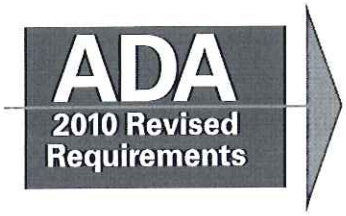
U.S. Department of Justice
Civil Rights Division
Disability Rights Section



Accessible Pools
Means of Entry and Exit

The Department of Justice published revised final regulations implementing the Americans with Disabilities Act (ADA) for title II (State and local government services) and title III (public accommodations and commercial facilities) on September 15, 2010, in the Federal Register. These requirements, or rules, clarify and refine issues that have arisen over the past 20 years and contain new, and updated, requirements, including the 2010 Standards for Accessible Design ("2010 Standards").

Overview

Providing equal opportunity to people with disabilities is the fundamental principle of the Americans with Disabilities Act. This publication is designed to help title II and title III entities understand how new requirements for swimming pools, especially existing pools, apply to them.

People with disabilities were, for too long, excluded from participating in many recreational activities, including swimming. The revised 2010 Standards change that. For the first time, the 2010 Standards set minimum requirements for making swimming pools, wading pools, and spas (pools) accessible. Newly constructed and altered pools must meet these requirements. Public entities and public accommodations also have obligations with respect to existing pools. State and local governments must make recreational programs and services, including swimming pool programs, accessible to people with disabilities. Public accommodations must bring existing pools into compliance with the 2010 Standards to the extent that it is readily achievable to do so.

The requirements for newly constructed and existing pools will ensure that, going forward, people with disabilities can enjoy the same activities—a community swim meet; private swim lessons; a hotel pool—at the same locations and with the same independence, ease, and convenience as everyone else.

The 2010 Standards establish two categories of pools: large pools with more than 300 linear feet of pool wall and smaller pools with less than 300 linear feet of wall. Large pools must have two accessible means of entry, with at least one being a pool lift or sloped entry; smaller pools are only required to have one accessible means of entry, provided that it is either a pool lift or a sloped entry.

There are a limited number of exceptions to the requirements. One applies to multiple spas provided in a cluster. A second applies to wave pools, lazy rivers, sand bottom pools, and other pools that have only one point of entry. For more information on the specific requirements and exceptions, see sections 242 and 1009 of the 2010 Standards.

Existing Pools

Title II Program Accessibility

Individuals with disabilities cannot be excluded from or denied participation in State and local government programs, services, or activities because a facility is inaccessible or unusable. This means that all programs, services, and activities, when viewed in their entirety, must be accessible to individuals with disabilities unless doing so results in a fundamental alteration in the nature of the program or in an undue financial and administrative burden. This requirement is known as "program accessibility."

Program accessibility applies to all pool-related programs, services, and activities (swimming programs). Program accessibility does not typically require that every pool be made accessible. However, if a public entity has only one existing pool, it must take steps to ensure that its swimming program at that pool is accessible.

A public entity determines which method it will use for meeting its program accessibility obligations. When structural changes are made to existing pools, including installation of a fixed pool lift, the changes must

To determine which pools must be made accessible, public entities should consider the following factors:

- How to provide swimming programs in the most integrated setting appropriate;
- The ways in which people participate in the programs (e.g., individually, in families, in youth groups);
- Locations where the programs are offered;
- What programs are offered at each pool and to which constituencies (e.g., family swims, children's swimming lessons, older adult exercise classes, high school swim meets);
- Which pools are accessible and to what extent; and
- Level of dispersion of the accessible locations and convenience to reach them (e.g., one pool in each quadrant of the town, all on accessible mass transit).

comply with the 2010 Standards. If a public entity chooses to acquire equipment (e.g., a portable lift) to provide program accessibility, the entity should select equipment that includes features required by the 2010 Standards, including independent operation by individuals with disabilities. Sharing accessible equipment between pools is not permitted, unless it would result in undue burdens to provide equipment at each one. Accessible pool features must be available whenever the facility is open to the public. When choosing to purchase equipment or to make structural changes, the public entity should factor in staff and financial resources required to maintain program accessibility.

Over time, a public entity will need to reassess its compliance with program accessibility, and it may become necessary to acquire new accessible equipment or make structural modifications. For more information about program accessibility, see the title II regulations at Section 35.150.

