use is in accordance with the American with Disabilities Act (ADA) Section 36.302(b)(2)(A)(ii) which requires reasonable modifications in rules, practices, or procedures, unless the entity can demonstrate that making such modifications would fundamentally alter the program. The _____Ski Area offers or will arrange for any adaptive equipment that meets this definition when requested in advance by individuals wanting to enjoy sports at the _____ Ski Area.

Wheelchairs and other manually powered mobility aids that meet the legal definition as “a manually-operated or power-driven device designed primarily for use by an individual with a mobility disability for the main purpose of indoor or of both indoor and outdoor locomotion are allowed to be used anywhere foot travel is allowed in accordance with the ADA section 36.311 and 36 CFR 212.1.

DATED and SIGNED by ski area management

USE OF “OTHER POWER-DRIVEN MOBILITY DEVICES” BY PERSONS WITH DISABILITIES

On March 15, 2011, under the American with Disabilities Act (ADA), section 36.311, rules allowing “other power-driven mobility devices” to be used by “individuals with mobility disabilities” went into effect. This rule applies to any place, indoors or outdoors, that is open to the public. Wheelchairs and other manually powered mobility aids that meet the legal definition as “a manually-operated or power-driven device designed primarily for use by an individual with a mobility disability for the main purpose of indoor or of both indoor and outdoor locomotion” are granted full access to all public accommodations anywhere foot

travel is allowed. Other mobility devices powered by batteries, fuel, or other engines, however, may be granted or denied access depending on certain assessment factors.

These assessment factors include—

1. The type, size, weight, dimensions, and speed of the device.
2. The facility's volume of trail use.
3. The facility's design and operational characteristics (e.g., whether its service, program, or activity is conducted indoors; its square footage; the density and placement of stationary devices; and the availability of storage for the device, if requested by the user).
4. Whether legitimate safety requirements can be established to permit the safe operation of the other power-driven mobility devices in the specific facility.
5. Whether the use of the other power-driven mobility devices creates a substantial risk of serious harm to the immediate environment or natural or cultural resources or poses a conflict with Federal land management laws and regulations.

Under these rules, you may ask a person using an “other power-driven mobility device” to provide a “credible assurance” that the mobility device is required because of his or her disability. That credible assurance can be showing a valid, State-issued, disability parking placard or card, or other State-issued proof of disability, or, if the person doesn't have any of those on hand or readily available, he or she may simply say that the other “power-driven mobility device” is being used for a mobility disability. Do not ask the person if he or she has a disability or anything about his or her disability.

Note that only 8 million people who have mobility limitations use wheelchairs, canes, crutches, and other assistive devices. Close to 20 million people have a mobility-related disability but don't use

wheelchairs, canes, and other assistive devices. They still have, however, mobility disabilities that limit the distance they can walk due to heart or breathing disorders, amputations, or joint or muscle-related disabilities. Keep in mind that 85 percent of all disabilities aren't obvious.

Pursuant to these rules, public accommodations such as ski or resort areas are required to (1) perform an assessment and (2) adopt a policy regarding the use of these other power-driven mobility devices that informs of the various classes of devices that may be used, rules related to that use, and who to contact for more information. (3) That information must be made available (for example, via the Web or phone) to individuals *before* they travel to the location. It may also be helpful to post this notice near lift ticket windows or points of sale at the ski or resort area. Failure to post such notice could require you to allow the device or potentially expose the ski or resort area to litigation.

There is no template for what a policy on the use of "other power-driven mobility devices" by individuals with disabilities should look like. While a ski or resort area's policy must be based on a location is specific assessment, here are some suggestions for performing your assessment and developing your policy.

REVIEW YOUR EXISTING POLICIES

Does your resort have an existing policy regarding public use of motorized devices or vehicles at your ski or resort area? If it does, and that determination was based on one of the five assessment factors listed in the rule above, you can elaborate on the findings of that assessment and how they resulted in the resort's policy. If there is no such policy in place regarding public use of motorized devices, your assessment should guide whatever policy you decide to adopt now. Base your reasons on the five assessment factors listed above.

Your winter policy may vary greatly from your summer policy. It is important to assess each season separately. If one of the assessment factors listed above prevents the use of a specific class of other power-driven mobility devices, your policy should be clear about precluding use of that device in the section of trail or area where it is an issue.

For example, in summer, certain trails may already be open to motorized use, and such trails may be suitable for the use of Segways on designated routes. Specifically identify those routes in your policy to provide adequate notice to visitors. In your assessment, address whether the use of Segways or other motorized devices is compatible or incompatible with mountain biking, and develop your policy accordingly. It is important that in your assessment and policy you distinguish the use of motorized vehicles by ski area personnel versus their use by members of the public. Ski or resort area personnel are highly trained on how to use motorized vehicles in a reasonably safe manner and use motorized devices for administrative, operational, maintenance, or safety-related reasons, not to recreate. In winter, on snow cover, a blanket ban on public use of motorized devices may be appropriate and, in fact, already exists at many ski or resort areas, given safety risks posed by collisions with downhill skiers or snowboarders and other factors. Again, especially in the winter context, it is important that your assessment distinguish between employee and public use of motorized devices.

For example, if you have a ban on any motorized use by the public at your resort that is based on the findings under one or more of the five assessment factors above and that same factor's findings are applicable when there isn't snow cover, your summer assessment or policy might state the following:

The use of any power-driven devices or vehicles by the public, including other power-driven mobility devices used by disabled individuals, creates a substantial risk of serious harm to the immediate

environment and natural resources. Due to the need to address soil integrity, erosion, and vegetative concerns, the ski or resort area has adopted a “no motorized” policy for the public during the summer season.

If your policy is to allow some motorized devices by the public in summer but not others, be sure to list out what those devices are and base your distinction on the documentable result of applying the assessment factors listed above. For example, your policy might state the following:

The ski or resort area has determined that while the use of Segways on trails X, Y, and Z is permitted, the use of ATVs, golf carts or pickup trucks by the public is not permitted. Use of these devices by the public would pose safety hazards to individuals using the trails for mountain biking and hiking given the size, weight, dimensions, and speed of these devices and the potential for collisions with other visitors. There would also be a substantial risk of serious impacts to natural resources caused by these vehicles, and that use would pose a conflict with Federal land management laws and regulations currently in place on these lands.

By way of example, your winter assessment or policy may state the following:

The ski area has determined that the use of any power-driven devices or vehicles by the public, including other power-driven mobility devices used by persons with disabilities, would conflict with the ski or resort area’s safety requirements necessary for the reasonably safe operation of our on-slope activities. These safety concerns include that the use of devices on the slopes may expose the user and skiers/snowboarders to a safety hazard, such as collisions with downhill skiers and

snowboarders, and that the use of devices may provide access into closed areas that pose avalanche hazards. These safety concerns are compounded by the ski or resort area's high volume of trail use. These safety requirements are based on actual risks and are not intended to be discriminatory in any way.

ADDITIONAL CONSIDERATION FOR SKI AREAS OPERATING ON PUBLIC LANDS

If your resort is on National Forest System land, you should cite, as a basis for your policy, that public motorized use of devices that do not meet the definition of a wheelchair may only be operated where designated on that national forest's motor vehicle use map based on that national forest's travel management plan designations. In addition, the national forest may have placed the area under administrative closure orders. Consult with your local Forest Service district ranger about which designations or closures apply in your areas. Relying on these administrative restrictions may reduce the resort's need to duplicate the assessment process that has already been completed by the Forest Service. Such designations are recognized in the ADA rule as a means of not conflicting with Federal land management laws and regulations. Some ski areas have adopted "Rules of Use" in consultation with the Forest Service that address management of public conduct or behavior that can potentially disrupt ski or resort area operations, potentially affect public safety, or negatively affect customer experience, including disruptive or unsafe behavior on public land. They are sometimes incorporated into an operating plan or may be documented in another form with the Forest Service. If your ski or resort area has "Rules of Use," review them to make sure that they are consistent with your new policy on other mobility devices.

Finally, there may be legal rights-of-way extending through a portion of a ski or resort area that provide motorized access for the public or for individuals whose private property is surrounded by Federal land. These could exist either as a county road or through a special-use permit issued by the Forest Service. If such a situation exists at your ski or resort area, you may wish to acknowledge it in your policy. For example:

The only exception to the ski or resort area's policy of prohibiting any member of the public to use motor-powered devices on ski trails or skiing terrain is the use of snowmobiles by individuals who hold a special-use authorization issued by the Forest Service for access to access private inholdings.

Your posted policy should include the following:

Any device that meets the Americans with Disabilities Act definition of a wheelchair is allowed to be used wherever foot travel is allowed. The Americans with Disabilities Act defines a wheelchair as "a manually-operated or power-driven device designed primarily for use by an individual with a mobility disability for the main purpose of indoor, or of both indoor and outdoor, locomotion."

