

ADA Compliance Made Easy

By Clara Rose

ADA compliance changes are coming. By now, most businesses are already aware of this fact and are talking about what it means and how it will affect them. So, the top question of the year is: How complicated will this process be?

In the resort and hospitality industry, the ADA-compliance laws include everyone that works, visits or stays at the property – including employees, owners and guests. Compliance becomes two fold for the property and business.

First, compliance addresses the access for employees to work unencumbered, in a discrimination-free environment.

March 25th 2011, the Equal Employment Opportunity Commission (EEOC) published the final regulations in the 2011 Federal Register, implementing the American's with Disabilities Act Amendments Act (ADAAA), and they became effective May 24th 2011. These changes address the access and a discrimination free environment for employees within the property and business.

Additionally, compliance addresses the physical access within the property for all guests, owners and employees to have full enjoyment of the property.

September 15th 2010, the Department of Justice published revised regulations for Titles II and III of the Americans with Disabilities Act of 1991 (ADA). These regulations adopted the revised, enforceable accessibility standards called the 2010 ADA Standards for Accessible Design and they took effect on March 15th 2011 – they are required after March 15th 2012. These changes address the physical access for anyone with a disability, within the property.

Where to Start

Not only is the deadline for these compliance changes past or closing in quickly, but the Revised ADA regulations are lengthy and can be confusing. A good way to start down the road to compliance is with some educational



resources. The U.S. Department of Justice (DOJ)'s ADA website and the EEOC website both have vast amounts of educational information but can be somewhat overwhelming. Unless noted, the publications currently available on these web sites have not yet been updated to reflect the new changes.

Discrimination Free Environment

The most significant changes that pertain to discrimination – against guests, owners or employees – are the actual interpretations of the definition of disability in the ADAAA. With the now broader definition of the term disability, individuals will find it easier to claim protection under the law. Management will need to shift their focus from the disability, to a concern whether discrimination might or has occurred.

Alleged or actual discrimination against a guest or owner with a disability is investigated by The Department of Justice. While the ADA governs most areas of the hospitality industry that pertains to guests and owners, a different agency helps to covers the employees that work within the property and industry.

The EEOC is responsible for enforcing the federal laws that make it illegal to discriminate against a job applicant or an employee.

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The EEOC is one of a dozen Federal Agencies with ADA responsibilities. According to their regulations, there are 38.4 million people in the workforce whose coverage is clarified under the new law and regulations. These are applicants or employees who will now be protected because of the changes.



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Physical Access

There were a number of changes made to the standards for accessible design; here are a few examples:

- The change in side reach range for equipment in accessible areas has been reduced to no higher than 48 inches and no lower than 15 inches.
- Single user toilet facilities must now provide clearances for both a forward or parallel approach.
- Increased requirements for accessible

routes within buildings that connect ADA accessible areas.

- More stringent slope requirements for ramps and clear floor space at accessible elements.

The official 257-page document; The 2010 Standards for Accessible Design, can be found on the Department of Justice ADA

website (www.ada.gov) along with the 170 page document titled Guidance on 2010 Standards for Accessible Design. While these guides are great resources, a consultation with an access specialist and an ADA survey might be the best course of action.

“The ADA compliance standards can be difficult to interpret; it is prudent and most cost effective to bring in a professional who offers an ADA compliance survey. This will spell out for you any deficiencies as well as recommend the remedies,” said John Farrow, president and CEO of FARROW Commercial Construction, an ADA compliance specialist for more than 15 years.

Understand the Requirements

Gather and read the documents that spell out the current compliance regulations and the changes for the ADA and ADAAA regulations. There are almost 1,000 new technical regulations to read and understand. The Department of Justice offers a technical assistance program that provides free information and technical assistance. They offer a full range of publications to explain the laws, including a series of question and answer publications.

Parking, for Example...

The new Americans with Disabilities Act 2010 standards, which were published within the past few months, are complex and thorough. Many of the standards apply to shared-ownership resorts. Here are just a few snippets from a much-longer section on accessible parking in the section "Analysis and Commentary on the 2010 Standards" in the 170-page ADA brochure Guidance on the 2010 Standards for Accessible Design: "Where parking spaces are provided, the 1991 Standards, at sections 4.1.2 (5)(a) and (7) and 7(a), and the 2010 Standards, at section 208.1, require a specified number of the parking spaces to be accessible. The 2010 Standards, at section 208, include an exception that exempts parking spaces used exclusively for buses, trucks, delivery vehicles, law enforcement vehicles, or for purposes of vehicular impound, from the scoping requirement for parking spaces, provided that when these lots are accessed by the public the lot has an accessible passenger loading zone..."

"Van Accessible Parking Spaces.

The 1991 Standards, at sections 4.1.2 (5)(b), 4.6.3, 4.6.4, and 4.6.5, require one in every eight accessible parking spaces to be van accessible. Section 208.2.4 of the 2010 Standards requires one in every six accessible parking spaces to be van accessible..."

"Facility operators and others asked for a reduction in the number of required accessible parking spaces, especially the number of van accessible parking spaces, because they claimed these spaces often are not used. Individuals with disabilities, however, requested an increase in the scoping requirements for these parking spaces. The Department is aware that a strong difference of opinion exists between those who use such spaces and those who must provide or maintain them. Therefore, the Department did not increase the total number of accessible spaces required. The only change was to increase the proportion of spaces that must be accessible to vans and other vehicles equipped to transport mobility devices."



Having a compliance plan in place can be beneficial if the DOJ does an inspection and finds non-compliance.

David Sudeck of Jeffer, Mangels, Butler & Mitchell LLP, who specializes in ADA law as it pertains to the hospitality industry, recently said, "The 2010 Standards can be a snare for those who do not take the time to understand how the new regulations apply to their properties or businesses."


When in doubt, bring in the professionals to assist with this process.

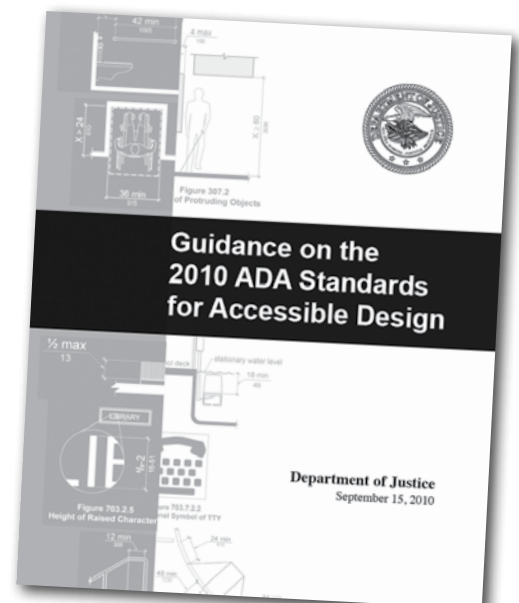
Create a Plan

Establish a plan for becoming compliant. Properties and businesses are not expected to become ADA compliant overnight; rather, they are encouraged to evaluate their facilities and create long-term plans for barrier removal and compliance. Having a compliance plan in place can be beneficial if the DOJ does an inspection and finds non-compliance. Remember that the goal of the DOJ is to ensure that everyone regardless of disability has an equal opportunity to enjoy services and facilities.

ADA Compliance - as Easy as 1-2-3

1. Get educated about the basics
2. Consult with a professional for the details
3. Create a plan to become compliant

This change is inevitable. It can be complicated and overwhelming - or with a few simple steps and some professional advice - ADA compliance can be made easy. 



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