

July 10, 2008

To All Miniature Golf Course Owners and Operators:

As most of you know, the miniature golf industry is about to be impacted by the soon-to-be-released **ADA (Americans with Disabilities Act) Standards for miniature golf courses**. This action is expected to occur later this year. This report is designed to provide you with as much information as possible about the potential impact this action may have on the industry. As you will see, there are still many very important issues that have yet to be resolved. It will be critical, both individually and collectively, that we, as an industry, respond to the Department of Justice (DOJ) during their “comment period” which is currently underway through August 18th on the issues that will affect our future in this industry.

INTRODUCTION

We hope you take the time to read this report, it is **probably the most important issue the miniature golf industry has ever faced**. We have attempted to provide an historical review of how these issues have progressed. Please understand that since there is not a “model” to follow, it is impossible to predict how many of the still-unanswered-questions will be decided by the DOJ in their final report. **The “effective dates” of some of these standards are critical to our industry and unfortunately have not yet been determined. It is feared that some of these standards (laws) could revert as far back as 1992.**

The Miniature Golf Association of the United States (MGAUS), the International Association of the Leisure Industry (IALEI), and the International Association of Amusement Parks and Attractions (IAAPA) has collectively been working on behalf of the owners and operators of miniature golf courses for the past three years. The MGAUS took the lead on behalf of the industry in the early stages of ADA in the mid – 90’s. IAAPA, with support from the MGAUS and IALEI has become the lead association in recent years. This report is provided on behalf of all three trade associations.

Much of what you will read in this report is the collective opinion of the three associations, but it should be emphasized that due to the complexities of many of the issues, **the associations cannot guarantee the information and opinions supplied are totally accurate**. We can assure you that we have made every attempt to research each and every issue addressed in this document, but unfortunately, the process utilized to develop these standards makes it very challenging to get answers to each of our questions.

We have attempted to provide as much or as little information you may care to read. We have provided an index that may assist you in this process. We have also included an abbreviated “**CRITICAL ISSUES**” page that highlights items that likely will impact the miniature golf industry. You will find that the information and terminology is not always easy to understand, so you likely will need to read some sections several times in order to fully comprehend. As you read, you will see certain terms and phrases printed in *boldface* and *boldface italics*, we have done this to emphasize the importance of these particular terms in this process and to hopefully reinforce the need for you to become totally familiar with them. Much of the **information is repeated several times** throughout the report. We have done this knowing that everyone will not read this entire document. With that understanding, **we felt it imperative to include all pertinent, relative information on each topic, even at the expense of appearing redundant.** We have arranged the information sequentially, as it has been published, so that you can better understand how the process has, and is unfolding. Good Luck!

WHY IS THIS IMPORTANT TO YOU

In the worst case scenario, the financial impact this action could have on many facilities throughout the country could be devastating. Major modifications to courses could be required to meet minimum *ADA Standards*. If this becomes the case, the date a course was built would become a very important issue. *Alterations* or *additions* made after certain dates would also be critical. **The DOJ’s definition of *alterations* and *additions* will be important to fully comprehend.**

Lawsuits would become a major concern as well. These suits could come from two different fronts, private on behalf of a person with a disability, and by the Department of Justice for violating a “federal civil rights” law. “Drive-by” lawsuits could create a new “cottage industry” for unscrupulous attorneys. Negative media coverage for non-complying facilities would also become a concern.

It is hoped the DOJ understands the devastating financial impact their actions could trigger. The process the ADA has taken since 1991 has been somewhat confusing at times to those of us that own and operate miniature golf courses. The good news is that **it appears the U.S. Access Board and the DOJ have listened to the concerns of individual miniature golf course owners and to associations who represent this industry.**

The reality of the situation is that we do NOT know what the final outcome will be! That is why we **MUST voice our concerns in the next several weeks** during this last phase, the **comment period.** Once the *standards* are established, it will become extremely difficult, if not impossible to get them changed.

The comment period could not have come at a busier time of the year for most of us in this industry. Your first instinct may be to say or think, “I don’t have time right now to respond”. When you think about the impact this could have on your facility, **you cannot afford not to take the time to understand these issues and to respond with your comments!**

After you have become familiar with these pending issues, we strongly encourage you to respond to the DOJ with your comments at www.regulations.gov. We also ask that you copy those comments to the committee at www.gr@iaapa.org. **Our three associations will combine the elements of your comments with ours to develop a response on behalf of the three associations. Your individual comments may very well have a more important impact than ours, so PLEASE respond as early as possible.**

Our committee will finalize our comments to the DOJ, **beginning the week of July 28th** so time is of the essence. **You do not need to be a member of one of the participating associations to respond. You just need to be an owner or operator of a miniature golf course in the United States.**

WHAT IS THE ADA?

The Americans with Disabilities Act (ADA) is a federal civil rights law that prohibits the exclusion of people with disabilities from everyday activities, such as buying an item at a store, watching a movie in a theatre, enjoying a meal at a restaurant, exercising at the local health club, or playing a round of miniature golf. It is important to recognize and understand that the ADA is a **civil rights law** and thus is **not subject to ANY “grandfathering provisions”** that are often associated with other laws.

The ADA broadly protects the rights of individuals with disabilities in employment, access to state and local government services, places of public accommodation (i.e. miniature golf courses), transportation, and other important areas of American life and, in addition, requires ***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.

HOW THESE LAWS ARE ESTABLISHED

The Department of Justice (**DOJ**) is ultimately responsible for adopting **ADA “Standards” (laws)**. The **DOJ** relies on the ***U.S. Access Board*** to develop **ADA Accessibility “Guidelines”**. The **Access Board** is an independent Federal agency, committed to **design that is accessible to persons with disabilities**. The Access Board consists of thirteen public members appointed by the President, of whom the majority must be individuals with disabilities, and the heads of twelve federal departments and agencies specified by statute, including the heads of the Department of Justice and the Department of Transportation.

There is an **important distinction** under the ADA between “*Guidelines*” and “*Standards*”. *Guidelines* are issued by the **Access Board**. The Access Board’s work is very lengthy and involved. Our miniature golf committee, for example, met personally with the Access Board in May of 2006 in Washington D.C. and has had regular communication throughout this process. In essence, the *guidelines* developed by the Access Board are suggestions to the DOJ, who ultimately, after review (comment period that we are currently in), drafts the *Standards to interpret how the ADA applies in certain settings (in this case to miniature golf)*. **The standards become the law!**

Standards are what the public must follow to comply with the laws; the guidelines are what the DOJ must follow in setting or updating their *standards (laws)*. When the Access Board issues guidelines, it does not change compliance for the public until the standards are similarly changed and an effective date is set. Until the DOJ’s rulemaking is complete, the revised ADA Guidelines are effective only as guidance to the Department of Justice and the public.

The most difficult aspect of this process is attempting to determine when and how these standards will be implemented in the miniature golf course industry. The initial standards that were published in 1992 (these are referred to as the “1991 Standards”), are broad and were not written to address certain specific industries including miniature golf.