You may wish to include the following language in your policy:

The ski area shall ask a person using an other power-driven mobility device to provide a credible assurance that the mobility device is required because of the person's disability. The ski area accepts the presentation of a valid, State-issued, disability parking placard or card or other State-issued proof of disability as a credible assurance that the use of the other power-driven mobility device is for the individual's mobility disability. In the absence of such documents, the ski area shall

allow the use of an other power-driven mobility device if the individual states that the device is being used for a mobility disability, unless the assessment completed for that location has resulted in a determination that the class of device may not be used. Any evidence to the contrary, that the person does not have a mobility disability, may be evaluated and acted upon by the ski area.

SERVICE ANIMALS (Title 28, Code of Federal Regulations, Part 35.136, Part.36.302, and also applies under Section 504 of the Rehabilitation Act)

DOGS

A **Service Animal** is any **dog** that is individually trained to do work or perform tasks for the benefit of an individual with a disability, including a physical, sensory, psychiatric, intellectual, or other mental disability.

NOT Service Animals: The following are **not** service animals: those whose sole purpose is to provide emotional support, well-being, comfort, or companionship, or to serve a crime deterrent.

In addition, therapy dogs that visit nursing home residents, hospital patients, and others are **not** “service animals.” They do not assist one individual with a disability in his or her activities of daily living.

The person who has a service animal has rights and obligations.

- The right to be accompanied by the service animal.
- The obligation to control the service animal in a manner that complies with the animal control laws of the area. “Control” equals behavior appropriate to the setting.

You must allow service animals in all areas: Allow individuals with disabilities to be accompanied by their service animals in **all** areas of a public entity's facilities and area where members of the public; participants in services, programs, or activities; or invitees, as relevant, are allowed to go.

Two questions that you can ask a person with a service animal, if not obvious, are —

- (1) Is the animal required because of a disability?
- (2) What work or task has the animal been trained to perform?

Never ask about the person's disability. Remember 85 percent of disabilities are unseen. You cannot require documentation that the animal is a service animal.

The only time a service animal can be off the leash, harness, or tether in an area where the animal control laws require that dogs be leashed is when it is necessary to do the work for which the dog was individually trained to assist that person who has a disability. For example, a seizure alert animal may need to go for help if the person has a seizure and, therefore, should not be on a leash.

You may ask a person with a disability to remove the service animal from the premises if—

- (1) The animal is out of control, and the animal's handler does not take effective action to control it (for example, a dog that barks repeatedly during a movie).
- (2) The animal is not housebroken.

If a service animal is properly excluded, the individual with a disability is to be given the opportunity to participate in the service, program, or activity without having the service animal on the premises.

MINIATURE HORSES

The legal requirement is that an entity shall make reasonable modifications in policies, practices, or procedures to permit the use of a miniature horse by an individual with a disability if the miniature horse has been individually trained to do work or perform tasks for the benefit of the individual with a disability.

Your ski area or resort has more flexibility with respect to whether miniature horses are permitted. You can consider four different factors in shaping policies, practices, or procedures on the use of these animals, when the animal is brought to your ski area or resort. In addition to the two factors listed above for dogs, you may also consider the size and weight of the horse and if its use would compromise safety requirements. You may also want to consider adopting and posting policies for guests regarding the safety implications of boarding miniature horses on lifts and gondolas.

In determining whether reasonable modifications in policies, practices, or procedures can be made to allow a miniature horse into a specific facility, consider—

- (1) The type, size, and weight of the miniature horse and whether the facility can accommodate these features.
- (2) Whether the handler has sufficient control of the miniature horse.
- (3) Whether the miniature horse is housebroken.
- (4) Whether the miniature horse's presence in a specific facility compromises legitimate safety requirements that are necessary for safe operation.

STEPS IN DEVELOPING YOUR ACCESSIBILITY STRATEGY

The following are suggestions for developing your accessibility strategy.

1. Develop and implement essential eligibility criteria. See pages **XX**.

2. Use proper language in brochures, Web sites, etc. See page **XX** for basic guidelines for proper language.

3. Become familiar with the teletypewriter or text telephone (TTY) relay system. For communicating by phone, people who are deaf or have difficulty speaking often have a TTY. A TTY is a simple, low-cost telecommunications device that allows a person to type the message he or she wants to send. The message is then transmitted across the telephone lines.

Each State provides relay operators who can be reached by dialing 711. These operators have the equipment to connect a person using a TTY with a person using a voice phone. Through this relay process, a business that does not have a TTY can interact with a customer who uses a TTY. Information about TTYs can be obtained from your local Center for Independent Living (CIL).

4. Make your brochures and literature available to people with visual impairments or who are blind.

Keep in mind that 95 percent of people who have visual impairments are not blind. There are five basic ways to make your literature more available to persons who are blind or have low vision. They include—

- ◆ **Large print.** With the technology of today, it is easy to increase the size of print to make it more readable. For all people, 14 point type makes print user friendly, 18 point type is the legal

standard for large print.

- ◆ **Color and contrast.** Use colors that provide a sharp contrast.

- ◆ **Audio cassette.** People who have low vision or who are blind may need an audiocassette of your literature. There are professional services that do this, but you can also do it in-house with a tape machine and a tone indexing microphone.

- ◆ **Personal reader.** Inevitably, there may be some information people will need that is not in a user-friendly form. In these cases, you can offer to read it to the person directly.

- ◆ **Braille.** A small number of people who are blind read Braille. When permanent rooms are constructed or altered and signs are located at the entrance to such permanent rooms, you must include raised and Braille lettering with the room identification sign located between 48 and 60 inches above the floor to the latch side of the door. Braille is not otherwise required. Having primary information publications available in Braille is an option that would be well received by those customers who can read Braille. Check the Internet for providers of Braille copies.

5. Remove architectural barriers in existing facilities as required. Plan for accessibility when building new facilities or renovating existing facilities. It is advisable to work with architects and contractors familiar with the Architectural Barriers Act Accessibility Standards.

6. Address Accessibility in Master Development Plans (MDPs). MDPs establish the long-term

conceptual vision for a ski area's facilities and are a requirement of the ski area special-use permit. In your MDPs, identify whether public facilities at the resort are currently accessible and outline transition plans to bring existing facilities into compliance. Ensure that your MDP includes provisions to ensure that, as required, new facilities will be accessible.

7. Include essential eligibility criteria in operating plans. Special use permits, under which ski areas operate on public lands, require that the ski area's management prepare an operating plan and have it approved by the Forest Service (Clause III.C). Although there is no specific requirement that the operating plan address essential eligibility criteria, doing so would help to serve as a "check-point" for both the ski area and the Forest Service and could help to head off customer expectation-related problems in the future. This could be done as an attachment or exhibit to help avoid making the operating plan unnecessarily long or more complicated.

8. Know your resources. Knowing who to turn to for more assistance is critical. If you're not sure where to start, consider the CIL closest to you. A national directory of CILs is available at <http://www.virtualcil.net/cils>. You could also try your State's office or council on disability and disability issues. These contacts can tell you where to look for information on a broad range of issues, including architects, sign language interpreters, and accessibility consultants.

9. Include disability awareness in your employee training. There are many issues your employees **should** be aware of when assisting people with disabilities. A brief list includes:

- ◆ The increasing number of people with disabilities.

- ◆ The importance of social integration of people with disabilities.
- ◆ Proper person-first language when referring to people with disabilities.
- ◆ Principles of adaptation for using personal assistive devices or adaptive equipment to perform tasks that would otherwise not be possible due to a disability.
- ◆ Functional issues that enable a person to ski even though he or she doesn't have the ability to walk.
- ◆ Disability-specific issues that may require special adaptations (e.g., a sign language interpreter).

Contact your local Americans with Disabilities Act Technical Assistance Center for more information and resources to assist with your employee training. Find a center near you at <http://www.adata.org> or by calling 1-800-949-4232.

10. Use new advertising channels for outreach. Most people with disabilities recreate with family or friends who may not have disabilities. By including information about the accessibility of your business in your advertising, the potential customers, whose group includes a person with a disability, will be drawn to your business over another business that does not address accessibility up front. Several magazines in the United States focus on people with disabilities. These are listed in the “Resources” section of this document.

11. Develop community contacts for cooperative marketing and outreach. No matter where you are located, there are individuals and organizations that are willing to work with you to provide services that

include people with disabilities. Consider approaching the following types of organizations:

- ◆ **Centers for Independent Living.** As a national network of independent organizations, the CILs work to promote independence among people with disabilities. This network is active in every State, and its members should be able to answer your questions or steer you in the right direction. To locate the nearest CIL in your area, check the national directory at <http://www.virtualcil.net/cils/> or contact the National Council on Independent Living at <http://www.ncil.org/> or 703-525-3406 (Voice), 703-525-4153 (TTY).

- ◆ **Disability advocacy organizations.** All significant disabilities have one or more advocacy groups associated with them. This includes organizations such as the National Spinal Cord Injury Association, National Head Injury Association, the Federation of the Blind, and the Multiple Sclerosis Society. The Internet can connect you to a wide range of organizations through a quick Web search. By typing in the name of a specific disability, one can reach the Web sites of related advocacy groups. In many cases, these organizations also have State and local affiliate groups listed in the phone directory. These groups can be excellent sources of information, networking, and employee training.

