

DOJ Fact Sheet

Highlights of the Final Rule to Amend the Department of Justice's Regulation Implementing Title III of the ADA

The Department of Justice (the Department) has amended its regulation implementing title III of the Americans with Disabilities Act (ADA), which applies to public accommodations (private businesses that fall within one of twelve categories established by the statute) and commercial facilities. The ADA requires the Department to publish ADA design standards that are consistent with the guidelines published by the U.S. Architectural and Transportation Barriers Compliance Board (Access Board). Therefore, the title III rule adopts new Standards for Accessible Design that are consistent with the ADA/ABA Accessibility Guidelines developed by the Access Board. The final rule also amends the existing title III regulation to make it consistent with current policies and published guidance, to reflect the Department's experience since the regulation was first published in 1991, and to address and respond to comments received from the public in response to the Department's 2008 Notice of Proposed Rulemaking (NPRM). These revisions take effect on March 15, 2011.

SUMMARY OF CHANGES:

1. Adoption of the 2010 ADA Standards for Accessible Design. The Department has adopted revised ADA design standards that include the relevant chapters of the Access Board's 2004 ADA/ABA Accessibility Guidelines as modified by specific provisions of this rule. To minimize compliance burdens on entities subject to more than one legal standard, these design standards have been harmonized with the Federal standards implementing the Architectural Barriers Act and with the private sector model codes that are adopted by most States.
2. Effective Date. The rule will become effective March 15, 2011. On March 15, 2012, compliance with the 2010 Standards will be required for new construction and alterations and barrier removal. In the period between September 15, 2010 and March 15, 2012, covered entities may choose between the 1991 Standards and the 2010 Standards. Covered entities that should have complied with the 1991 Standards during any new construction

or alteration of facilities or elements, but have not done so by March 15, 2012, must comply with the 2010 Standards.

3. Element by Element Safe Harbor. The rule includes a general "safe harbor" under which elements in covered facilities that were built or altered in compliance with the 1991 Standards would not be required to be brought into compliance with the 2010 Standards until the elements were subject to a planned alteration. A similar safe harbor applies to elements associated with the "path of travel" to an altered area.
4. Ticketing. The rule provides guidance on the sale of tickets for accessible seating, the sale of season tickets, the hold and release of accessible seating to persons other than those who need accessible seating, ticket pricing, prevention of the fraudulent purchase of accessible seating, and the ability to purchase multiple tickets when buying accessible seating. It requires a venue operator to accommodate an individual with a disability who acquired inaccessible seating on the secondary ticket market only when there is unsold accessible seating for that event.
5. Service Animals. The rule defines "service animal" as a dog that has been individually trained to do work or perform tasks for the benefit of an individual with a disability. The rule states that other animals, whether wild or domestic, do not qualify as service animals. Dogs that are not trained to perform tasks that mitigate the effects of a disability, including dogs that are used purely for emotional support, are not service animals. The final rule also clarifies that individuals with mental disabilities who use service animals that are trained to perform a specific task are protected by the ADA. The rule permits the use of trained miniature horses as alternatives to dogs, subject to certain limitations. To allow flexibility in situations where using a horse would not be appropriate, the final rule does not include miniature horses in the definition of "service animal."
6. Wheelchairs and Other Power-Driven Mobility Devices. The rule adopts a two-tiered approach to mobility devices, drawing distinctions between wheelchairs and "other power-driven mobility devices." "Other power-driven mobility devices" include a range of devices not designed for individuals with mobility impairments, such as the Segway® PT, but which

are often used by individuals with disabilities as their mobility device of choice. Wheelchairs (and other devices designed for use by people with mobility impairments) must be permitted in all areas open to pedestrian use. "Other power-driven mobility devices" must be permitted to be used unless the covered entity can demonstrate that such use would fundamentally alter its programs, services, or activities, create a direct threat, or create a safety hazard. The rule also lists factors to consider in making this determination. This approach accommodates both the legitimate business interest in the safe operation of a facility and the growing use of the Segway® PT as a mobility device by returning veterans and others who are using the Segway® PT as their mobility aid of choice.

7. Effective Communication. The rule includes video remote interpreting (VRI) services as a kind of auxiliary aid that may be used to provide effective communication. VRI is an interpreting service that uses video conference technology over dedicated lines or wireless technology offering a high-speed, wide-bandwidth video connection that delivers high-quality video images. To ensure that VRI is effective, the Department has established performance standards for VRI and requires training for users of the technology and other involved individuals so that they may quickly and efficiently set up and operate the VRI system.
8. Reservations Made by Places of Lodging. The rule establishes requirements for reservations made by places of lodging, including procedures that will allow individuals with disabilities to make reservations for accessible guest rooms during the same hours and in the same manner as other guests, and requirements that will require places of lodging to identify and describe accessible features of a guest room, to hold back the accessible guest rooms for people with disabilities until all other guest rooms of that type have been rented, and to ensure that a reserved accessible guest room is removed from all reservations systems so that it is not inadvertently released to someone other than the person who reserved the accessible room. The final rule limits the obligations of third-party reservation operators that do not themselves own and operate places of lodging. In addition, to allow the hospitality industry appropriate time to change reservation systems, the final rule gives

places of lodging 18 months from the publication date, September 15, 2010, to come into compliance with these requirements.

9. Timeshares, Condominium Hotels, and Other Places of Lodging. The rule provides that timeshare and condominium properties that operate like hotels are subject to title III, providing guidance about the factors that must be present for a facility that is not an inn, motel, or hotel to qualify as a place of lodging. The final rule limits obligations for units that are not owned or substantially controlled by the public accommodation that operates the place of lodging. Such units are not subject to reservation requirements relating to the "holding back" of accessible units. They are also not subject to barrier removal and alterations requirements if the physical features of the guest room interiors are controlled by their individual owners rather than by a third party operator.

For more information: Copies of this rule, the 2010 Standards, and this Fact Sheet are available in an accessible electronic format on the Internet at <http://www.ada.gov/>. For additional information or to order copies of any documents, call the ADA Information Line (800) 514-0301 (voice) or (800) 514-0383 (TTY). Copies of this notice will be available in accessible formats.