THE INTRODUCTION OF ADA STANDARDS IN 1992

As many of you know, the U.S. Access Board published *ADA Accessibility Guidelines* on July 26, 1991 for all businesses including miniature golf. **The initial ADA requirements became effective on January 26, 1992 (They are referred to as the “1991 Standards”). Generally, new facilities designed and constructed for first occupancy later than January 26, 1993, must be accessible.**

All places of public accommodations, including miniature golf courses, are subject to the general non-discrimination requirements of the ADA. Operators of miniature golf courses may not discriminate against people with disabilities in providing access to their services. In recognition that many small businesses, including miniature golf courses, cannot afford to make significant physical changes to their stores or courses to provide accessibility to wheelchair users and other people with disabilities, **the ADA has requirements for existing facilities built before 1993 that are less strict than for ones built after early 1993 or modified after early 1992.**

It is also important to understand that certain physical changes (“*alterations*”) you may make in the future on your miniature golf course, or changes that you have made since early 1992, may obligate you to come into compliance with these standards, if not completely, then as much as is required under those *standards*. These situations are discussed later in this document.

This initial phase was extremely challenging to all industries, including miniature golf, as these types of “*standards*” (“*1991 Standards*”) had never been mandated over such a broad base of varying types of businesses. **There was not a “model strategy” for any industry to follow in an attempt to “minimize” the financial impact these standards might put upon the respective industries.** Given the typical design of most miniature golf courses that incorporate **multi-level terrain** with “**obstacles**” placed within the “*primary function area*” (golf holes), these **new standards** potentially could “*fundamentally alter*” the experience of miniature golf, and “*compromise the challenge of the game*”.

The **NPRM (Notice of Proposed Rulemaking)** just released by the DOJ lists two questions they are requesting comment on from owners and operators of miniature golf courses (discussed later). One of them (**number 39**) addresses a **potential exception** for these existing types of miniature golf courses (**courses with extreme elevation changes built within a limited “footprint”**). This question will be addressed in more detail in the last section of this report. **It will be important for members of the industry to respond.**

The “*1991 standards*” primarily addressed broad issues that people with disabilities regularly faced. Issues such as the number and size of parking spaces, the height of store counters, “*architectural barriers*” such as steps (or obstacles on miniature golf holes), aisle widths, etc. were established. These “*standards*” impacted all businesses and industries including miniature golf courses and hopefully have been addressed where required by our members.

The “*1991 standards*” established by the DOJ are quite lengthy and address a wide array of facilities and situations. If you, as an owner or operator of a miniature golf course have specific questions that you feel may impact your facility, we strongly suggest you review www.ada.gov/stdspdf.htm or call an “Accessibility Specialist” at the Access Board. They can be reached at:

(800) 872-2253 (voice)

(800) 993-2822 (TTY)

Fax: (202) 272-0081

e-mail: ta@access-board.gov

www.access-board.gov

The following are issues that the committee has identified as potentially pertinent points for miniature golf owners. This section should **not** be construed as every potential issue and it should be emphasized that these comments are **interpretations** made by the committee and should be taken as such. **Neither the committee nor any of the three contributing associations can be held responsible for any misinterpretation of any of these “guidelines or standards.”**

Private entities (most miniature golf facilities) who own, lease (or lease to), or operate recreation facilities have a separate obligation under **Title III** (Title III is the section of ADA that addresses businesses of “public accommodation”) **of the ADA** to remove “*architectural barriers*” in existing facilities where it is “*readily achievable*” (i.e. **easily accomplishable and able to be carried out without much difficulty or expense**).

Architectural barriers are physical elements of a facility that “**impede access by people with disabilities**”. These barriers include more than obvious impediments such as steps and curbs that prevent access by people who use wheelchairs.

In determining whether an action is readily achievable factors to be considered include: (1) The **nature and cost** of the action needed under this part; (2) The overall **financial resources of the site** or sites involved in the action; the **number of persons employed at the site**; the **effect on expenses and resources**; legitimate **safety requirements** that are necessary for safe operation, including crime prevention measures; or the impact otherwise of the action upon the operation of the site; (3) The **geographic separateness, and the administrative or fiscal relationship of the site or sites in question to any parent corporation or entity**; (4) If applicable, the **overall financial resources of any parent corporation or entity**; the **overall size of the parent corporation or entity with respect to the number of its employees**; the **number, type, and location of its facilities**; and (5) If applicable, the **type of operation or operations of any parent corporation or entity, including the composition, structure, and functions of the workforce of the parent corporation or entity**.

Undue burden can also be used in determining if an action is required. *Undue burden* means **significant difficulty or expense**. In determining whether an action would result in an undue burden, factors to be considered are exactly the same as those used for *readily achievable* listed above.

The “*readily achievable*” standard is a “**lower**” standard than the “*undue burden*” standard **in terms of the level of effort required**, but the factors used in determining whether an action is *readily achievable* or would result in an *undue burden* are identical.

There is no definition for miniature golf courses or other recreational facilities as to which barriers can be removed without much difficulty or expense. These decisions must be made on a case-by-case basis.

COMMITTEE NOTE TO MINIATURE GOLF COURSE OWNERS: It would be our advice that if you planned to use factors 2 – 5 listed above for “*readily accessible*” or “*undue burden*”, to contact the Access Board directly to get further assistance. Contact information is listed above in this section.

The committee has some “difficulties” with factors 2 – 5 as they relate to the miniature golf industry. Factors 3 - 5 take into account that some local facilities are owned or operated by parent corporations or entities that conduct operations at many different sites. This section makes clear that, in some instances, resources beyond those of the local facility where the *barrier* must be removed may be relevant in determining whether an action is *readily achievable*. One must also evaluate the degree to which any parent entity has resources that may be allocated to the local facility.

We intend to address these issues in our comments to the DOJ. **We encourage individual members of the industry to do the same if they are troubled by any of these factors.**

Miniature golf owners as well as owners of all businesses have a **continuing obligation to engage in readily achievable “barrier removal”**. Over time, “barrier removal” that initially was not readily available **may later be required** because of changed circumstances.

The **obligation to remove barriers will never exceed the level of access required under the “alteration” or “new construction” standards**. It is important to understand that “barrier removal” in an existing facility does **not** trigger the accessible “*path of travel requirement*”. This requirement (*path of travel*) will be explained later in this section.

If a miniature golf course determines that it has “barriers” that should be removed, but it is not “*readily achievable*” to undertake all of the modifications now, the DOJ recommends that the facility **develop an implementation plan designed to achieve compliance with the ADA’s “barrier removal” requirements**. Such a plan, if appropriately designed and diligently executed, could **serve as evidence of a “good faith effort”** to comply with the “*ADA’s barrier removal requirements*”.

The ADA establishes different standards for “*existing facilities*” and “*new construction*”. In “*existing facilities*”, where retrofitting may be expensive, the requirement to provide access is **less stringent** than it is in “*new construction and alterations*”, where accessibility can be incorporated in the initial stages of design and construction without a significant increase in cost.

All “*newly constructed*” miniature golf courses **first opened after January 26, 1993**, should have been readily accessible to, and usable by individuals with disabilities to the extent that it was not “*structurally impracticable*.” “*Readily accessible and usable*” means that the course(s) should have been built in strict compliance with the “*ADA Accessibility Guidelines (ADAAG)*”. There is **NO cost defense to the “new construction” requirements**.