- ◆ **Disabled veterans organizations.** These include Paralyzed Veterans of America (<http://www.pva.org/>), Disabled American Veterans (<http://www.dav.org/>), as well as the U.S. Department of Veterans Affairs (<http://www.va.gov/>).

- ◆ **Health care professionals.** Most health care professionals involved with rehabilitation recognize the

importance of social integration. Some are also outdoor recreation enthusiasts. The following professionals may be especially helpful—

- Recreation therapists

- Physical medicine and rehabilitation physicians

- Physical therapists

- Occupational therapists

- Rehabilitation engineering technologist and engineers.

MARKETING SUGGESTIONS

Marketing your programs to better serve people with disabilities can be rewarding. Instead of marketing just to people with disabilities, try taking the more universal approach to marketing your services to the full range of potential customers, including people with disabilities, seniors, families with small children, and many others. One of the most effective ways of doing this is through the photos you use in your outreach and advertising. By including photos representative of all ages and abilities, you help potential customers to see themselves at your ski area.

Know Your Customers

Most ski area managers know how well their services meet the needs of their traditional customers. You may not, however, know how your facilities and services will meet the needs of a customer with a disability.

Learn more by—

1. Reading this guidebook.
2. Remembering that people with disabilities, like every other customer, respond to your attitude. You are likely to win their business if you are friendly, open, and willing to look into new and unusual situations.
3. Inviting people with various disabilities to visit your facilities and sample your services. Their feedback can help you identify potential barriers to access.
4. Visiting with other ski areas that have specific programs to serve people with disabilities. Ask your local permit administrator for names of ski areas that have adaptive programs of this type.
5. Being sure that what you think is accessible really meets the legal criteria for accessibility under the guidelines. Advertising that a program or facility is accessible, only to have a person with a disability discover that it is not, will not be good for your business. You can also discuss with your local Forest Service permit administrative or accessibility coordinator the accessibility of the facilities before you advertise them as accessible.

Planning Your Message

It is helpful to inform people with disabilities that you are interested in serving them.

As with everyone else, people with disabilities are subject to many stereotypes. A nondisabled person planning to register for a program with a ski area employee may believe that he or she will not have the same experience if a person with a disability is included in the group. In planning your message, therefore, it is critical that you convey to all potential customers that the inclusion of people with disabilities will not diminish anyone's fun and adventure. In short, the Forest Service recommends that people with disabilities be portrayed as people with the same interests and needs as anyone else. Including photographs of people with disabilities fully participating in something that's fun and adventurous can do this. You can also do this by stating that your programs are open to people with disabilities, but in a subtle manner. Advertising a program "for the disabled" will attract only a small proportion of people with disabilities and very few persons without disabilities. But, a program offered for people with a range of ability levels could be attractive to many participants. If your facilities are accessible, say so.

Knowing What To Avoid

Sometimes it is just as important to know what to avoid as it is to know what to do. In all cases, try to avoid—

- ◆ **Using inappropriate language.** Most people today recognize the need to avoid terms that patronize women, people of color, and other minority groups. The same is true for people with disabilities. Brochure copy that reads "Introducing tours for the able and the handicapped" is just as inappropriate as copy that reads "Introducing tours for housewives."

- ◆ **Placing the disability term before the person. The correct term is “person with a disability.”**

Use person-first language, such as a person who uses a wheelchair, not a wheelchair person; or a person who is deaf or who is hard of hearing, not a deaf person or a hard-of-hearing person. By placing the person before the disability, the importance is placed on the person not the disability.

- ◆ **Using the term “handicapped.”** That term comes from “cap in hand” or begging. The term came into use after the Civil War when returning veterans who were unable to work due to their disabilities were forced to beg on the street.

- ◆ **Using the term “accessible” to describe facilities that do not comply with the standards.**

Accessible is the term used to describe facilities that comply with the applicable accessibility guidelines/standards for that type of facility. If the facility complies with the applicable accessibility requirements, it is “accessible.” If it does not comply, it is not “accessible.”

- ◆ **Patronizing approaches.** References to people with disabilities as “less fortunate,” “less capable,” or “special” should be avoided.

- ◆ **Promises that cannot be delivered.** Undeliverable promises are bad in any business. It is not advisable to state that your facilities are accessible if they are not. If you don’t know if your facilities are accessible, don’t say that they are.

FACILITIES AND TRANSITION PLANS

EXISTING FACILITIES

Under Title 7, Code of Federal Regulations (CFR), Part 15b.18 (a), a program in an existing facility is required to be operated so that, “when viewed in its entirety,” it is “readily accessible to and usable by” a person with a disability. Can a person with a disability enter the facility in order to participate in the services offered; buy tickets; rent equipment; and access restroom facilities, food services, and so forth? Can a person with a disability enter and participate in all aspects of the services inside the facility with the other customers? It is helpful to evaluate the facility’s accessibility to a person with a mobility, hearing, or visual impairment or learning disability. In addition, that access is to be in the most integrated setting possible.

This does not necessarily mean that every facility, or every part of an existing facility, must be accessible to and usable by a person with a disability. The goal, however, is to have the person be able to obtain the services offered in the facility in the same ways as people who do not have disabilities. This can be done by moving services to accessible buildings, delivering services to alternate accessible sites, altering facilities to make them accessible, or by constructing new accessible facilities. You are not required to make structural changes to existing facilities if another effective method can be developed to make the program accessible.

In accordance with 7 CFR 15b.18 (b), however, the method of providing such alternate accessibility to the program is to be chosen based on offering that program “in the most integrated setting to obtain the full benefits of the program.” For example, in an existing multistory building that does not have an elevator but has a restaurant on the top floor, a smaller dining area could be established on the first floor providing the same menu and services offered by the restaurant on the top floor. This alternative first floor restaurant, however, may not be segregated only for persons with disabilities because that would not meet the legal requirement for the most integrated setting. This first floor service must also be available to people who do not

have disabilities.

TRANSITION PLANS

For any inaccessible facility that has to be accessed to participate in the program offered, develop plans about how and when changes will be made to make the facility readily accessible to and useable by persons with disabilities. This plan is your transition plan.

Title 7 CFR 15 b.18 (g) details the steps required to develop a transition plan as follows:

1. Identify the physical obstacles that limit access to the program by people with disabilities.
2. Describe in detail the methods that will be used to remove those obstacles or to otherwise make those facilities accessible.
3. Specify the schedule for taking the steps necessary to achieve full program accessibility. If the steps will take longer than 1 year, identify the steps to be taken each year.
4. Identify the person responsible for implementation of the plan.
5. Involve people with disabilities in the development of the transition plan.
6. Make the plan available to the public for review.

The Forest Service permit administrator can connect you with a Forest Service accessibility specialist who can review your transition plans with you, including the appropriateness of the planned changes and the timeliness of the work planned. Your final transition plans will become part of your special-use authorization file and will be reviewed when your permit is reviewed.

The more developed and extensive your program is, and the more financial resources you have at your disposal, the more accessible your facilities are required to be. For example, a large, profitable business might be required to place an elevator in a multistoried building. A small business with limited resources might have a plan ready to relocate the services normally provided on the upper level of its building to the first floor, as needed, for example, when a customer with a disability can't climb the stairs to access the services provided upstairs.

If providing accessibility at your facility would not be readily achievable, that is, if it would cause an undue financial burden for your small business with few financial resources, you will need to identify ways to provide your services without depending on those inaccessible facilities. The key is to find a reasonable way to deliver your programs and services to all people, including people who have disabilities, and to do so in an integrated setting. Your local permit administrator can connect you with a Forest Service accessibility specialist to assist you in determining how you can most cost effectively provide access to your programs and services.

The Internal Revenue Service allows tax credits and deductions for dollars spent to improve the accessibility of your business (<http://www.irs.gov>). The U.S. Department of Justice (DOJ) publishes a *Tax Incentives for*

Businesses booklet available from DOJ at <http://www.ada.gov> or by calling DOJ at 800-514-0301.

Title 7 CFR 15b.18 (c) provides for an exception in extreme cases where the business is small and does not have the resources to provide access to the facility and where no other alternative method can be developed to provide access to the program. There are specific steps, however, that must be followed. Each step is to be documented and available to the public.

If you have fewer than 15 employees—

1. Consult with people who have disabilities who are seeking to use your services.
2. If those people with disabilities agree that there is no method of providing your services that would not be an undue financial burden or difficult to achieve, refer persons with disabilities who are unable to access your program due to that facility obstacle to other providers of the same service that are accessible.
3. Ensure that there is no additional cost to the person with the disability to use the alternate provider.
4. Document the completion of each of these steps and discuss the situation with your Forest Service permit administrator and accessibility specialist for further assistance.

