

US Access Board Publication of the Final Public Right of Way Accessibility Guidelines (PROWAG)

INFORMATION: On August 8, 2023, the US Access Board published the [Final Public Right-of-Way Accessibility Guidelines \(Final PROWAG\)](#) in the Federal Register. The Final PROWAG will not become enforceable until DOJ and DOT adopt accessibility standards that are “consistent with” the PROWAG through separate rulemaking procedures.

BACKGROUND: The Americans with Disabilities Act of 1990 sets forth a two-step process for the adoption of accessibility standards. First, the ADA directs the U.S. Access Board to adopt minimum guidelines for the accessibility of buildings and facilities. At this stage, they are not enforceable under the ADA. The DOT and DOJ are directed to adopt accessibility standards into their respective ADA regulations that are “consistent with” the Board’s minimum accessibility guidelines. It is only after the DOT and DOJ complete their respective rulemakings that the Board’s minimum guidelines become enforceable standards.

ACTION: DOT has announced in its [regulatory agenda](#) that it intends to issue a Notice of Proposed Rulemaking (NPRM) to adopt the PROWAG into its regulations in 2024. It is difficult to provide a timeline for completing this process. In the meantime, people and agencies should be aware that DOT and DOJ regulations adopting standards for the accessibility of pedestrian facilities in the public rights-of-way must be “consistent with” the Access Board’s final PROWAG rule and that the Board’s final PROWAG rule, while not yet enforceable under the ADA, establishes “minimum” guidelines. Please make your state and local public entities aware of this development.

Until DOT and DOJ adopt accessibility standards for pedestrian facilities in the public right-of-way, public entities have some degree of flexibility in determining how they will comply with the general obligation under Title II of the ADA to ensure that their facilities are “accessible to and usable by” individuals with disabilities. Public entities are not required to adopt the Final PROWAG at this time but may turn to different resources for guidance when determining how to ensure accessibility, including the Final PROWAG, DOJ’s 2010 ADA Standards for buildings and sites for guidance on similar issues that arise in the public right-of-way, or other accessibility resources.

POINT OF CONTACT: If you have any questions or need assistance, please contact Sharon Field (Sharon.Field@dot.gov) or Melissa Anderson (Melissa.Anderson@dot.gov).