“Structurally impracticable” means that **unique characteristics of the land** prevent the incorporation of **accessibility features** of the miniature golf course. In such a case, the **“new construction”** requirements apply, except where the owner can demonstrate that it was **“structurally impracticable”** to meet those requirements. **This exception is very narrow** and should not be used in cases of merely hilly terrain. The DOJ expects that it will be used in only rare and unusual circumstances. It is the committee’s opinion that **“structurally impracticable” may be used in a related way for a defense in certain circumstances for existing courses that have significant elevation changes within a tight footprint of space** (discussed in detail in last section of this report). **The DOJ requests responses from miniature golf course owners and operators in their recently released NPRM (Question #39) regarding a potential “exception” for these types of existing miniature golf courses.** This is discussed in the last section of this report.

Even in those circumstances where the exception applies, **portions of a miniature golf course that can be made accessible must still be made so.** In addition, **“access” should be provided for individuals with “other types of disabilities”,** even if it may be **“structurally impracticable”** to provide access to individuals who use wheelchairs.

An **“alteration”** is **any change that affects usability. It includes remodeling, renovation, rearrangements in structural parts,** and changes or rearrangement of walls. Normal maintenance, re-roofing, painting, wallpapering, asbestos removal, and changes to the electrical and mechanical systems are **not** “alterations”, unless they affect usability. **“Alterations”** are also subject to **“ADA Standards”**.

“Alterations” Any alteration made to a place of public accommodation or a commercial facility, **after January 26, 1992,** should have been made so as to ensure that, to the **“maximum extent feasible”,** the **“altered portions”** of the facility are **“readily accessible”** to and usable by individuals with disabilities, including individuals who use wheelchairs.

COMMITTEE NOTE TO MINIATURE GOLF COURSE OWNERS: The committee has submitted to the Access Board and plans to submit to the DOJ **additional miniature golf “normal maintenance” items. To date, they have NOT been adopted. Currently, re-carpeting miniature golf holes is NOT considered “normal maintenance” and would be classified an “alteration” requiring additional work and expense (explained later).**

Small repairs to golf holes, curbs, brick pavers or wood used as curbs, and other typical and common repairs are **not** included. **Additionally, landscape maintenance (e.g., replacing damaged or dead plant material, reseeding, reseeding, planting “annual flowers”, etc.) is not specifically listed. It is strongly suggested that miniature golf course owners express their concern on these particular issues and any others they may have on this subject.** Comments to the DOJ will be discussed later in this report.

Occasionally, the nature of a miniature golf course makes it impossible to comply with all of the “*alterations standards*”. In such a case, features must be only made accessible to the extent that it is “*technically feasible*” to do so, or “*maximum extent feasible*.” Adding accessibility features during an “*alteration*” may increase the costs but does **not** mean compliance is “*technically infeasible*”. **Cost is not to be considered**. Moreover, even when it may be “*technically infeasible*” to comply with “*standards*” for individuals with certain disabilities (for instance those in wheelchairs), the “*alteration*” must still comply with “*standards*” for individuals with other impairments.

“*Technically Infeasible*” means, with respect to an alteration of a building or a facility (miniature golf course), that it has little likelihood of being accomplished because *existing structural conditions* would require removing or altering a load-bearing member which is an essential part of the structural frame; or because **other existing physical or site constraints prohibit modification or addition of elements**, spaces, or features which are in full and strict compliance with the minimum requirements for new construction and which are necessary to provide accessibility.

It would appear that “*Technically Infeasible*” could be a very **important defense** for many existing miniature golf courses. Many of the miniature golf courses built after the late 70’s **include significant elevation changes within a very tight “footprint” of property**. Many, if not most of these courses are built adjacent to buildings, other attractions or paved parking areas. **All of these elements would, in most cases, fall within “other existing physical or site constraints.”**

“*Technical Infeasibility*” may be appropriately used as a defense for some *existing miniature golf courses* that include significant elevation changes within a limited space. **The DOJ requests comments (Question # 45)** in their recently released NPRM regarding a proposed “**exception for existing miniature golf courses**” that have these inherent features. **This will be discussed in the last section of this report.**

When an “*alteration*” is made to a “*primary function area*” (a golf hole would be a primary function area of a miniature golf course), not only must that “*alteration*” be done in compliance with ADAAG, but there must also be an “*accessible path of travel*” from the “*altered area*” to the entrance of your facility.

Most facilities built after 1992 are likely in compliance with ADA issues relating to other parts of their facility since most local and state building codes adopted these accessibility standards, so the next priority would likely be to create an “*accessible path of travel*” on the miniature golf course commencing from the “*altered area*”.

Although the following will not make sense to many, it is **the interpretation of the committee** that even if the area of “*alteration*” was “hole #13”, in the middle of the course, that is where the “*path of travel*” must begin. “*Alterations*” to provide an “*accessible path of travel*” are required to the extent that they are not “*disproportionate*” to the original “*alteration*”, that is, to the extent that the added accessibility costs **do not exceed 20 percent** of the cost of the original “*alteration*” to the “*primary function area*”.

Every single “*minor alteration*” made in a “*primary function area*” does **NOT** trigger a “*path of travel*” requirement. We suggest that you go to: www.ada.gov/stdspdf.htm for complete information.

Each “*addition*” to an “*existing miniature golf course*” is regarded as an “*alteration*”. But “*additions*” also have **attributes of “*new construction*”**, and to the extent that a space or element in the “*addition*” is “*newly constructed*”, each new space or element must comply with the “*applicable scoping provisions*” of sections for “*new construction*”.

Construction of an “*addition*” **does not, however, create an obligation to retrofit the entire miniature golf course to meet requirements for “*new construction*”**. Rather, the “*addition*” is to be regarded as an “*alteration*” and to the extent that it affects or could affect the “*usability of, or access to an area containing a primary function*”.

SUMMARY OF ADA ACTION TAKEN BETWEEN THE “1991 STANDARDS” and THE “2004 ADAAG”, and THEIR EFFECT ON THE MINIATURE GOLF INDUSTRY

Even though ADAAG had no “*specific standards*” (and technically it could be interpreted that there are still no “*specific standards*” in place as of July, 2008) for miniature golf courses in their *1991 standards*”, there is some concern that the DOJ may say that ADAAG’s “*general standards*” should have been applied by miniature golf course owners to the fullest extent possible.

There is also concern that where “*technical standards*” (discussed in this section) existed, they too should have been applied. Additionally, the DOJ could say that if there were no applicable “*scoping*” requirements (i.e. how many features/holes must be accessible), then a reasonable number, but at least one, should have been accessible. The committee has attempted for years to get specific “*triggering dates*” from the Access Board regarding these questions and has consistently been told that they (the U.S. Access Board) do not have the authority to set dates – only the DOJ has that authority.

Soon after the publication of *ADA 1991 Standards*, the U.S. Access Board initiated their work on developing standards for a number of unique industries, including miniature golf. These new guidelines were designed to address the inherent nature and nuances of miniature golf with the needs of our disabled guests. This was and is a very challenging endeavor for all concerned. This effort is described in the next section. The yet-to-be-answered-question for the miniature golf industry is to what, if any, of the *1991 Standards* will course owners be held accountable?

It is our hope that because there were no specific miniature golf course *standards* included in the *1991 Standards*, that the only *standard* that would have been practical to apply, if any, would be “*barrier removal from a primary function area (miniature golf holes)*”. The U.S. Access Board has advised us on numerous occasions that only the DOJ can and will make these types of determinations.