NEW AND ALTERED FACILITIES

Title 7 CFR 15b.19 states that each facility or part of a facility constructed by, on behalf of, or for the use of the permit holder shall be designed and constructed in such a manner that the facility or part of the facility is readily accessible to and usable by persons with disabilities, if the construction was started after December 19, 1990.

Under 7 CFR 15b.19(c), new construction or alteration of facilities at ski areas that are dependent on a special-use permit from the Forest Service for the operation of their business are required to follow the Architectural Barriers Act (ABA) accessibility standards unless “substantially equivalent or greater access to and usability of the building is provided by other methods.” There is no exception for elevators in new or altered multistory buildings under the ABA standards. The only “exception” for a permit holder would be in the case of a permit holder being able to substantiate a claim of undue financial burden based on the bottom line financial worth of that business. Otherwise, under the ABA, an elevator is required in a new or altered multistory building. The Forest Service guidelines under the ABA standards, the Forest Service Outdoor Recreation Accessibility Guidelines, only address outdoor recreation facilities including campgrounds, scenic overlooks, picnic areas, and pedestrian hiking trails in the Forest Service Trail Accessibility Guidelines.

In the case of alteration, 7 CFR 15b.19 (b) states that each facility or part of a facility that is altered by, on behalf of, or for the permit holder after the effective date of this part of the CFR (December 19, 1990) in a manner that affects or could affect the usability of the facility shall, to maximum extent feasible, be altered in such a manner that the altered portion of the facility is readily accessible to and usable by persons with disabilities.

The requirement under 7 CFR 15b.18 for accessibility of an existing facility is that the program offered

inside that facility be accessible to and usable by a person who has a disability. That access is to be in the most integrated setting.

The B77.1 ANSI (American National Standards Institute) Standards of 2005 contain the requirements for the accessibility of ski area facilities including gondolas, chair lifts, and so forth.

New Standards for Pool Lifts

As four-season operations, ski areas should also be aware of the 2010 Americans with Disabilities Act (ADA) Standards for Accessible Design (ADAADS). The 2010 Standards set minimum requirements both scoping and technical for newly designed and constructed or altered State and local government facilities, public accommodations, and commercial facilities to be readily accessible to and usable by individuals with disabilities. March 15, 2012, was the compliance deadline for the 2010 Standards for new construction, alterations, program accessibility, and barrier removal. The DOJ, however, has extended that compliance date for pool lifts until January 31, 2013.

Although, as discussed previously, the Architectural Barriers Act Accessibility Standards (ABAAS) of 2006, rather than the ADAADS, apply to facilities operating under permit from a Federal agency. When more stringent accessibility standards exist, they should be applied. For example, in the case of swimming pools, spas, wading pools, and aquatic recreational facilities, the 2010 ADAADS are more stringent than the ABAAS of 2006 and, therefore, shall be applied to those types of facilities. Consult the DOJ website at <http://www.ada.gov> for further pool lift compliance information or call the DOJ technical assistance line at 800-514-0301 with specific questions.

Although these types of facilities may not be located on public land, you should be aware of the requirements because these facilities are commonly on privately owned lands at four-season resorts that nevertheless are required to operate under a special-use permit from the Federal agency as the result of the land they utilize for their programs. The regulation defines five permitted means of entry to the pool. The primary means of entry must be either a sloped entry or a pool lift capable of being independently operated by a person with a disability. The secondary means of entry can include sloped entry, transfer wall, transfer system, or pool stairs. The only means of entry that can be used on its own without any other means of entry is a sloped ramp. Swimming pools with less than 300 linear feet of pool wall must have at least one primary means of entry: a pool lift or sloped entry. Swimming pools with more than 300 linear feet of pool wall must have two means of entry: at least one of them must be primary. The regulation provides detailed specifications for the pool lifts and slopes. The main requirements of pool lifts are that the user must be able to operate it independently and it must provide footrests. Pool lifts must be "fixed" unless the operator can prove that doing so would not be "readily achievable" as defined in the ADA and 7 CFR 15b, in which event, a portable lift meeting all of the ADAADS could be deployed.

Accessible lifts cannot be shared between a pool and a spa; each would seem to require a separate device. Pool lifts must be properly maintained and in good repair, with any battery components charged for use. Staff must be trained in the use and safety of pool lifts. Sloped entries can be built in entryways or can be a removable ramp. They must have handrails. Sloped entries must be in compliance with all ADA specifications. The regulation specifies detailed requirements for secondary means of entry as well. For more information on these and other ADA requirements, visit <http://www.ada.gov/> and click on the 2010 ADA Standards for Accessible Design.

GENERAL CONSIDERATIONS

PROVIDING FOR “ADAPTIVE SKIERS”

Skiing is an adaptive sport. All skiers use skis or snowboards with bindings and poles for balance. All skiers use this adaptive equipment in order to negotiate from the top of the ski hill to the bottom.

Skiers with disabilities also often require specialized equipment. Although the equipment might appear different from what you are used to, it serves the same purpose. Monoskis, biskis, outriggers, and sitskis are just some of the types of adaptive equipment. A person who is blind, has low vision, or has an intellectual disability may need a personal assistant as part of his or her “equipment.” For the purposes of this guidebook, equipment used by people with disabilities is referred to as “adaptive equipment,” and skiers with disabilities are referred to as “adaptive skiers.”

PERSONAL ASSISTANTS

Adaptive skiers may need to use a guide, personal assistant, or interpreter in order to ski safely, negotiate the lifts, or meet other conditions of “Your Responsibility Code.” In many cases, the person skiing with an adaptive skier enjoys all of the same benefits of the ski experience, as does any other skier.

Some adaptive skiers, however, require an intensity of assistance that results in a modified skiing experience for the person skiing with him or her, such as a guide for a blind skier. Please consider establishing criteria that considers guides, personal assistants, and interpreters to be part of that skier’s equipment due to the intensity of the assistance required in those situations. Determine if a reduced charge or no charge ticket can be made available to that assistant who will not be gaining the same benefit from his or her experience as will other skiers. There is no legal requirement for a ski area to provide a reduced or no charge ticket, as such action is at the discretion of the ski area’s management.

You may also want to help potential customers with disabilities by providing information about experienced personal assistants that the adaptive skiers can hire, at a reasonable cost, with advanced notice.

RENTAL OF STANDARDIZED ADAPTIVE EQUIPMENT

If you have a ski rental program, you must make standardized adaptive equipment available for rent with advance notice at a reasonable cost in order to provide an equal opportunity to participate in the program, as described in Section 504 of the Rehabilitation Act (Section 504) and Title 7, Code of Federal Regulations (CFR), Part 15.4(i). Advance notice might be on the order of 2 to 5 days. Standardized adaptive equipment would include such things as outriggers, ski tip stabilizers, and blind bibs.

Although adaptive equipment—including mono, sit, and bi skis—may be standardized, the technical aspects of fitting for safe operation would require rental staff training/certification not in place at this time.

STANDARDIZED RENTAL EQUIPMENT INSURANCE ISSUES

Rental of sitdown adaptive equipment sometimes raises difficult issues. For example, some insurance carriers may recommend that instruction be required as a part of adaptive equipment rentals. While the rental equipment package is certainly different, adaptive skiers should not be treated differently than other skiers in terms of instruction. While some level of instruction in the use of the adaptive equipment in the shop may be appropriate, it would not be appropriate to require lessons or for the instruction to be presented in a way that's intended to discourage an individual from renting.

While biskis are considered a sitdown device, they differ from sitdown devices with a single ski in that they require a second person who skis behind with a tether. In this case, the skill and experience of the guide

becomes critical in the safe operation of the device. As with monoskis, you should not have any requirements applied to either the adaptive skier or his or her guide that might appear to discourage use.

The means of providing adaptive rental equipment can also raise questions. While the responsibility for compliance ultimately rests with the ski area, there are several ways that Americans with Disabilities Act (ADA) requirements can be met. For example, rather than the ski area itself purchasing and providing adaptive equipment:

- A local ski shop or adaptive program could own and rent the equipment.
- Ski areas located near one another could contract with one another to provide adaptive equipment so that each ski area does not have to have the equipment.
- An adaptive equipment manufacturer could rent or lease equipment to the host ski area.

Regardless of the way it is provided, the host ski area must ensure the equipment, with advance notice, is readily available, that the rental process doesn't discourage use, and that the process is consistent with the treatment accorded to other skiers.

SUGGESTED WAYS OF PROVIDING STANDARDIZED ADAPTIVE RENTAL EQUIPMENT

- Ski shops at the host area can own and rent the adaptive equipment with a qualified instructor or technician providing the fitting and instructional information regarding its use.
- An adaptive program at the host ski area can own and rent the adaptive equipment.
- An adaptive program at a nearby ski area can be contracted to provide adaptive equipment at the host ski area.
- An adaptive equipment manufacturer can rent or lease equipment to the host ski area with advance notice.

