



Guest Services

by Jim Stover

ADA changes for pools, recreational facilities, and service animals are here

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Sponsored by the American Hotel & Lodging Association, the law firm of Seyfarth & Shaw recently produced a webinar addressing the Americans with Disabilities Act (ADA) changes impacting the hospitality industry. The March 15, 2012 deadline encompasses:

- Effective Communication (Fire Alarm Systems, Signs, Assisted Listening Systems, etc.)
- Service Animals
- Power Mobility Devices

As of March 15, 2012 the 2010 Standards become mandatory for alterations, new construction, and barrier removal. Newly covered existing recreational elements must comply with the new standard unless compliance is not readily achievable.

In the context of the 2010 Standards the term “readily achievable” means “easily accomplished without much difficulty or expense.” Although properties may embrace the “readily achievable” excuse, one should be aware that this is case specific and depends on factors such as:

- The nature and cost of the action
- The hotel’s financial resources as well as those of the parent corporation
- The effect of the action on the property’s operations
- Any legitimate safety requirements

Existing hotel recreational elements that must comply with the new standards by March 15, 2012 include:

- Pools and spas
- Saunas and steam rooms
- Exercise equipment and machines

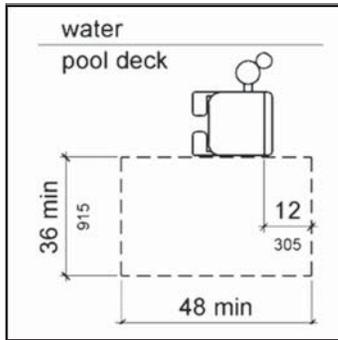
Swimming pools

- If the perimeter is less than 300 linear feet, a pool lift or a sloped entry is required.
- If the perimeter is greater than 300 linear feet, two means of entry (either a lift or sloped entry) are required.

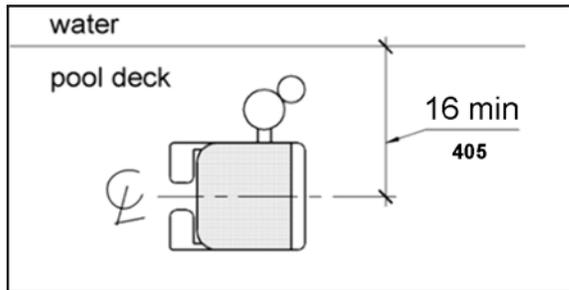
Pool Lift Requirements

- Seat height: 16" – 19" above the deck; seat width: minimum of 16"
- Footrest: must be provided and move with the lift (except for spas where none is required)
- Armrest: must be opposite the water and removable or able to fold down
- The lift must be independently operable by the user both from the deck and in the water
- The seat must submerge 18" under the water
- The lift capacity must be 300 lbs.
- The space requirements are as follows:

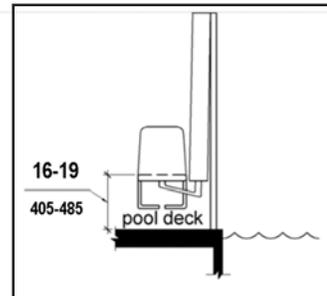
➤ Clear Deck Space at Pool Lift



➤ Pool Lift Seat Location



➤ Pool Lift Seat Height



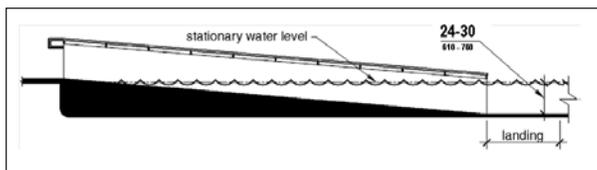
The new requirements for pools and spas leave many questions unanswered and clarification has been requested for the following questions:

- Must a pool lift be in place and ready for use whenever the pool is open?
- May a hotel bring a lift out upon request and, if so, how quickly must this be accomplished?
- At check-in, may the hotel ask a guest if they need the lift and keep it in position for the length of their stay?
- Must a lift be permanently mounted or can it be portable?
- If a property has multiple pools or spas, may they move one lift between the recreational facilities?