The committee finds encouragement in **III-5.3000 “Application of ADAAG”**. **The Department of Justice has adopted the ADA Accessibility Guidelines (ADAAG)**, issued by the Architectural and Transportation Barriers Compliance Board (also known as the Access Board), as the standard to be applied in new construction. **The major provisions of ADAAG are summarized in III-7.0000.**

In this section, FAQ’s are shown with “Illustrations” and examples. One question listed is, “**What if ADAAG has no standards for a particular type of facility -- such as bowling alleys, golf courses, exercise equipment, pool lifts, amusement park rides, and cruise ships?**” **They explain that in such cases, the ADAAG standards should be applied to the extent possible.** Where appropriate *technical standards* exist, they should be applied. If there are no applicable *scoping requirements* (i.e., how many features must be accessible), then a reasonable number, but at least one, must be accessible. **A strong analogy can be made with miniature golf and several of the illustrations they presented and are listed below:**

ILLUSTRATION 1: A swimming pool complex must comply fully with ADAAG in the parking facilities, route to the facility door, entrance to the facility, locker rooms, showers, common areas, and route with the pool. **However, ADAAG does not contain technical standards for access to the pool itself.** Thus, the owner cannot be found in violation of ADAAG for failure to install a lift or other means of access into the pool.

NOTE: ADAAG did not have specific guidelines or standards for miniature golf during this period.

ILLUSTRATION 2: Because of the **unique structure** of Cruise Ships, **none of the ADAAG technical or scoping standards are appropriate.** Until such time as the Architectural and Transportation Barriers Compliance Board (Access Board) issues specific standards applicable to ships, there is no requirement that ships be constructed accessibly. (Cruise ships would still be subject to other title III requirements.)

NOTE: **The unique fundamental aspects of miniature golf could be favorably compared to Cruise ships. The committee feels these two illustrations and other actions taken throughout this period would make it very unlikely that the DOJ would impose any (with the possible exception of removal of architectural barriers where possible) of the 1991 standards adopted on miniature golf course owners.**

Unfortunately, we cannot take this for granted and we will not be sure until the triggering dates of the about-to-be-released standards are set.

We encourage members of the industry to comment to the DOJ on this subject.

PROPOSED ADA MINIATURE GOLF STANDARDS

**(“Guidelines” published by U.S. Access Board July 23, 2004,
known as the “2004 ADAAG”)**

In 1993, the Access Board established an advisory committee to make recommendations on guidelines for recreation facilities. The advisory committee met for almost a year and in September of 1994 the Access Board published its recommendations as an **Advance Notice of Proposed Rulemaking (ANPRM)**. To obtain additional information for this rulemaking, **the Access Board held informational meetings and conducted site visits on access to miniature golf facilities in September, 1996.**

A Notice of Proposed Rulemaking (NPRM) was published in the *Federal Register* on July 9, 1999. A public comment period was held until December 8, 1999. Public hearings were held in Dallas, TX, San Francisco, CA. and Boston, MA. Over 200 people attended these hearings and 54 people provided testimony. The Access Board received over 2,500 comments during the public comment period.

The **“guidelines”** developed by the Access Board that were published in the *Federal Register* on September 3, 2002 were designed to serve as the **“basis for standards”** to be adopted by the Department of Justice for **“new construction”** and **“alterations”** of recreation facilities covered by the ADA including miniature golf. Each industry, including miniature golf, was closely examined in an attempt to accommodate people with disabilities. Each industry was given a very lengthy period to respond and to comment on the impact these new regulations had on their industries and to make suggestions on how to provide access for disabled people without

On July 23, 2004, the U.S. Access Board published new design “*guidelines*” that cover access for people with disabilities under the Americans with Disabilities Act (ADA). These “*guidelines*” update access requirements for a wide range of facilities, including miniature golf courses. This 2004 updated document, known as the “2004 ADAAG” addresses access in “new construction” and “alterations” and contain “scoping” provisions, which indicate what has to comply, and “technical specifications”, which spell out how compliance on these guidelines are to be achieved.

This new design document (2004 ADAAG) is the culmination of a comprehensive, decade-long review and update of the Access Board’s “ADA Accessibility Guidelines”, which were first published in 1991 and known as the “1991 Standards”.

The Access Board’s “*guidelines*” serve as the baseline for “*standards*” used to enforce the ADA. These “*standards*”, which are maintained by other Federal agencies, such as the Department of Justice (DOJ) under the ADA, will be updated according to the new “*guidelines*”. It is these “*standards*”, not the Access Board’s “*guidelines*”, which the public must follow.

These “Miniature Golf Course Guidelines” (2004 ADAAG) can be found at:
www.access-board.gov/recreation/guides/min-golf.htm

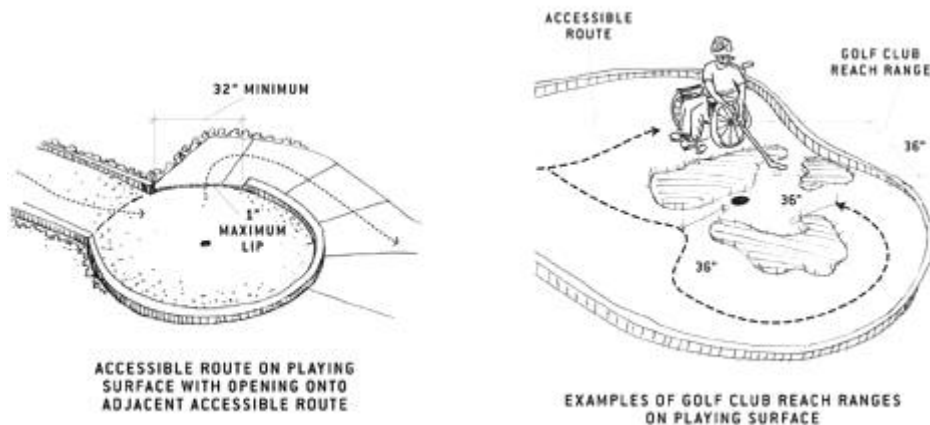
The guidelines described in this guide focus on newly designed or newly constructed and altered miniature golf courses, adventure-style courses, and other putting courses.

“*Accessible Holes*”: The 2004 ADAAG requires that at least 50 percent of the holes on a miniature golf course be accessible — if possible, operators should make all holes accessible. Accessible holes must be consecutive, to offer a more socially integrated experience. If only the minimum number of holes are accessible (in most cases 9), it is recommended that designers select holes that will offer golfers who use wheelchairs or other mobility devices a playing experience that is as equivalent as possible to the experience of golfers without disabilities. An exception permits courses to have one break in the sequence of accessible holes, if the last hole in the sequence is the last hole on the course. The route in which a golfer with a disability must travel may not require travel back through any holes, even if the route is adjacent to the hole and not on the miniature golf hole itself.

The NPRM just released by the DOJ lists two questions that they are requesting comment on from owners of miniature golf courses. One of them (number 59) addresses “*Accessible Holes*”. This question will be addressed in more detail in the last section of this report. It will be important for members of the industry to respond.