Competency Requirements

All skiers should meet the essential eligibility criteria before participating in a program. A separate competency exam cannot be required for adaptive skiers to either ride the lift or ski, unless all skiers are required to take the same competency exam. There are areas, such as terrain parks, where skiers are tested for skills before entering. This is acceptable if **all** skiers are tested, as such testing would be part of the essential eligibility criteria.

Lift Safety

Adaptive skiers cannot be required to fasten themselves to the lift, when skiing independently, unless all skiers are required to do so. A skier, however, may request to be fastened to the chair for personal safety. An adaptive skier could also request that the lift be slowed or stopped for loading. Because the instructor is often assuming more responsibility for the skier in a lesson situation, ski school instruction policies with regard to safety and adaptive skiers can vary. The instructor's method for ensuring that the adaptive skier can load, ride, and unload the lift safely might be to use a tether line or safety retention strap. When skiing with an instructor, the ski school's safety policy regarding fastening to the lift should be followed.

Instruction

If you have a ski instruction program, make instruction available at all levels for adaptive skiers who meet the essential eligibility criteria established by the ski area in order to provide equal opportunity to participate in the program, as required under Section 504 and 7 CFR 15b.4 (i). You can require advance notice for all levels of adaptive instruction (2 to 5 days is recommended).

It is imperative that you understand the importance of an adaptive ski program. It is an integral part of meeting the equal opportunity requirements under the laws and your special-use permit's requirements. The adaptive ski program may be part of your company or it may be a nonprofit organization with which you have an agreement for them to operate on the ski area. In either case, they are your partners in the delivery of equal opportunity for all potential customers. Together, you create a valued team.

Certification in adaptive instruction for your instructors is available through the Professional Ski Instructors of America (PSIA). Contact PSIA at <http://www.thesnowpros.org/> or 303-987-9390. PSIA-certified instructors can take a 1- to 2-day PSIA Adaptive Clinic in a specific discipline to obtain the skills needed to provide instruction to adaptive skiers.

For information about existing adaptive ski programs, contact the National Ski Areas Association at <http://www.nsaa.org/> or call 303-987-1111.

Instruction for Skiers Who Are Blind or Have Low Vision

Ideally, the instructor is the guide for the skier who is blind or has low vision. However, the skier who is blind or has low vision may bring his or her own guide at his or her own expense. If the skier brings his or her own guide, keep in mind that serving as a guide for a person who is blind requires an intensity of assistance that results in a modified skiing experience for the guide.

Consider establishing criteria for guides, perhaps considered to be part of that skier's equipment, and determine if a reduced or no charge lesson or lift ticket can be made available to that assistant who will not be gaining the same benefit from his or her experience as will other skiers. For example, if the guide is not

receiving instruction during a ski lesson, that guide would not be receiving the same benefit as other participants in the instruction. There is, however, no legal requirement for you to provide reduced or no charge lessons and tickets, such action is at your discretion.

Instruction for Skiers Who Are Deaf

Under the law's requirements for providing auxiliary communication services to individuals who are deaf, you may be asked to provide an interpreter for instruction. The cost of hiring that interpreter would be at the expense of your ski area. The law is specific that the expense may not be passed on to the individual who needs the services of a sign language interpreter. The law states that the interpreter must be provided "upon prior notice." The minimum length of time for that prior notice is based on how long it would take to get the services of two sign language interpreters at your ski area.

Two sign language interpreters are needed because sign language interpreting is intense work and so the interpreters need to relieve each other every 30 minutes. To find out what the prior notification is for your area, before an interpreter is requested, contact your Registry of Interpreters for the Deaf in your State. If you don't know where that registry is located, check with the ADA Technical Assistance Center closest to you by calling the national number at 1-800-949-4232.

Once you have received that estimate from the registry, you can then include that registry's stated timeframe as the length of prior notice required in your outreach materials, Web site, etc. For example, you could use the following statement: "The service of a sign language interpreter will be provided upon (number of days/weeks per the registry) days of prior notice. Contact (name of contact) at (phone number) or from a teletypewriter or text telephone (TTY) through the 711 Relay System."

Ideally, the instructor would be the interpreter for the skier who is deaf. You can also notify your registry in the off season that occasionally there are requests for the services of sign language interpreters from skiers at your area or potential skiers who are planning to visit your ski area. It may be helpful to ask if any of the interpreters are experienced skiers and if they would be interested in exchanging their interpreting services for skiing opportunities. This query could both provide a list of the most qualified interpreters for a ski program and, also, provide a way to exchange skiing opportunities for the services of an interpreter.

If a skier who is deaf brings his or her own interpreter, at his or her own expense, the ski area should consider having a policy in place to address charges for ski instruction. Since the ski area will be saving a considerable expense by not having to hire an interpreter, perhaps you could not charge for the lesson or lift charges for the interpreter. There is no legal requirement, however, for you to provide a reduced or no charge lessons and tickets to people who have disabilities; such action is at your discretion.

Instruction for Sitskiers, Monoskiers, and Bikers

Ideally, the instructor generally provides personal assistance needed by the adaptive skier. If a skier, who has a mobility impairment, brings a personal assistant at his or her own expense, you should consider having a policy in place to deal with the lesson and lift charges.

Consider establishing criteria for such assistants, perhaps considering them to be part of that skier's equipment, and determine if a reduced charge or lesson and a no-charge lift ticket can be made available to that assistant who will not be gaining the same benefit from his or her experience as will other skiers. For example, if the assistant is not receiving instruction during a ski lesson, but simply assisting the skier who

has the mobility impairment, that assistant would not be receiving the same benefit as other participants in the instruction. There is no legal requirement, however, for you to provide reduced or no-charge lessons and tickets to people who have disabilities; such action is at your discretion.

Lesson Rates and Discounts

An adaptive skier who meets the essential eligibility criteria for group instruction and, therefore, can expect to progress with the group at an average or above average rate, must be permitted to take a group lesson. If the adaptive skier does not meet the essential eligibility criteria for group instruction, the adaptive skier would need to meet the essential eligibility criteria for individual instruction. The lesson rates can be commensurate with the type of instruction received (i.e., group or individual instruction) unless the ski area sets a policy of reduced rates in order to market to adaptive skiers. There is, however, no legal requirement to provide a reduced rate for adaptive skiers.

When considering rates for adaptive skiers, keep in mind that only 35 percent* of people with disabilities are employed, whereas more than 78 percent of people without disabilities are employed. Therefore, people with disabilities often have less discretionary income available. While ski areas are not social welfare agencies, keep in mind that each adaptive skier usually comes with two or more friends or family member skiers who do not have disabilities. These skiers also buy lift tickets, rent equipment, and purchase food. The entire group will use ski areas that are most accommodating to people with disabilities.

*National Organization on Disability, 2010.

Proof of Disability

It is against the law to ask a person about their disability. However, if a discount is offered for adaptive skiers, you may require a “proof of disability” in order to qualify for such an advantage. It is not legal to photocopy or otherwise retain such a document, which is confidential medical information. You may not ask a person for any additional information about his or her disability beyond the fact that he or she has a disability and, therefore, qualify for the local discount being offered. A driver’s license noting restrictions, or an Access Pass (issued to that person by Federal land management agencies for accessing national fee areas), along with another form of photo identification to ensure the person to whom the Access Pass is issued is the person requesting the discount, are forms of identification that are often used to identify a person with a disability. A “disabled” parking placard might not a reliable form of identification in most States because, it does not identify the person to whom the State motor vehicle department issued that parking placard. A person who has a disability must never be asked to provide medical information about his or her disability. Whatever the proof provided, the Area is not to retain it or a copy of it.

Often a “proof of disability” is not needed because the individual has a physical disability, amputation, paralysis, etc., that is obvious. That obvious disability serves as that person’s “proof of disability.”

You should approach proof of disability with sensitivity toward your customers. As with other aspects of providing for accessibility, employee training is crucial. If your ski area chooses to offer a discounted rate and, therefore, to require proof of disability, familiarize employees with whatever process you put in place. For example, you can post information about such discounts offered and the type of proof of disability accepted at each ticket window, on your Web site, and in your printed brochures.

RELATED ACCOMMODATIONS

Ski Storage

If secured ski storage is provided, that type of storage must be made available for adaptive skiers to store their adaptive equipment or wheelchairs while they are skiing. The charge for storage of adaptive equipment or wheelchairs must be the same as for other ski storage.

Daycare

Children with disabilities must be accepted unless they do not meet the essential eligibility criteria of the program. The daycare facility must be readily accessible so that a parent or guardian with a disability can use the facility. The document entitled “Commonly Asked Questions About Child Care Centers and the ADA” is available from the U.S. Department of Justice on its Web site at <http://www.ada.gov/childq&a.htm> or by calling 800-514-0301 (Voice) or 800-514-0383 (TTY).

Food Services

All food service provided at the ski area must be accessible to people with disabilities. The Architectural Barriers Act Accessibility Standards (ABAAS) and the Americans with Disabilities Standards for Accessible Design (ADAADS provide specific information about accessibility in restaurants and cafeterias. Restaurants are not required to provide for special diets.

