

## ADA UPDATE: 2010 STANDARDS FOR ACCESSIBLE DESIGN CLARIFICATION<sup>1</sup>

The United States Department of Justice has amended its regulations 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. Some RV Park owners have interpreted the new guidelines to require all existing recreational facilities (such as swimming pools) or elements of these facilities to be modified to meet the new accessibility guidelines. They have expressed concern that the guidelines would have a significant economic impact on their businesses.

### EXISTING FACILITIES

To clarify, the new guidelines for recreational facilities apply to **newly designed or newly constructed buildings and facilities** and to **existing facilities when they are altered**. The rules **do not** require that all existing facilities be modified to meet these guidelines. *However*, businesses that own, lease (or lease to), or operate recreational facilities still have a separate obligation under Title III of the ADA to remove architectural barriers (known as “barrier removal”) where it is readily achievable (i.e., easily accomplishable and able to be carried out without much difficulty or expense).

### EFFECTIVE DATES

The new rules 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. A summary of the deadlines is as follows.

#### I. NEW CONSTRUCTION AND ALTERATIONS

New Construction and Alterations	
Dates	Applicable Standards
September 15, 2010, to March 15, 2012	1991 Standards or 2010 Standards
On or after March 15, 2012	2010 Standards

#### From September 15, 2010, to March 15, 2012

If a covered entity undertakes new construction or alterations, it may choose either the 1991 Standards or the 2010 Standards. **It must use that Standard for all elements in the entire facility.** For example, an entity cannot use the 1991 Standards for accessible routes and the 2010 Standards for accessible seating.

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<sup>1</sup> Casey S. Erick is Counsel for the Texas Association of Campground Owners. He can be reached at McKamie Krueger, 2007 N. Collins Blvd., Ste. 501, Richardson, Texas 75080, tel: 214-253-2600, fax: 214-253-2626, email: [casey@mckamiekrueger.com](mailto:casey@mckamiekrueger.com)

## On or after March 15, 2012

All newly constructed or altered facilities must comply with all of the requirements in the 2010 Standards. If elements in existing facilities already comply with corresponding elements in the 1991 Standards and are not being altered, then entities are not required to make changes to those elements to bring them into compliance with the 2010 Standards.

## II. READILY ACHIEVABLE BARRIER REMOVAL

Readily Achievable Barrier Removal	
Dates	Applicable Standards
September 15, 2010, to March 15, 2012	1991 Standards or 2010 Standards
On or after March 15, 2012	2010 Standards

### From September 15, 2010, to March 15, 2012

If the elements in a business serving the public do not comply with the requirements for those elements in the 1991 Standards, **the elements must be modified, to the extent readily achievable**, using either the 1991 Standards or the 2010 Standards. The public accommodation must use only one standard for removing barriers in the entire facility. For example, it cannot choose the 1991 Standards for accessible routes and the 2010 Standards for restrooms.

### On or after March 15, 2012

Elements in a facility that do not comply with the 1991 Standards' (for example, where an existing park has never undertaken readily achievable barrier removal) must be modified using the 2010 Standards to the extent readily achievable.

### March 15, 2012

A covered entity must comply with the 2010 Standards' supplemental requirements in existing facilities to the extent readily achievable.

## SWIMMING POOLS, WADING POOLS, AND SPAS

The new guidelines apply to newly designed or newly constructed and altered swimming pools, wading pools, and spas. At least two accessible means of entry shall be provided for swimming pools. However, swimming pools with less than 300 linear feet of swimming pool wall, wave action pools, leisure rivers, sand bottom pools, and other pools where user access is limited to one area, do not need more than one accessible entry so long as it meets certain guidelines. Catch pools shall not be required to provide an accessible means of entry provided that the catch pool edge is on an accessible route.