“Accessible Routes”: Accessible routes are continuous, unobstructed paths connecting all accessible elements and spaces of a building, facility, or miniature golf course. The accessible route must comply with ADAAG provisions for the location, width (**minimum of 36 inches**), passing space, head room, surface, slope (maximum of 1:12 or 8.33%), changes in level, doors (for indoor courses), egress, and areas of rescue assistance, unless otherwise modified by specific provisions outlined in this guide. The **“accessible route” must connect the facility’s entrance with the first accessible hole, and with start of play area on each following accessible hole. The course must be configured to allow an easy exit from the last accessible hole to the course exit and also the facility exit or entrance. When not all holes are accessible, a player cannot be required to double back through holes in order to exit.** Where possible, designers and operators are encouraged to make all holes accessible. **An accessible route connecting accessible holes may be on the hole-playing surface or adjacent to it.**

“Accessible Routes on the Playing Surface:” The surface of the accessible route must be stable, firm and slip resistant. (Where carpets are used on the playing surface, **they are NOT required to comply with the requirements in ADAAG for accessible carpets; however, they are still required to be stable, firm, and slip resistant. Most indoor/outdoor carpet that has been typically used on miniature golf courses is acceptable).**



There is usually a curb around a hole to keep the ball contained within the playing area of each hole. When the accessible route is provided on the course, a **1-inch high maximum curb** is permitted for an opening of 32 inches minimum where the accessible route extends outside the hole (exit). This opening will permit passage of wheelchairs, while containing the ball within the hole. Designers should consider locating this opening in an area where the ball is less likely to roll.

NOTE TO MINIATURE GOLF COURSE OWNERS: The committee has recommended that the 1-inch “exit” curb be permitted to be placed on the “fairway” portion of the golf hole to minimize the opportunity for the ball to leave the “putting green” where by the nature of the design, balls tend to ricochet more. Technically, the current language does not prohibit this design, but **we would like to have this specifically addressed to avoid any future confusion.** To facilitate this, the hole would need to have an “*accessible path*” between the “*exit curb*” and the start of the next “*accessible hole*”. By locating the exit on the fairway, **the number of golf balls physically leaving the golf hole would be dramatically reduced.** It is suggested that miniature golf course owners who feel this is an important issue, suggest to the DOJ that this be clarified.

Comments to the DOJ will be discussed later in this report.

The “*accessible route*” on a playing surface must be within 36 inches (the golf club reach range) of any area where the ball comes to rest on a golf hole.

If the “*accessible route*” is on the playing surface, handrails are not required. The “*accessible route*” may include a maximum slope of 1:4 (25%) for a maximum 4-inch rise. These steeper slopes or ramps are permitted for limited distances.

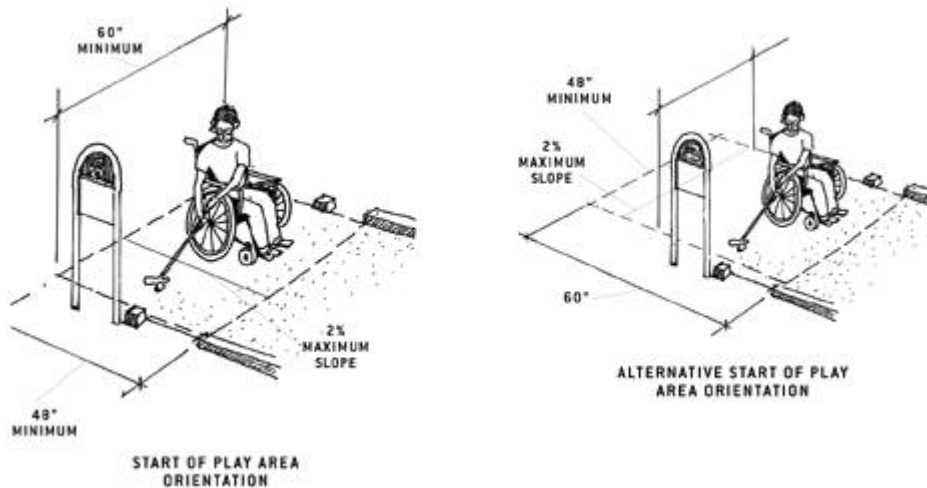
“Accessible Routes Adjacent to the Playing Surface”.

If the “*accessible route*” is adjacent to the playing surface, it **must not exceed 36 inches from any area where golf balls may come to rest.** This allows players to be close enough to reach the ball and play from outside the hole. The “*accessible route*” should be as close to the level playing areas as possible.



The “*accessible route adjacent to the playing surface*” **must** comply with ADAAG. The “*accessible route provisions*” in ADAAG address slope (maximum of 1:12 or 8.33%), width (minimum of 36 inches), cross slope (maximum of 1:50 or 2%), handrails, and changes in level.

“Start of Play Areas”: The clear floor or ground space **area at the start of play for each accessible hole must be 48 by 60 inches minimum** to allow players to position themselves for the first shot. It must have a slope no steeper than 1:48 so that people using wheelchairs or mobility devices do not have to hit the ball while positioned on a sloped surface. The accessible route and the clear space can overlap.



CURRENT STATUS

Currently (July, 2008), the Access Board’s 2004 ADAAG *guidelines* are not **mandatory**. In this respect, they are similar to a model building code in that they are not required to be followed except as adopted by an enforcing authority. Of concern to many in the miniature golf industry, **is that it has been implied that the DOJ may establish the “triggering date” of these standards to be 2004 when the Access Board published their “2004 ADAAG guidelines”.**

Under the ADA, the Department of Justice (DOJ) is responsible to incorporate enforceable standards based on the Access Board’s guidelines. **The DOJ will soon update their ADA standards based on the guidelines recommended by the U.S. Access Board.** This very long process is now in its last phase before final adoption.

The standards currently in effect that serve as law are the 1991 Standards issued by the DOJ on the Access Board’s original ADA Accessibility Guidelines (ADAAG). On Friday, May 30, 2008, Attorney General Michael B. Mukasey signed proposed regulations to revise the Department’s ADA regulations, including its ADA Standards for Accessible Design. On Tuesday, June 17, 2008, the proposed regulations were published in the Federal Register. **The proposed regulations consist of a Notice of Proposed Rulemaking (NPRM) to amend the ADA regulation for state and local governments, a notice of proposed rulemaking to amend the ADA regulation for public accommodations and commercial facilities.**

The Access Board received a significant number of comments related to the impact of these accessibility guidelines on existing facilities. Some commenters interpreted the proposed rule and the draft final rule to require all existing recreation facilities or elements of these facilities to be modified to meet the new accessibility guidelines. They expressed concern that the guidelines would have a significant economic impact on existing recreation facilities.

To clarify, ADAAG and the final accessibility guidelines for recreation facilities apply to newly designed or newly constructed buildings and facilities or when they are altered. ADAAG and the Department of Justice regulations address whether a change to a building or a facility is considered an alteration. The publication of this final rule does not require that all existing facilities be modified to meet these guidelines.

