

# New ADA Standards Now in Effect: Is Your New York or New Jersey Business Compliant?

by Victor Kinon on April 5, 2012

New York and New Jersey businesses should be aware that new regulations under the Americans With Disabilities Act took effect on March 15, 2012. The 2010 Standards for Accessible Design are intended to make buildings and facilities more accessible to Americans with disabilities.

The 2010 Standards establish new requirements for facilities such as amusement rides, boating facilities, golf and miniature golf facilities, fitness facilities, swimming pools, and play areas. This is significant because most of these recreational facilities were not subject to the prior 1991 ADA regulations.

The new standards apply to new construction and existing facilities, although the requirements do differ. Newly constructed or altered places of public accommodation, commercial facilities, and state and local government facilities are required to comply with the new 2010 ADA Standards.

Places of public accommodation in existing facilities that already comply with the older 1991 standards are given safe harbor, as they are only required to have accessibility barriers removed to the extent it is “readily achievable.” Guidance on the new regulations has interpreted this to mean “easy to accomplish without much difficulty or expense.”

## *Deadline for Public Pools Extended*

The Department of Justice has announced that it will grant a 60-day extension for making existing public pools compliant. It has also indicated the deadline may be postponed even further, as hotels have argued that they may have to shutter some facilities if not given more time.

Under the new requirements, all existing public pools must either provide a sloped entry or install a mechanical chair lift. Since the 1991 Standards do not address pool accessibility, there is no safe harbor, and all facilities must comply.

## *The Message for New York and New Jersey Businesses*

While the new requirements may require significant time, money, and effort, the penalties for non-compliance are also steep. First time violators are fined \$55,000, and a second violation will cost \$110,000. In addition, businesses that fail to comply may also face costly class-action lawsuits.

Given the potential liability, New York and New Jersey businesses, particularly those in the hospitality industry, are advised to consult with our experienced business attorneys to determine your obligations under the new ADA standards.