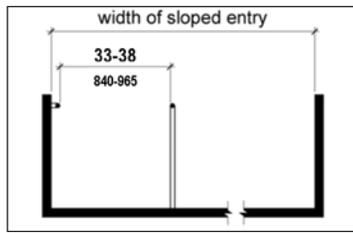
Sloped Entries

As alternative means of entry, sloped entries shall extend to a depth of 24" minimum and 30" maximum below the water. Handrails must be provided and the slope can be no steeper than 1:48.

➤ Sloped Entry Submerged Depth



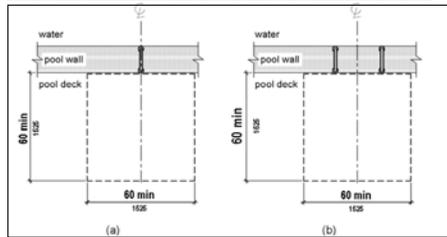
➤ Handrails for Sloped Entry



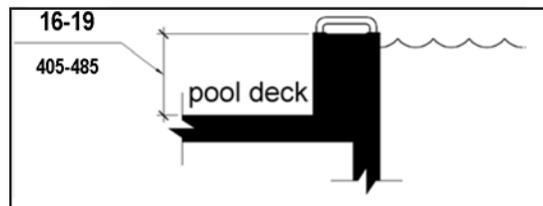
Transfer Wall

A transfer wall is designed so that a person can leave their wheelchair and transfer onto the wall and then into a pool or spa. The requirements are:

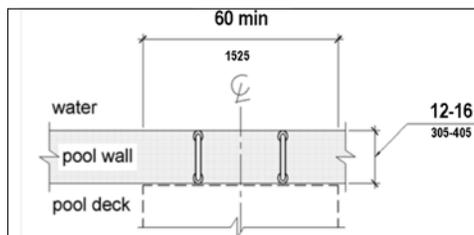
- Clear Deck Space. A clear deck space of 60" x 60" must be provided. Where one grab bar is provided, the space shall be centered on the grab bar. Where two bars are provided, the space will be centered between them.



- The height of the wall will be between 16" and 19".

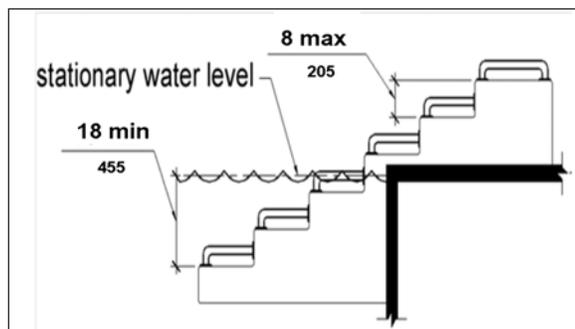


- The transfer wall depth shall be between 12" and 16", the length 60" minimum and centered on the clear deck space.



Transfer Sys:

A transfer system consists of a platform and series of steps descending into the water. Users transfer from a wheelchair to the platform and continue into the water step by step.



Spas

If there is more than one spa on a property, 5% of the spas or at least one spa (whichever is greater) must be accessible. To be accessible, a spa must have one of these entry systems:

- Lift
- Transfer wall
- Transfer system

Wading Pools

Each pool must provide at least one sloped entry into the pool.

Exercise machines and equipment

At least one of each type of exercise equipment must:

- Provide a 30" x 48" clear floor space for transfer from a wheelchair (the space can be at the end of the equipment).
- Be on a 36" wide accessible route.

Saunas and steam rooms

Here are the new requirements for saunas and steam rooms:

- If provided, at least one sauna or steam room, or 5% of the saunas and steam rooms, (whichever is greater) must be accessible.
- A 60" turning space for a wheelchair (or a 36" x 60" "T") must be provided
- The seat must be 17" – 19" above the floor, at least 42" long and 20"– 24" deep (and can hold 250 lbs.)
- There must be a 30" x 48" clear floor space at the end of the bench.