ISSUES OF CONCERN AND IMPORTANCE TO THE MINIATURE GOLF INDUSTRY

The following are issues that we (the committee) feel are very pertinent to miniature golf course owners and operators. We have also, when appropriate, supplied the opinion of the committee as to the implications or impact these standards may impose on facilities. **Please be aware there are many variables to these standards, such as when a course was built, the financial implications the standards may impart, and the ability to make the appropriate changes within the physical characteristics of your facility.**

ALTERATIONS

This is an area of particular concern to the committee. The committee has submitted to the Access Board and plans to submit to the DOJ **additional miniature golf “normal maintenance” items. To date, they have NOT been acknowledged or adopted.**

Currently, the re-carpeting of miniature golf holes is **NOT** considered “normal maintenance” and would be classified an *“alteration.”* This designation requires additional work and expense due to the requirement of **allotting an additional 20% of the cost of alterations to create an “accessible path of travel” to/from the altered area.**

The cost to typically re-carpet an 18-hole miniature golf course is approximately \$10,000 - \$15,000. The additional cost to provide an *“accessible path of travel”* would be 20% of this, or an additional \$2,000 - \$3,000 per 18-hole course. It is not uncommon for some owners in tourist locations to re-carpet their courses each year. **Worn carpeting is a safety issue to all guests. Worn carpet also “fundamentally alters” the quality and experience to our guests.**

Section 36.211 provides that a public accommodation shall maintain in operable working condition those features of facilities and equipment that are required to be “*readily accessible*” to and usable by persons with disabilities by the Act or this part. The Act requires that, to the “*maximum extent feasible*,” facilities must be accessible to, and usable by, individuals with disabilities. This section recognizes that it is not sufficient to provide features such as accessible routes, elevators, or ramps, if those features are not “maintained**” in a manner that enables individuals with disabilities to use them.**

Concrete repairs to a golf hole (usually less than 4 square feet) are not uncommon maintenance and also are a **safety concern** (trip hazard). Loose brick pavers (borders to golf holes) or damaged wood borders to a golf hole are typical maintenance and safety issues. The loose, uneven nature of these elements creates an “exposure” to the owner of a facility if not repaired in a timely manner.

Annual landscaping tasks such as the planting of annual flowers, replacing dead plant material, resodding or reseeded worn, high pedestrian traffic areas are the miniature golf industry’s “**painting of interior walls.**” All of these tasks are done on a **regular basis, and as such should NOT be considered an alteration. Alterations are typically done once in a decade or so! These tasks do NOT change the usability of the golf holes.**

As was stated earlier in this document, it is **the interpretation of the committee** that even if the area of “*alteration*” was “hole #13”, in the middle of the course, that is where the “*path of travel*” must begin. “*Alterations*” to provide an “*accessible path of travel*” are required to the extent that they are not “*disproportionate*” to the original “*alteration*”, that is, to the extent that the added accessibility costs **do not exceed 20 percent of the cost** of the original “*alteration*” to the “*primary function area*”.

The ADA definition of an alteration is: A change to a place of public accommodation or a commercial facility that affects or could affect the “*usability*” of the building or facility or any part thereof. The items referenced by the committee do not fall into this definition. **The definition of an alteration and/or maintenance needs to be clarified in fairness to the miniature golf industry. Additionally, any item that is vaguely addressed becomes a potential lawsuit or the threat of one.**

It is not the intent of the committee to present this as a way to reduce the responsibilities associated with true “*alterations.*” These tasks are no different than many used as examples by the Access Board such as, re-roofing, painting, wallpapering, asbestos removal, and changes to the electrical and mechanical systems.

It is critical that we do everything we can to impress upon the DOJ that miniature golf has “*typical maintenance issues*”, just as other industries. Please take the time to list the “*typical maintenance issues*” of operating a miniature golf course. We obviously have not covered them all here. This is an issue that the DOJ needs to hear “loud and clear!”

ACCESSIBLE HOLES

At least 50 percent of holes on a miniature golf course must be accessible and connected to an accessible route (which must connect the last accessible hole directly to the course entrance or exit). The holes would have to be consecutive with **one break within the consecutive holes permitted**, provided that the last hole on a miniature golf course is the last hole in sequence.

What this means: First, one very important, yet to be established aspect of this new “*Standard*” will be the date that it goes into effect. The Access Board established this as a “*Guideline*” in 2004. The Department of Justice has announced that it intends to adopt all of the Access Board’s *guidelines* and make them “*standards*”. It is unclear what the *effective date* of this *standard* will be. Potentially, the date could be as early as the date that it was published as a *guideline* (summer of 2004), and it could be as late as 6 months after the date that the DOJ publishes it as a *standard* (probably late 2008).

The Accessible Hole Standard will not impact all miniature golf courses. It will impact all *newly constructed* miniature golf courses built after the *effective date* of this *standard* and it will also affect all courses *altered* after this same date. **The definition of *altered* courses will be critical for miniature golf owners to understand (see preceding “issue”).** The current definition of *alterations* is explained in the preceding paragraphs.

Add for further clarity: It should be noted that any course that does not have 18 holes must have at least 50% of its holes be accessible.

To accomplish the required accessibility after the compliance date (yet to be determined), an owner may **not** build an additional fully accessible 18-hole course in order to meet the 50% requirement assuming the existing 1st course was built ***after the effective date*** of the enforceable *standard* (date yet to be determined) **or** it is **not permissible** to build one course that is not accessible and a second 18 – hole course totally accessible to disabled guests. The intent of the ADA is to provide the **same experience to the “disabled” golfer as the “general public”**.

EFFECTIVE DATE

In explaining the DOJ's process of adopting the Access Board's Guidelines, it is consistently stated that when the Access Board issues guidelines, those guidelines **do not change compliance for the public until the standards are similarly changed and an effective date is set. Until the DOJ's rulemaking is complete, the revised ADA Guidelines are effective only as guidance to the Department of Justice and the public.**

ADAAG did not have specific miniature golf course *standards* in place until the 2004 Guidelines were published. Similar to other unique industries, the broad "retail store-like" standards established in 1991 in most cases were impossible to incorporate into the current miniature golf industry. The Access Board correctly recognized the need for specific guidelines in some unique industries such as miniature golf and addressed them in their 2004 Guidelines.

The "*effective date*" of these "*standards*" could dramatically impact many members of the industry. It is the committee's strong recommendation to the members of the industry to request the DOJ to make the "effective date" to be 6 months following the establishment of these standards.

POTENTIAL EXCEPTION FOR EXISTING MINIATURE GOLF COURSES

Sections 206.2.16, 239.2, and 239.3 of the 2004 ADAAG require at least fifty percent (50%) of the holes on miniature golf courses to be accessible and connected to an accessible route (which must connect the last accessible hole directly to the course entrance or exit); generally, the accessible holes would have to be consecutive ones. Specified exceptions apply to accessible routes located on the playing surfaces of holes.

*Question 45: The Department is considering creating an exception for existing miniature golf facilities that are of a **limited total square footage**, have a **limited amount of available space within the course**, or were **designed with extreme elevation changes**. If the Department were to create such an exception, **what parameters should the Department use to determine whether a miniature golf course should be exempt?***

This issue/opportunity may be the most important item that the industry can respond. As most of you know, many of the miniature golf courses built in the past 25 – 30 years fit the description described above.

These courses are not required to make their courses accessible (if the “*effective date*” does not go into effect until after the “*standards*” are adopted by the DOJ) since they were built prior to the effective date. If and when “alterations” were completed in the future, the facility would be obligated to make the “*primary function areas*” (golf holes) “*accessible.*”

Due to the varying elevation changes throughout the courses, it would be “*technically infeasible,*” in most cases, to achieve “*accessible standards*” within the boundaries of the course, particularly for someone in a wheelchair. It may be possible to make one or two holes accessible, but building an “*accessible path of travel*” that would start at hole #1 and travel through the course and end at hole # 18 would in most cases also be “*technically infeasible.*” Additionally, the cost and scope of such alterations would be greatly “*disproportionate*” to the cost of the overall alteration.