In accordance with 7 CFR 15b.18(b), in an existing facility, if the food service area is not accessible, alternate accessibility can be provided. The method of providing such alternate accessibility to the program, however, is to be chosen based on offering that program in the most integrated setting to obtain the full benefits of the program. For example, in an existing multistory building that does not have an elevator but

has a restaurant on the top floor, a smaller dining area could be established on the first floor providing the same menu and services as that top floor restaurant. A caution, this alternative first floor restaurant must provide services for all customers, those with and without disabilities, in order to meet the legal requirement for the integrated setting.

Transportation

If fixed-route transportation is provided, it must be accessible as outlined in Title III of the ADA.

Information about public transportation for people with disabilities can be obtained from the Federal Transit Administration on its Web site at <http://www.fta.dot.gov> or by calling 888-446-4511 (Voice) or 800-877-8339 (TTY). If local on-demand shuttle service is provided, you can work with the local accessibility resources, the Center for Independent Living, Forest Service accessibility specialists, and so forth, to determine how to provide readily accessible and useable shuttle transportation for all skiers, including skiers who have disabilities.

Lodging Accommodations

Ski areas should be aware of the 2010 ADA Standards for Accessible Design or “2010 Standards.” The 2010 Standards set minimum requirements for both the scoping of how many units are required to be accessible and the technical specifications for those units that are newly designed and constructed or altered. State and local government facilities, public accommodations, and commercial facilities are required to be readily accessible to and usable by individuals with disabilities.

Lodging reservation policies are also included in the 2010 Standards. The reservations staff for the lodging are required to identify accessible features in guest rooms (e.g., guest room door widths and availability of

roll-in showers) as well as other hotel amenities, in sufficient detail so that an individual with a disability can make an independent assessment about whether the lodging meets his or her accessibility needs. For more information on these and other ADA requirements, visit <http://www.ada.gov/> and click on the 2010 ADA Standards for Accessible Design.

If provided, lodging must be accessible. Information about complying with accessibility laws as they relate to lodging can be obtained from the U.S. Department of Justice on its Web site at <http://www.ada.gov> or by calling 800-514-0301 (Voice) or 800-514-0383 (TTY).

FREQUENTLY ASKED QUESTIONS

1. What Do I Have To Do To Reduce the Risk of a Lawsuit?

There is no foolproof way to avoid a lawsuit. If you make a good faith effort, however, your odds of being successfully sued should be reduced.

The bottom line in avoiding an accessibility-related lawsuit is to not deny services or accommodations to anyone solely because that person has a disability. You may decide that you cannot safely and effectively serve someone, but this decision must be based on an objective process that is equally applied to everyone through the essential eligibility criteria. Also, you may have to change a policy, modify a practice, or provide an accommodation if these changes are deemed reasonable.

Most importantly, you should realize that people with disabilities are, above all else, people. If you or your

employees are hostile, unwilling to listen, and prone to react based on stereotypes, you are much more likely to be sued than when people with disabilities are treated with dignity and respect. As a business, your attitude toward your customers is perhaps the most important determinant in their evaluation of your services.

2. What Am I Required To Do to My Facilities Under the ADA and 7 CFR 15b

Determine the accessibility of your ski area's facilities and services. Can a person with a mobility, hearing, or visual impairment or learning disability use the facilities and services offered by your business?

According to the Americans with Disabilities Act (ADA) and Title 7 of the Code of Federal Regulations (CFR) 15b, all places of public accommodation must be readily accessible to and usable by people with disabilities. Under 7 CFR 15b.19 (c) new construction and alterations to existing structures by special-use permit holders must comply with the accessibility guidelines under the Architectural Barriers Act (ABA). The current accessibility standards under the ABA are the Architectural Barriers Act Accessibility Standards Guidelines (ABAAS), available at <http://www.access-board.gov/ada-aba/aba-standards-gsa.cfm>.

The ADA and the ABA through 7 CFR 15b require that public accommodations remove architectural barriers in existing facilities where readily achievable. Readily achievable is defined as easy to accomplish, without much difficulty or expense. The basic facility requirements are access to the program provided inside the facility, as well as accessible parking, restrooms, drinking water, and telephones. Be aware, though, that the overall financial resources of the ownership are considered in determining whether an action is "readily achievable."

The more developed and extensive your program is and the more financial resources you have at your disposal, the more accessible your facilities are required to be. A small business with few financial resources

may be able to meet the readily achievable legal criteria by developing an alternative method of providing access to the program in the facility. A word of caution: under 7 CFR 15b.18(b)(a), any alternative program access is required to be provided in the most integrated setting, that is provided for people with and without disabilities to participate together.

If you have a small business with fewer financial resources and providing accessibility to your facility would cause an undue financial burden for your business, you will need to identify ways to provide your program without depending on those inaccessible facilities. The key is to find a reasonable way to deliver your programs' services to all people, including people who have disabilities, and to do so in an integrated setting. Your local permit administrator can connect you with a Forest Service accessibility specialist to assist you in determining how you can most cost-effectively provide access to your programs and services.

Title 7 CFR 15b.8 (c) and 15b.18(g) require any facility or program/service that is not now accessible to develop plans describing how and when the changes will be made to make the facility or program/service accessible for all people. These are your transition plans. The Forest Service permit administrator can connect you with a Forest Service accessibility specialist who can review your transition plans with you, including the appropriateness of the planned changes and the timeliness of the work planned. Your final transition plans will become part of your special-use authorization file and will be reviewed when your permit is reviewed.

The Internal Revenue Service (IRS) allows tax credits and deductions for dollars spent to improve the accessibility of your business. Two tax incentives are available to businesses to help cover the cost of making access improvements. The first is a tax credit for small businesses that can be used for architectural

adaptations, equipment acquisitions, and services, such as sign language interpreters. The second is a tax deduction, for businesses of any size, that can be used for architectural or transportation adaptations.

For more information on these tax incentives, contact the IRS at (<http://www.irs.gov/>). The U.S. Department of Justice (DOJ) publishes a *Tax Incentives for Businesses* booklet available from the DOJ at <http://www.ada.gov> or by calling 800-514-0301.

Also, to ensure appropriate access to the program, you must establish essential eligibility criteria for the various programs provided by the ski area.

3. Do I Have To Make Gondolas and Lifts Accessible?

The ANSI (American National Standards Institute) B77 Aerial Tramway Standards of 2011 contain the requirements for accessibility of these facilities. The complete ANSI B77 Aerial Tramway Standards are available at <http://www.beneficialdesigns.com/skiaccess/skiaccess.html#ANSI-B77>. Basic requirements include the following:

- In cabins for trams and gondolas (new construction), the minimum opening width shall be 32 inches, the horizontal gap shall not be greater than 1 inch, and the height of cabin floor and platform shall be within +/- 1/2 inch or have other provision for independent loading (X.1.4.4.2).
- Loading areas for chair lifts must have at least one point of access with a minimum clearance width of 36 inches to accommodate skiers using adaptive equipment (X.1.1.9.1).
- A sign stating the seat height, +/- 2 inches, must be posted at each chair lift used for skiing operations (X.3.1.1.2).

- Each lift must have an evacuation plan that includes methods of evacuation to be used for incapacitated passengers, common adaptive equipment, and nonambulatory passengers (X.3.2.5.7).
- All passengers using lifts shall be presumed to have sufficient physical dexterity or personal assistance to negotiate and be safely evacuated from the lift (X.3.6.1).

4. How Do the Draft RESNA Adaptive Sports Equipment Standards Address Accessibility Issues?

The Rehabilitation Engineering & Assistive Technology Society of North America (RESNA) is a standards organization accredited by the American National Standards Institute (ANSI). RESNA has developed draft standards that will be submitted to ANSI for final approval. These draft standards require adaptive sitskis, monoskis, and biskis that comply with the draft standards have an evacuation harness and retention strap that has been tested for static and impact loading. The manufacturer is also required to disclose the loading height of the equipment to determine compatibility with a chair lift. The draft standards are available at <http://www.beneficialdesigns.com/skiaccess/skiaccess.html#adaptive>.

5. What If I Can't Make My Program Accessible Because I Can't Make My Facilities Accessible?

Title 7 CFR 15b.18 (c) provides for an exception in cases where the business is small and does not have the financial resources to provide access to the facility and no other alternative method can be developed to provide access to the program. There are specific steps, however, that must be followed. You must document each step as outlined below. If you have **fewer than 15 employees**—

- Consult with the customers who have disabilities who are seeking to use your services.
- If those customers with disabilities agree that there is no method of providing your services that

would not be an undue financial burden for your business or be difficult to achieve, then refer persons with disabilities to other providers of the same service that are accessible.

- Ensure that there is no additional cost to the person with the disability to use the alternate provider.
- Document the completion of each of these steps and discuss the situation with the Forest Service permit administrator and accessibility specialist.

