



Dear Pool Owners,

The following is a summary of the important issues that pertain to the 2010 revised ADA Regulations that may affect your pool. If your pool falls under Title II or Title III as described below, it will be required to meet the new standards by March 15, 2012.

Please be advised that no one should act upon information contained herein without first seeking the advice of legal counsel.

American Disabilities Act Compliance Information

There have been recent changes to the American Disabilities Act that affect recreational facilities including swimming pools. There are two sections of the 2010 revised ADA regulations that swimming pools fall under.

- a. Title II (Public Industry) - Municipal pools, school pools, and government owned pools, etc.
- b. Title III (Private Industry) - Places of recreation or lodging which addresses public accommodations.

The answer to whether or not your pool must comply is not a simple answer. There are several issues that need to be evaluated in determining the answer.

Title II Pools (Public Industry)

School pools, Municipal pools, and Military Base pools are all examples of facilities which must comply with the 2010 Revised ADA Regulations.

Title III Pools (Private Industry)

Properties open to the public.

Hotels, Motels and Health Clubs are clear examples of public accommodations. These establishments are open to the public and must comply with the 2010 revised ADA Regulations.

Private and Residential Properties

In most cases, the ADA does not affect private or residential property such as a private residence, an apartment complex, a condominium, a home owners association or private club. However, if any of these facilities opens its doors to the public for use of the facilities, the residential property can be considered a public accommodation and would fall under the Title III ADA regulations with respect to swimming pools.

The following are a few examples that would make these facilities subject to the 2010 revised ADA regulations under Title III when they otherwise would not be required to comply.

1. An apartment complex sells outside memberships to people who are not residents of the facility.
2. A condominium or home owners association sells pool memberships to non-residents or is actively involved in renting out units when owners are absent. This includes advertising availability and acting like a hotel.
3. Private clubs which are defined as having a restrictive membership policy and considerable dues are typically not required to comply with ADA. Final determination would be based on the control of operations, membership requirements, and the amount of fees involved.



Private and Residential Properties Continued

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Operations that have limited or no membership requirements and minimal dues charged; do not fall under the private club exclusion. If the pool is open to non-members, then they must comply.

4. Hosting Swim meets- If any of the above entities allow outside members or non-residents during a swim meet, they could be required to comply during those hours of use where the facilities were being used by the public.
5. The use of government funds.

Guests of Residents

The general rule is if a pool is open to a body of people outside of the general membership or non-residents, the pool is considered a public accommodation during this length of time. However if the private club or homeowner/condominium association member has guests visiting them this does not require compliance. For example if a function such as a birthday party takes place on one of these properties and non-members or residents are invited to attend, compliance should not be required.

If any residential or private entity strictly limits use of their facilities to residents and their guests, they would not be subject to ADA regulations.

Deadline for Compliance

Existing pools and spas are required to meet the new standards by March 15, 2012; only if they are affected by the 2010 revised ADA Regulations.

Exceptions

Any type of barrier removal of an existing facility that is affected by the 2010 revised ADA Regulations is required with two exceptions: if there is a historical nature of the building / facility or if barrier removal is not readily achievable which can be construed as easily accomplished without much expense.

Requirements to Comply

Both Title II and Title III entities are required to provide "accessible means of entries for pools and spas." Pools with less than 300 linear feet of wall are required to have at least one primary means of access which can be a pool lift or sloped entry. Pools greater than 300 linear feet will be required to have two means of access. The second means of access can be a transfer wall, transfer system, or stairs.

Existing Wading Pools

The ADA requirement for a wading pool is a sloped 1:12 entry ramp meeting certain specifications. If an existing wading pool has a sloped entry that does not meet the specifications or was built with a flat bottom without a ramp, the only way to comply would be to tear up and rebuild the entire pool. Since this would be cost prohibitive it is not readily achievable. Existing wading pools do not need to comply under these circumstances. A best practice would be to document that this is the case by providing a barrier removal analysis to have a record of why the wading pool cannot comply.



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POOL TYPES	PERMITTED MEANS OF ACCESS					# REQUIRED
	PRIMARY TYPES OF ACCESS		SECONDARY TYPES OF ACCESS			
	SLOPED ENTRY	LIFT	TRANSFER WALL	TRANSFER SYSTEM	STAIRS	
Swimming Pools LESS than 300 linear feet						1 Total
Swimming Pools 300 or MORE linear feet						2 Total <i>One must be a primary type</i>
Wave action, lazy river, and other pools where user entry is limited to one area						1 Total
Wading Pools						1 Total
Spas						1 Total

Enforcement

ADA regulations are enforced directly and indirectly. Most direct enforcement is a result of civil lawsuits initiated by a plaintiff who sues for non-compliance. If the plaintiff prevails, the court usually issues a court order that requires the defendant to remedy the violation and attorney’s fees for the plaintiff. There are generally no monetary awards provided to victorious plaintiff. Direct enforcement may also come from local building or health officials enforcing state or local codes that incorporate the new guidelines. Indirect enforcement may be in the form of requiring compliance prior to receiving licenses, certifications, or grants from prevailing authorities.

Tax Benefits

To assist businesses with complying with the ADA, Section 44 of the IRS Code allows a tax credit for small businesses which can cover 50% of the eligible expenditures with a maximum credit up to \$5,000. Section 190 of the IRS Code allows a tax deduction for all businesses. Speak to your tax advisor regarding these incentives. You may also visit the government web site.

www.ada.gov/taxincent.htm

The compliance requirements under the new ADA law are complex and we strongly recommend that you consult with your attorney and DRD to understand how your facility is affected.

Additional ADA resources

<http://www.apsp.org/DocumentFiles/613.pdf>

www.access-board.gov/recreation/guides/pools.htm

www.ada.gov

www.ada.gov/regs2010/2010ADASTandards/2010ADASTandards_prt.pdf

<http://www.ada.gov/taman3.html>

Access Board Technical Assistance hotline 1.800.872.2253

Department of Justice ADA Info 1.800.514.0301

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