Just as “*structural impracticability*” can be applied in certain cases to “*new construction,*” the original design of many existing miniature golf courses (designed in good faith prior to these “*proposed standards*”) are examples of “*structural impracticability*” within the boundaries of the existing course relating to the feasibility of creating an “*accessible course*” after alterations. In essence, the “*unique characteristics of terrain*” (courses) originally designed into the courses prevent the incorporation of “*accessibility features,*” just as this type of “virgin” terrain would be examples of “*structural impracticability*” in new construction.

It is the opinion of the committee that the DOJ is asking for some specific parameters in which to “craft a measurable” exception. Simply stating “it can’t be done” for any course built prior to “X” will likely not be accepted. Hence, we must recommend some specific parameters. The industry and the DOJ need your input on this if this exception is to be provided. The parameters must be well-thought-out and fair. The committee has identified the following potential “general parameters:”

- The amount of elevation change (in feet) within the miniature golf course compared to the total area (square footage) within the actual borders of the playing area of the course. To be consistent, the measurement should be related to the playing surface of the course, not the highest point of a “scene” or area where a golfer would not be required to putt.
 - To accurately develop this type of parameter, current ADA guidelines as they relate to “scoping” requirements such as grades, slopes, etc. must be taken into account. These “parameters” would need to be implemented into a plan that showed the maximum amount of elevation change is possible within typical miniature golf “footprints (square footage). This type of “chart” would seem to be the most practical and easy to understand. The committee hopes to get some direction from the DOJ on this subject prior to the close of the “comment period.”
- The high cost to modify most of these courses. In many, if not most instances, the only avenue would be to “bulldoze” the course, level the site and start from scratch. This scenario would not only include the cost to build a new course but the high cost of demolition and site work required.
- Other issues may include “limiting” factors immediately adjacent to the miniature golf course. Most Family Entertainment Centers (FEC’s) are designed and built with attractions and buildings assembled in close proximity to each other. Operational buildings, other expensive and profit-producing attractions, parking lots, etc. are typical examples. Expansion of existing courses to provide appropriate accessible space is extremely rare in most of these types of facilities.
- The committee would especially like to hear from miniature golf course designers and builders with their expert opinions. The committee plans to research this area extensively due to the importance of this potential measure. This can only be completed successfully with the assistance of owners, operators, builders and designers.

ACCESSIBLE ROUTE

An “*accessible route*” shall connect the course entrance with the first *accessible hole* and the *start of play area* on each of the remaining accessible holes. **The course shall be configured to allow exit from the last accessible hole to the course exit or entrance and shall not require travel back through other holes.**

The Committee has recommended the following which is under consideration by the DOJ: The holes do **not** need to be consecutive, but **must be connected by a clearly marked accessible route** throughout the course. The following is a portion of the committee’s suggestion to the Access Board regarding the potential of permitting “**multiple breaks:**”

This change does not alter the intent or the number of holes accessible, it would enable some existing courses to more easily adapt to Accessibility Guidelines and also allow more flexibility in the design of new courses without infringing on the intent of the original rule. Furthermore, it would seem that by expanding this rule, the disabled miniature golfer’s experience would be enhanced by being able to play through the entire course (when accessible on courses that elect to design the “Accessible Route” using multiple breaks throughout the entire course) with family and friends.

Miniature Golf has often been described as “A walk through the Park with an objective”. In essence this description defines what makes Miniature Golf so enjoyable to so many different types of people. It is not necessarily the love of “golf”; it is the enjoyment and “relaxation” that friends and families receive from participating in an activity that does not require a great deal of practice or skill in order to have an enjoyable experience.

Beautiful landscaping, water elements that include ponds, fountain displays and lazy rivers that exist throughout the course and themed structures that allow players to be taken into a “fantasy-like” area are the hallmarks of many miniature golf facilities. It would seem to be consistent with the intent of ADA Guidelines to give our disabled guests this opportunity when the overall design of a Miniature Golf Course permits it.

One must understand that the “Miniature Golf Experience” is not just “putting”; it is the enjoyment of the beautiful surroundings as well. It would seem that the more areas of the course (even if certain holes are not accessible or playable) available to our disabled guests would, when possible, only add to the experience.

It should be noted that this new proposed change to the number of permissible “breaks” in a miniature golf course is not a “pressing point” in order to achieve accessibility for many existing facilities nor is it critical per se to the design of new courses. It is purely a suggestion from the miniature golf industry that when possible, either in the modification of an existing course or in the design of a new course, would offer our disabled guests an even better experience. It is our suggestion to encourage this when feasible. The “One Break” rule will in essence, prohibit this opportunity!

In response to our suggestion, the DOJ asks for comments in the following question (#59):

The Department proposes to adopt the requirements for miniature golf courses in the 2004 ADAAG. However, it **requests public comment on a suggested change to the requirement for holes to be consecutive.** A commenter association argued that the "miniature golf experience" includes not only putting but also enjoyment of "beautiful landscaping, water elements that include ponds, fountain displays, and lazy rivers that matriculate throughout the course and themed structures that allow players to be taken into a ‘fantasy-like’ area." Thus, requiring a series of consecutive accessible holes would limit the experience of guests with disabilities to one area of the course. To remedy this situation, the association suggests allowing multiple breaks in the sequence of accessible holes while maintaining the requirement that the accessible holes are connected by an accessible route.

The suggested change would need to be made by the Access Board and then adopted by the Department, and if adopted, it would apply to all miniature golf courses, not only existing miniature golf facilities.

***Question 44:** The Department would like to hear from the public about the suggestion of allowing multiple breaks in the sequence of accessible holes, provided that the accessible holes are connected by an accessible route. Should the Department ask the Access Board to change the current requirement in the 2004 ADAAG?*

Points you may wish to stress to the Department of Justice (DOJ): If you feel the recommendation the committee made regarding multiple breaks has merit, please express your reasons to the DOJ.

ACCESSIBLE ROUTE - LOCATED ON THE PLAYING SURFACE

Where the accessible route is located on the playing surface of the accessible hole, exceptions 1 – 5 shall be permitted.

Exception 1: Regards carpet. An exception has been made to permit “typical” miniature golf indoor/outdoor carpet to be used on miniature golf holes. This will require NO further action.

Exception 2: Where the accessible route intersects the playing surface of a hole, a 1 inch (26mm) maximum curb shall be permitted for a width of 32 inches (815mm) minimum.

Add for clarity: *The 1-inch curb for a 32-inch minimum opening can be located in an area where the ball is less likely to ricochet (“fairway” instead of “green”).*

Exception 3: A slope of 1:4 maximum for a 4 inch (100mm) maximum rise shall be permitted.

Exception 4: Landings shall be permitted to be 48 inches (1220 mm) in length minimum. Landing size shall be permitted to be 48 inches (1220 mm) minimum by 60 inches (1525 mm) minimum. Landing slopes shall be permitted to be 1:20 maximum.

Exception 5: Handrails shall **not** be required.

Points you may wish to stress to the Department of Justice (DOJ): The committee feels that the basic rule is fair, and would have little likelihood of being changed by the DOJ, but if you feel this presents a problem or “hardship,” please respond.

