

ADA Swimming Pool Compliance — Understanding the Safe Harbor Provision.

The recently published revision to the American's with Disabilities Act contains a provision that is known as "Safe Harbor." The purpose of this document is to clarify this provision as it relates to swimming pool accessibility.

Following the passage of the American's with Disabilities Act (ADA) in 1990, the Department of Justice issued an initial set of accessibility guidelines in 1991. These standards covered items that would immediately improve accessibility for people with disabilities. Although these guidelines covered many parts of society, there were a number of areas that were either not included or were incomplete.

The 2010 revision to ADA expanded several existing areas that were covered in the 1991 guidelines and also introduced new standards for areas that were not covered in the 1991 version.

In order to ease the financial burden on existing ADA compliant facilities, these new regulations provide a Safe Harbor provision with respect to the 2010 Standards. For example, if there is a requirement in the 2010 Standards that is either an enhancement or a change from the modifications made to comply with the 1991 guidelines, an existing facility would not be required to make that change until alterations to the facility are made.

In the case of swimming pools, the Safe Harbor provision does not apply since there were no technical or scoping requirements contained in the 1991 guidelines that directly addressed swimming pools. According to the 2010 Standards —

“. . .the safe harbor provided in § 36.304(d)(2)(i) does not apply to those elements in existing facilities that are subject to supplemental requirements (i.e., elements for which there are neither technical nor scoping specifications in the 1991 Standards), and therefore those elements must be modified to the extent readily achievable to comply with the 2010 Standards.” Additionally, “Elements in the 2010 Standards not eligible for... Safe Harbor are identified as follows - (j) Swimming Pools, Wading Pools and Spas, sections 242 and 1009.”

The bottom line is that swimming pools are not eligible for Safe Harbor and therefore, will need to provide accessibility as outlined in the 2010 Standards.

For more information on this swimming pool accessibility, please contact the ADA at www.ada.gov, or visit www.poollifts.com.