6. What Are Essential Eligibility Criteria?

Essential eligibility criteria are a listing of the basic functions required to participate in an activity.

Management of each ski area should develop nondiscriminatory essential eligibility criteria and apply them to ALL participants. Keep in mind that under the Americans with Disabilities Act, Section 504 of the Rehabilitation Act of 1973, and Title 7, Code of Federal Regulations, Part 15b, you may not deny participation to any person unless he or she does not meet the nondiscriminatory essential eligibility criteria for the program. If your ski area does not have essential eligibility criteria, you are at risk of not knowing and, therefore, not being able to support the decision as to when a person is legally qualified to participate or when that person can be denied participation. Such lack of clear essential eligibility criteria can be problematic and may increase the potential for a discrimination claim. Instructions for developing essential eligibility criteria are provided in this document.

7. Do I Have To Let People With Disabilities Ski?

Yes. An underlying concept of accessibility law is that decisions about participation are not to be based on stereotypes. You cannot refuse to allow a person to ski or participate in lessons simply because that person

has a disability. The only time you can refuse to allow a person to participate is if that person does not meet the essential eligibility criteria for that program or activity.

8. Am I Allowed To Deny the Use of Specific Types of Ski Equipment if I Have Documentable Safety Concerns Regarding the Use of That Type of Equipment in My Ski Area?

Yes, but first the ski area must determine which types of equipment may and may not be used on the basis of valid safety concerns within that area. A written policy must then be developed and made available to the public through public postings and other methods easily accessed. The policy must be applied to all.

The policy statement should be specific about which equipment is excluded and why it is not allowed. A ski area must make any decisions concerning the prohibition of use of specific types of equipment based on valid safety concerns. One cannot simply state a decision is based on safety without documenting the basis upon which that decision was made.

Once that safety-based decision is made to restrict a certain type(s) of equipment from use, the ski area's own staff should also not be allowed to use that type equipment for recreational purposes. Exceptions exist where the ski area staff is using the equipment for administrative purposes to carry out the operations of the ski area. The best example of this distinction is the use of snowmobiles at the ski area. While the public may be prohibited from using them for either recreational or transport purposes, ski area personnel may use snowmobiles for operational purposes. The ski area should document this need for operational use. An appropriate place for this documentation might be in the ski area's snowmobile policy, if there is one.

An equipment use policy must also include clear direction that a person who has a disability is allowed to utilize any equipment that has been designed and manufactured solely for use by individuals who have disabilities. This direction is in accordance with the Americans with Disabilities Act (ADA) requirement that businesses open to the public must modify their policies, practices, and procedures due to a person's disability, if such modification would not fundamentally alter the program for all.

As stated in the ADA Section 36.302(b)(2)(A)(ii): Discrimination is a failure to make reasonable modifications in policies, practices, or procedures when such modifications are necessary to afford such goods, services, facilities, privileges, advantages, or accommodations to individuals with disabilities, unless the entity can demonstrate that making such modifications would fundamentally alter the nature of such goods, services, facilities, privileges, advantages, or accommodations.

9. Do I Have To Offer Adaptive Ski Lessons if My Ski Area Offers Lessons?

Yes, you must be prepared to provide services to anyone who meets the nondiscriminatory essential eligibility criteria developed by your ski area. At areas with ski instruction programs, in order to provide an equal opportunity to participate in that program, under Section 504 of the Rehabilitation Act of 1973 and Title 7, Code of Federal Regulations, Part 15b.4, instruction is to be available at all levels for adaptive skiers who meet the essential eligibility criteria established by the ski area. A specific adaptive program is not required. Advance notice can be required for all levels of adaptive instruction (2 to 5 days is recommended).

Certification in adaptive instruction for your instructors is available through the Professional Ski Instructors of America (PSIA). Contact PSIA at <http://www.psia.org> or 303-987-9390. PSIA certified instructors can take a 1- to 2-day PSIA Adaptive Clinic in a specific discipline to obtain the skills needed to provide instruction to adaptive skiers.

10. If a Skier With a Disability Cannot Demonstrate Basic Skills Needed for a Group Ski Class, Do I Have To Provide Specialized Instruction (Which Usually Results in a Private Lesson Setting) at the Group Lesson Rate?

An adaptive skier who meets the essential eligibility criteria for group instruction and, therefore, can expect to progress with the group at an average or above average rate, must be permitted to take a group lesson. If the adaptive skier does not meet the essential eligibility criteria for group instruction, the adaptive skier would need to meet the essential eligibility criteria for individual instruction. The lesson rates can be commensurate with the type of instruction received (i.e., group or individual instruction) unless the ski area sets a policy of reduced rates in order to market to adaptive skiers. There is no legal requirement, however, to provide a reduced rate for adaptive skiers.

When considering rates for adaptive skiers, keep in mind that only 35 percent* of people with disabilities are employed, whereas 78 percent of people without disabilities are employed. People with disabilities, therefore, often have less discretionary income available. While ski areas are not social welfare agencies, keep in mind that with each adaptive skier comes generally two or more friends or family member skiers who do not have disabilities, but who also buy lift tickets, rent equipment, and purchase food. The entire group will utilize the ski areas that are most accommodating for people with disabilities.

* National Organization of Disability and Harris Poll survey

10. If My Ski Area Has Summer Mountain Bike Rentals, Am I Also Required To Have Adaptive Mountain Bikes Available To Rent for People With Disabilities

The primary question is whether it is an undue financial burden based on the ski area's resources to provide that rental option, similar to the more readily achievable adaptive skiing equipment rental from adaptive programs, other areas, adaptive equipment manufacturer rentals, and so forth. If adaptive mountain bikes are readily achievable, similar to adaptive ski equipment rental provisions, the ski area could post an advanced notice requirement for the adaptive equipment rental but, again, the question comes down to the how easy it is to obtain the equipment in your location upon a prior request.

11. Do I Have To Provide Wheelchairs at All Restaurants on the Mountain?

Title 7, Code of Federal Regulations, Part 15b.18, and, also, Title III of the Americans with Disabilities Act require the facility to be readily accessible to and useable by individuals with disabilities so that all can access the activities or services provided in that facility. First, determine what activities or services are provided in the restaurants on the mountain—food service? restrooms? a place to get warm? Do all of the restaurants provide the same services? Are the restaurants all located together? Or, do they offer different services, and are they in different locations? Then, identify how a person will access those services. If other customers ski to the entrance, take off their skis, and walk into the restaurant, how will a person who arrives by sitski access the services provided in the restaurant? You may decide that the most readily achievable method of providing access to the services would be to place a wheelchair at the restaurant. Having a wheelchair at every restaurant, however, is not in itself a legal requirement.

12. Even Though I Don't Permit Animals in My Business, Do I Have To Allow a Person To Bring in His or Her "Service Animal"?

Yes. Unless a service animal is not under control or is not housebroken, the service animal must be allowed to go wherever the person it assists can go. For additional information about service animals, see [page XX](#)

in this guidebook or the Web-based publication “Commonly Asked Questions about Service Animals,” from the U.S. Department of Justice, on the Americans with Disabilities Act information home page at <http://www.ada.gov>, or call 800-514-0301 for more information.

13. Does Inclusion of People With Disabilities Affect Liability Insurance Coverage? There are two issues here—coverage and premium. Carefully review your policies to confirm limits and exceptions to coverage. On the question of premiums, your insurance company can charge for service and coverage as it chooses. You can, however, ask to see the actuarial tables—the factual information used to support the insurance company’s increased premium—to determine if the insurance company is basing its decision on fact or on assumption.

14. What’s the Balance Between Personal Responsibility and Ski Area Responsibility?

The responsibilities of the individual participant and the ski area are the same whether the participant has a disability or does not. Participant responsibilities should be described in the essential eligibility criteria for the program.

15. Is There Really a Market for This?

Yes. In 2012, there were 54 million people with significant disabilities. The number of people surviving serious injury continues to increase with advances in medicine. Each year, close to 3 million people experience an injury that substantially reduces their mobility. Additionally, as life expectancy increases, the number of individuals with reduced physical abilities will continue to increase. Any improvements to accessibility will also benefit this segment of society as they seek to continue to use your ski area programs and services as they get older.

Also, people with disabilities recreate with their families and friends. They will go together to places that provide good accessibility so that all can participate. One ski area's data showed that each guest with a disability was accompanied by an additional 3.8 people. All purchased lift tickets, food, and so forth. The skier with the disability spent an average of 4 days in ski school and skiers without disabilities an average of 2 days. Skiers stayed an average of 5.5 days in local facilities.

16. What Do My Employees Need To Know?

Your employees should know enough about people with disabilities to make informed decisions about how to best serve your clients. Educating employees about people with disabilities can eliminate many negative stereotypes and perceptions. It is important to include disability awareness training as part of the employee orientation process. Many local disability advocacy groups will provide this training to your employees for a small fee.