ACCESSIBLE ROUTE – LOCATED ADJACENT TO THE PLAYING SURFACE

Where the accessible route is located adjacent to the playing surface, the requirements of 4.3 shall apply. ADAAG SECTION of 4.3 that apply to Miniature Golf (Width) is shown below for Miniature Golf Course Owners Reference with pertinent comments listed:

Width. The minimum clear width of an accessible route shall be **36 in** (915 mm) except at doors (see [4.13.5](#) and [4.13.6](#)). If a person in a wheelchair must make a turn around an obstruction, the minimum clear width of the accessible route shall

START OF PLAY AREAS

Start of play areas at holes required to have a slope not steeper than 1:48 and shall be 48 inches (1220 mm) minimum by 60 inches (1525 mm) minimum.

Points you may wish to stress to the Department of Justice (DOJ):
The **committee feels that the basic rule is fair**, and would have little likelihood of being changed by the DOJ.

GOLF CLUB REACH RANGE

All areas within accessible holes where golf balls rest shall be within 36 inches (915 mm) maximum of an accessible route having a maximum slope of 1:20 for 48 inches (1220 mm) in length (see below):

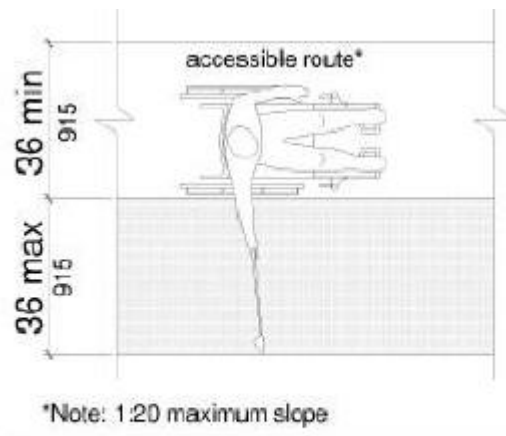


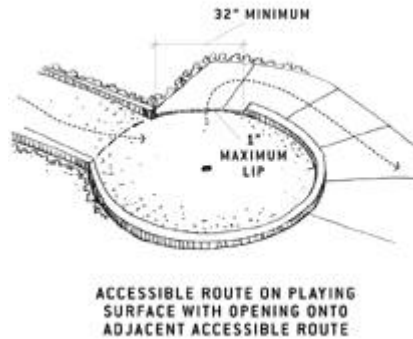
Fig. 63
Golf Club Reach Range

Figure 63 shows golf club reach range to be 36 inches maximum measured from accessible routes with a width of 36 inches minimum and a slope of 1:20 maximum.

NOTE: Accessible holes on a miniature golf course **may be provided with an accessible route leading through the hole or with the accessible route next to the hole.** Where the accessible route is provided adjacent to the hole, the route must be located within the golf club reach range. This allows individuals sufficient space and reach to play the game outside of the hole. Where possible, the distance between the level areas and the accessible route should be as close as possible, affording more opportunities for play.

Points you may wish to stress to the Department of Justice (DOJ):
The **committee feels that the basic rule is fair**, and would have little likelihood of being changed by the DOJ.

CLARIFY 1 INCH CURB PLACEMENT



The above diagram depicts an example of the 2004 ADAAG requirement. The hole has a 32 inch “exit” with access to an appropriate *path of travel* to the start of the next hole. The committee has recommended that the 1-inch “exit” curb be permitted to be placed on the “**fairway**” portion of the golf hole to minimize the opportunity for the ball to leave the “putting green” where by the nature of the design, balls tend to ricochet more. Technically, the current language does not prohibit this design, but **we would like to have this specifically addressed to avoid any future confusion.** To facilitate this, the hole would need to have an “*accessible path*” between the “**exit curb**” and the start of the next “*accessible hole*”. By locating the exit on the fairway, **the number of golf balls physically leaving the golf hole would be dramatically reduced.**

Points you may wish to stress to the Department of Justice (DOJ):

This is simply a “**clarification**” that the committee feels better fits the situation. We are concerned that as currently proposed, some miniature golf course owners will interpret that they must place the 32 inch wide 1- inch curb “exit” on the “green” portion of each golf hole. This design will dramatically increase the number of golf balls leaving the hole potentially creating a liability and many lost golf balls. The “fairway” clarification gives the designer or owner another option.

ADA INFORMATION SOURCES

DOJ Notice of Public Rulemaking, Title III

www.ada.gov/NPRM2008/titleiii.htm

ADA Information Line: 1-800-514-0301

ADA Miniature Golf Regulations:

www.ada.access-board.gov/recreation/guides/min-golf.htm

ADA Standards for Accessible Design

www.ada.gov/stdspdf.htm

“Accessibility Specialist” at the Access Board.

(800) 872-2253 (voice)

(800) 993-2822 (TTY)

Fax: (202) 272-0081

e-mail: ta@access-board.gov

www.access-board.gov

DOJ COMMENT INFORMATION

REGARDING THIS ISSUE

It will be greatly appreciated and helpful for all concerned if all comments made to the DOJ regarding this issue, also be “copied” to: www.gr@iaapa.org so that the committee can assemble a response based on the collective comments of industry members.

ADDRESSES:

Submit electronic comments and other data to <http://www.regulations.gov>. Address written comments concerning this NPRM to: Civil Rights Division, 950 Pennsylvania Avenue, N.W., Disability Rights Section, Washington, D.C., 20530. Overnight deliveries should be sent to the Disability Rights Section, Civil Rights Division, U.S. Department of Justice, located at 1425 New York Avenue, N.W., Suite 4039, Washington, D.C. 20005.

All comments will be made available for public viewing online at

<http://www.regulations.gov>.

FOR FURTHER INFORMATION CONTACT:

Janet L. Blizard, Deputy Chief, Disability Rights Section, Civil Rights Division, U.S. Department of Justice, at (202) 307-0663 (voice or TTY). This is not a toll-free number. Information may also be obtained from the Department's toll-free ADA Information Line at (800) 514-0301 (voice) or (800) 514-0383 (TTY).

This rule is also available in an accessible format on the ADA Home Page at <http://www.ada.gov>. You may obtain copies of this rule in large print or on computer disk by calling the ADA Information Line listed above.

SUPPLEMENTARY INFORMATION:

Electronic Submission and Posting of Public Comments

You may submit electronic comments to <http://www.regulations.gov>. When submitting comments electronically, you must include CRT Docket No. 106 in the subject box, and you must include your full name and address.

Please note that all comments received are considered part of the public record and made available for public inspection online at <http://www.regulations.gov>. Such information includes personal identifying information (such as your name, address, etc.) voluntarily submitted by the commenter.

If you want to submit personal identifying information (such as your name, address, etc.) as part of your comment, but do not want it to be posted online, you must include the phrase "PERSONAL IDENTIFYING INFORMATION" in the first paragraph of your comment. You must also locate all the personal identifying information you do not want posted online in the first paragraph of your comment and identify information you want redacted.

If you want to submit confidential business information as part of your comment but do not want it posted online, you must include the phrase "CONFIDENTIAL BUSINESS INFORMATION" in the first paragraph of your comment. You must also prominently identify confidential business information to be redacted within the comment. If a comment has so much confidential business information that it cannot be effectively redacted, all or part of that comment may not be posted on <http://www.regulations.gov>.

Personal identifying information identified and located as set forth above will be placed in the agency's public docket file, but not posted online. Confidential business information identified and located as set forth above will not be placed in the public docket file. If you wish to inspect the agency's public docket file in person by appointment, please see the "FOR FURTHER INFORMATION CONTACT" paragraph.