Title III Readily Achievable Barrier Removal

Title III of the ADA requires that places of public accommodation (e.g., hotels, resorts, swim clubs, and sites of events open to the public) remove physical barriers in existing pools to the extent that it is readily achievable to do so (i.e., easily accomplishable and able to be carried out without much difficulty or expense).

Determining what is readily achievable will vary from business to business and sometimes from one year to the next. Changing economic conditions can be taken into consideration in determining what is readily achievable.

For an existing pool, removing barriers may involve installation of a fixed pool lift with independent operation by the user or other accessible means of entry that complies with the 2010 Standards to the extent that it is readily achievable to do so. If installation of a fixed lift is not readily achievable, the public accommodation may then consider alternatives such as use of a portable pool lift that complies with the 2010 Standards. It is important to note that the barrier removal obligation is a continuing one, and it is expected that a business will take steps to improve accessibility over time. When selecting equipment, the public accommodation should factor in the staff and financial resources needed to keep the pool equipment available and in working condition at poolside. For more information about barrier removal, see the title III regulations at Section 36.304.

To determine which pools must be made accessible, public accommodations should consider the following factors:

- The nature and cost of the action;
- Overall resources of the site or sites involved;
- The geographic separateness and relationship of the site(s) to any parent corporation or entity;
- The overall resources of any parent corporation or entity, if applicable; and
- The type of operation or operations of any parent corporation or entity, if applicable.

New Construction and Alterations

New Construction

The 2010 Standards, which set requirements for fixed elements and spaces, require that all new pool facilities built by State and local governments, public accommodations, and commercial facilities must be accessible to and usable by persons with disabilities.

Alterations

A physical change to a swimming pool which affects or could affect the usability of the pool is considered to be an alteration. When pools are altered, the alterations must comply with the 2010 Standards, to the maximum extent feasible. Changes to the mechanical and electrical systems, such as filtration and chlorination systems, are not alterations. Entities must ensure that an alteration does not decrease accessibility below the requirements for new construction. For example, if a hotel installs a fixed pool lift powered by water pressure, it must ensure that the hose connecting to the lift does not create a barrier across the accessible route to the pool.

Compliance Dates

On or after March 15, 2012

All newly constructed or altered facilities of public entities and public accommodations, including pools, must comply with the 2010 Standards.

On or after March 15, 2012

All existing facilities of public entities and public accommodations, including pools, must comply with the 2010 Standards to the extent required under title II program accessibility or title III readily achievable barrier removal requirements.

For more information on effective dates, see the Department's publication called *ADA 2010 Revised Requirements: Effective Date and Compliance Date* and the *2010 Standards for Accessible Design.*

Maintenance of Accessible Features

Accessible pool features must be maintained in operable, working condition so that persons with disabilities have access to the pool whenever the pool is open to others. For example, a portable pool lift may be stored when the pool is closed but it must be at poolside and fully operational during all open pool hours.

An entity should recognize that certain types of equipment may require more staff support and maintenance than others (e.g. ensuring there are enough batteries for a pool lift to maintain a continued charge during pool hours). Entities should plan for these issues and modify operational policies as needed to provide accessible means of entry while the pool is open.

Staff Training

Ongoing staff training is essential to ensure that accessible equipment (particularly pool lifts) and pool facilities are available whenever a pool is open. Staff training should include instruction on what accessible features are available, how to operate and maintain them, and any necessary safety considerations.

Tax Credits and Deductions

Title III entities may be able to take advantage of federal tax credits for small businesses (Internal Revenue Code section 44) or deductions (Internal Revenue Coe section 190) for barrier removal costs or alterations to improve accessibility regardless of the size of the business. See the IRS website **www.irs.gov** for more information.

For more information about the ADA, please visit our website or call our toll-free number.

ADA Website: **www.ADA.gov**

ADA Information Line
800-514-0301 (Voice) and
800-514-0383 (TTY)
24 hours a day to order publications by mail.

M-W, F 9:30 a.m. – 5:30 p.m.,
Th 12:30 p.m. – 5:30 p.m. (Eastern Time)
to speak with an ADA Specialist.
All calls are confidential.

For persons with disabilities, this publication is available in alternate formats.

Duplication of this document is encouraged.

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