

NEW ADA REGULATIONS FOR SWIMMING POOLS

Mandatory Compliance before March 12, 2012

On September 15, 2010, the United States Department of Justice (DOJ) issued revised regulations for Titles II and III of the Americans with Disabilities Act (ADA). Title II covers state and local government facilities and services and Title III covers public accommodations and commercial facilities. Among other things, the revised regulations include new accessibility standards for swimming pools.

The most significant issue that needs to be brought to the attention of all municipalities operating swimming pool facilities is that these changes are **mandatory**. **Existing swimming pools must be modified to comply with the 2010 guidelines no later than March 12, 2012.** For new construction, the 2010 guidelines should be followed. This is different than the usual approach with public accommodations under the ADA. Most of the ADA requirements for public accommodations are only triggered for new construction or when making alterations to existing facilities. However, the swimming pool accessibility requirements must be in place for all existing and new public pools on or before March 12, 2012.

The new regulations are virtually the same for both state and local government (Title II) operated swimming pools and public accommodation/commercial (Title III) swimming pools. They provide that any swimming pool with less than 300 linear feet of pool wall must provide one means of access either by sloped entry or by the installation of a pool lift. In addition, any pool that has over 300 linear feet of pool wall must provide two means of access, which can be any of five designated means of access: (1) pool lifts, (2) sloped entries, (3) transfer walls, (4) transfer systems, or (5) accessible pool stairs. The criteria that each of these means of access must meet can be found in chapter 10, section 1009 of the revised ADA guidelines. Wading pools must have one means of entry and that must be a sloped entry. Spas, both in-ground and portable, also must have one means of entry which can be either a lift, transfer wall or transfer system. The specific requirements for swimming pools, wading pools and spas can be found in chapter 2, section 242 of the revised ADA guidelines.

Title II facilities may be excluded if they can prove that the changes and modifications required by the revised regulations would significantly alter the historic nature of a facility or if the modifications create an undue hardship for the facility. However, the Department of Justice takes the position that given the flexibility and cost of a pool lift, it would be very difficult for any entity to escape these accessibility requirements.