Service animal changes

Under the new ADA regulations, a "service animal" is now limited to dogs and miniature horses who have been trained to work or perform tasks for individuals with physical, sensory, psychiatric, intellectual, or other mental disabilities.

- Other species of animals, whether trained or untrained, are NOT service animals.
- Animals that provide emotional support, comfort, therapy, companionship, or crime deterrence are NOT considered service animals and a hotel is not required to accommodate these animals.

The ADA requires lodging facilities to:

- Allow service animals in all areas of a facility where guests are allowed. (Note: When interacting with an individual and a service animal, think of them as one unit. So anywhere the guest is allowed, so is the service animal.)
- You may NOT ask for proof an animal has been trained or certified.
- You may ask the guest:
 - Do you need the animal because of a disability?
 - What work or tasks has the animal been trained to perform?
- You may NOT ask the guest to explain/verify the disability.
- You may NOT charge a usage fee (pet deposit) for a service animal; but you may charge for any damages caused by the service animal.
- You may exclude the animal from your property if it is out of control or not housebroken. You should give the guest the option of remaining without the pet if the pet can be cared for off property by someone else.
- The hotel is not required to provide food or special care for the animal.
- You may not exclude an animal even if local or state codes prohibit animals. Federal law trumps all others.

Some states define service animals broader than the ADA. In this instance, ADA does not disturb these laws that provide greater levels of protection. The following states have language allowing "any animal" to be considered a service animal:

- Illinois • Montana
- Iowa • North Dakota

Conclusion

Clearly, the new ADA regulations impose significant new compliance requirements upon hotels while more clearly defining what does and does not constitute a service animal. With regards to the new pool, spa, sauna and steam room accommodation requirements, hotels will likely incur significant expenses to comply with new deadline. The AH&LA has requested clarification from the Department of Justice on a variety of these new accommodation requirements and the collective lodging industry's ability to meet the looming deadline seems uncertain. ✧

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IMPORTANT UPDATE

On March 15th, Attorney General Eric Holder signed a final rule extending the date for compliance with sections 242 and 1009 of the 2010 Americans with Disabilities Act (ADA) Standards for Accessible Design as it relates to the provision of accessible entry and exit to existing swimming pools, wading pools, and spas for a period of 60 days after the publication of the rule in the Federal Register. On that same day, the Attorney General also signed a Notice of Proposed Rulemaking (NPRM) seeking public comment on whether a longer period of time would be appropriate to allow pool owners and operators to meet their compliance obligations. Specifically, the NPRM proposes a 180-day extension of the deadline. Comments on the NPRM will be accepted for 15 days after publication in the Federal Register.

What this means

The White House issued a 60-day extension that will push the

compliance date for the pool lift requirement under the Americans with Disabilities Act (ADA) to May 15, 2012.

The Department of Justice will also publish a Notice of Proposed Rulemaking with a 15-day comment period on a possible six-month extension in order to allow additional time to address misunderstandings regarding compliance with these ADA requirements.

This major shift in response is a direct result of work by the American Hotel & Lodging Association (AH&LA), dedicated hoteliers that repeatedly contacted members of Congress seeking redress, and the industry's collective strength displayed during AH&LA's 2012 Legislative Action Summit.

While AH&LA has sought a common-sense solution to the pool lift issue, it must be stressed that the lodging industry is extremely supportive of the numerous other provisions of the ADA that took effect on March 15th. The AH&LA has extensive ADA resources for

hoteliers, including AH&LA's new 2012 ADA Guide.

Next steps for hoteliers

AH&LA will follow up with the extraordinary number of Congressional offices that have reached out on behalf of the lodging industry, as well as the White House.

Hoteliers should proceed forward in complying with the pool lift requirement under the ADA, albeit with a more realistic implementation schedule. Properties featuring pools and spas will still need a means of entry, and AH&LA will meet with the White House soon to discuss the original interpretation of the 2010 ADA Standards.

The Revised ADA Regulations Implementing Title II and Title III can be viewed online at:

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