17. How Can I Help My Employees Be Interested in Also Serving Clients With Disabilities?

Some practical methods of increasing employee interest and enthusiasm are—

- ◆ Evaluating the interest of employees and selecting one interested person who is likely to remain employed with you to act as coordinator of these new integration efforts.

- ◆ Providing that individual with the initial training to integrate people with disabilities and, then, getting that person to train and assist other employees. Contact your local Americans with

Disabilities Act Technical Assistance Center for information and training resources. Find it at <http://www.adata.org>.

- ◆ Involving employees in planning and setting up outreach plans and making accessibility improvements at facilities.
- ◆ Revising job descriptions to include working with nontraditional customers.
- ◆ Forming a network with agencies that serve people with disabilities.

18. What Can I Do To Get Started?

A small investment in equipment, facilities, and training can greatly benefit your business. Here are some additional suggestions—

- ◆ Developing or reviewing registration procedures that allow you to learn more about all of your customers up front, without invading their privacy.
- ◆ Developing a catalog of your services and facilities so you can give everyone, including people with disabilities, accurate information as they decide whether to take advantage of your services. You may want to provide this information in printed brochures and on your Web page.
- ◆ Providing disability awareness and customer service training for all employees.
- ◆ Purchasing a teletypewriter or text telephone (TTY) and providing training on the TTY for communicating by phone with people who are deaf or do not speak or providing Relay System training to all employees who deal with customers on the phone. If you purchase a TTY, advertise

that you have a TTY in your brochure, on your Web site, and anywhere you list your voice telephone number. This will send an important message that you are open to serving all customers.

Perhaps the single most important thing you can do is to make sure you and your employees have a positive attitude toward serving people with disabilities. Instead of looking at accessibility laws as simply more Government requirements, look at them as a persuasive argument to get you moving in the direction the market is moving anyway.

19. Where Can I Get More Information About Accessibility Laws?

For information about how the Americans with Disabilities Act, Section 504 of the Rehabilitation Act of 1973, and Title 7, Code of Federal Regulations, Part 15b, apply to businesses operating under a permit from the Forest Service, contact your permit administrator and request the assistance of a Forest Service accessibility specialist.

20. How Can the Forest Service Help Me?

The Forest Service has accessibility specialists who can provide information in response to accessibility questions. Contact your Forest Service permit administrator.

APPENDIX A—INFORMATION

The following are resources for information and publications that you may find useful in your efforts to serve people with disabilities, as well as to enhance overall customer service.

WEB SITE AND PHONE SUPPORT

Americans with Disabilities Act (ADA) Information From the U.S. Department of Justice

(<http://www.ada.gov>)

For technical assistance on the ADA provisions that apply to businesses, to order publications, and for many other resources, you can also call the ADA Information Line at 800-514-0301 (Voice) or 800-514-0383 (TTY).

ADA National Network

The number 800-949-4ADA (V/TTY) will automatically connect you to the regional center nearest you to help you with your Americans with Disabilities Act business-related questions. The Web site is <http://www.adata.org/>.

American National Standards Institute (ANSI) B77 Aerial Tramway Standards

(www.benificialdesigns.com/skiaccess/skiaccess.html#adaptive)

This Web site also includes the draft ANSI standards for adaptive sports equipment.

Architectural and Transportation Barriers Compliance Board, also known as the Access Board

(<http://www.access-board.gov>)

For technical assistance on the Architectural Barriers Act Accessibility Standards, call the Access Board at 800-872-2253. For technical assistance on the American with Disabilities Act Accessible Design Standards, call the U.S. Department of Justice at 800-872-2253.

Disabled Sports USA (DSUSA) (<http://www.dsusa.org>)

DSUSA is the governing body for winter sports for athletes with disabilities. This organization is the source for information about ski competition for athletes with disabilities. For more information, call 301-217-0960.

U.S. Department of Justice (<http://www.ada.gov>) This Web site includes many resources for business as they interact with people who have disabilities. The U.S. Department of Justice technical assistance line at 800-514-0301 is helpful concerning questions about service animals, other power-driven mobility devices, and other program-related questions.

Federal Transit Administration (<http://www.fta.dot.gov>)

For questions about public transportation for people with disabilities, call the Americans with Disabilities Act assistance line at 888-446-4511 (Voice) or 800-877-8339 (TTY).

Forest Service—Accessibility (<http://www.fs.fed.us/recreation/program/accessibility>)

For information about accessibility on public lands and for resources, as well as for information concerning a local Forest Service accessibility specialist, contact Janet Zeller, Forest Service National Accessibility Program Manager, at jzeller@fs.fed.us or call 202-205-9597.

Internal Revenue Service (<http://www.irs.gov>)

For information about tax credits and deductions that can assist businesses in complying with the Americans with Disabilities Act, call 800-829-1040 (Voice) or 800-829-4059 (TTY). The U.S. Department of Justice (DOJ) publishes a *Tax Incentive Packet for Businesses* booklet available from DOJ through its Web page at <http://www.ada.gov> or by calling DOJ at 800-514-0301. Also, be sure to contact your tax professional.

National Council on Independent Living (<http://www.ncil.org>)

For information about this membership organization of independent living centers, call 703-525-3406 (Voice) or 703-525-4153 (TTY).

National Ski Areas Association (NSAA)

For information, visit <http://www.nsaa.org> or call 303-987-1111.

NSAA represents ski area owners and operators nationwide and is the liaison for the ski industry/Forest Service partnership at the national level.

Professional Ski Instructors Association (PSIA) (<http://www.thesnowpros.org>)

The adaptive branch of this organization is an excellent resource for information concerning existing adaptive programs, as well as for certification in adaptive instruction for your instructors. Contact PSIA at or 303-987-9390. PSIA certified instructors can take a 1- to 2-day PSIA Adaptive Clinic in a specific discipline to obtain the skills needed to provide instruction to adaptive skiers. The PSIA adaptive information and contacts can be accessed by either clicking on the word “Adaptive” on the PSIA home page or by using the link directly to the adaptive section at http://www.psia.org/psia_2002/adaptive_t.asp.

U.S. Department of Justice (<http://www.ada.gov>)

This Web site includes many resources for businesses as they interact with people who have disabilities. Assistance with questions regarding the Americans with Disabilities Act Accessible Design Standards is available from the U.S. Department of Justice at 800-514-0301.

GLOSSARY

Title 7, Code of Federal Regulations (CFR) Part 15b—The regulations implementing Section 504 of the Rehabilitation Act regarding the programs and activities of entities that operate under a permit or that receive financial assistance from any U.S. Department of Agriculture agency. These provisions address program accessibility requirements for accessible programs in new, altered, and existing facilities; accessibility transition planning; accessible communication requirements; and compliance procedures.

ABA—The Architectural Barriers Act of 1968 requires that all facilities constructed, purchased, rented, or leased by, for, or on behalf of a Federal agency, or by an entity operating under a permit from a Federal agency, comply with the applicable accessibility guidelines/standards.

ADA—The Americans with Disabilities Act of 1990 prohibits discrimination on the basis of disability. The ADA applies to State and local government services, public accommodations that are business and private entities open to the public, public transportation, and commercial establishments.

ADAADS—The American with Disabilities Act Standards for Accessible Design effective as of March 15, 2012, for all new or altered facilities under the ADA.

Adaptive Equipment—For the purposes of this guidebook, “adaptive equipment” is equipment designed for and used by people with disabilities to participate in skiing or other activities.

Nondiscriminatory Essential Eligibility Criteria—Nondiscriminatory essential eligibility criteria are a listing of the basic functions required to participate in an activity. The Americans with Disabilities Act states that public accommodations cannot impose or apply eligibility criteria that screen out or tend to screen out individuals with disabilities (paraphrased from 28 CFR 36.301).

PSIA—Professional Ski Instructors of America. Contact PSIA at <http://www.thesnowpros.org> or at 303-987-9390.

Readily Achievable—Readily achievable means the action can be easily accomplished and able to be carried out without much difficulty or expense. In determining whether an action is readily achievable, factors include the nature and cost of the action needed and the overall financial resources of the site's ownership (paraphrased from Title 28, Code of Federal Regulations, Part 36.104).

Section 504—Section 504 of the Rehabilitation Act of 1973 prohibits Federal agencies and those operating under a permit issued by a Federal agency from discriminating against any person with a disability in the delivery of their programs and activities or Federal assistance.

TTY (teletypewriter or text telephone)—A device for communicating with people who are deaf or have speech limitations by typing messages back and forth.

- **Relay System**— by dialing 711, a person is connected to an operator who has both a TTY and a voice phone and so can connect a person using a TTY with a person or business that does not have this equipment. The operator voices the typed text from the person using the TTY and types what

the person using a voice phone says in return. Remember to speak as if you were talking directly to the person calling, not to the operator.

Undue Burden—Undue burden means significant difficulty or expense. In determining whether an action would result in an undue burden, factors to be considered include the nature and cost of the action needed and the overall financial resources of the site or sites involved (paraphrased from Title 28, Code of Federal Regulations, Part 36.104).