

New ADA Regulations FAQ

Q: What is a commercial pool?

A: *Any pool that is open to the public at any time, receives government funding, or receives revenue from the pool such as membership dues.*

Q: We are a rehab facility and only allow our patients in the pool under the supervision of a certified therapist. Are we considered a commercial pool?

A: *Yes. Because members of the general public use your facility.*

Q: Does my pool need a pool lift?

A: *Any commercial pool with 300 linear feet or more needs two means of access for compliance. Primary means must be a pool lift that is capable of being independently operated by a person with a disability or a sloped entry. Secondary means may be pool lift, sloped entry, transfer wall, transfer system, or pool stairs. Swimming pools with less than 300 linear feet of pool wall must provide at least one accessible means of entry. This means must be pool lift or sloped entry.*

Q: My pool has stairs leading to the deck. Am I compliant?

A: *Yes and no. Stairs are an acceptable means of access however, it is only an acceptable SECONDARY means of access. A PRIMARY means (pool lift or sloped entry) of access must be provided. Furthermore, the stairs must meet specific criteria to be considered ADA compliant.*

Q: Our facility has 3 pools, a lap pool, a warm water therapy pool and a spa. When it was built the contractor installed one lift on the lap pool and accompanying anchors on the other two pools so we can move the lift around to where it's needed. Are we compliant?

A: *No. Section 1009.2.7 of the ADA law clearly states the lift must be capable of unassisted operation. The act of you moving the lift from one pool to the other violates this.*

Q: Following up on the question above ... Will I be compliant if I purchase one of the portable lifts that can be wheeled from pool to pool?

A: *No. While the issue of unassisted operation as it relates to portable lifts is a gray area - the fact that the lift cannot service all pools simultaneously violates the law. For example you may have a patron with disabilities in the warm water therapy pool and the spa at the same time. Section 1009.2.7 of the law states that the lift must be available to the patron so he or she will not be stranded in the water, therefore the lift must not be moved while the patron is in the water.*

Q: So I need to install a lift on each pool?

A: *Yes.*

Q: Our lap pool has a ramp and we checked with the architect that designed the pool. He assured us the ramp is ADA compliant. Do I still need to install a lift?

A: *A ramp is considered a Primary means of access. The only reason you would need to install a lift is if the pool perimeter exceeds 300 linear feet.*

Q: We are a condominium association. Are we required to comply with this?

A: *Only commercial facilities, places of public accommodation or facilities that receive Federal funds need to comply. Condos, HOA's and Apartment Complexes are considered housing units and are covered by the fair housing act. They are not required to comply unless:*

- *They generate commerce (meaning the pool is membership driven and anyone can join)*
- *The facility receives Federal funds (section 8)*
- *The pool or spa is used by anyone other than tenants, their family and friends (Open to the general public)*

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Q: How about hotels?

A: *Hotels are not considered housing since, among other reasons, they are rented out for short terms and they must comply.*

Q: I heard that this law also pertains to other areas of my facility such as parking lot, playgrounds and bathhouse. What do I need to do there?

A: *Our expertise is swimming pool access. For other areas of your facility you may wish to seek the opinion of specialists in that particular field or an architect who specializes in aquatic facilities. Another resource may be your local township officials.*

Q: I'm not sure we can afford a lift and am thinking of ignoring this. What's your thought on that?

A: *Dumb move. Penalties for non-compliance are steep. The following paragraph is taken directly from the DOJ website. "The Department of Justice may file lawsuits in federal court to enforce the ADA, and courts may order compensatory damages and back pay to remedy discrimination if the Department prevails. The Department of Justice may also obtain civil penalties of up to \$55,000 for the first violation and \$110,000 for any subsequent violation."*

Q: Who enforces this?

A: *Very good question. Ultimate authority rests with the United States Department of Justice's Civil Rights Division. However this federal law can be enforced through local inspectors (building and health) as well as the general public. Any citizen can make a discriminatory claim against any facility that is not complying with the law.*

Q: I have an anchor embedded in my deck but no lift. I don't know who made the anchor or what lift will fit it. Can you help?

A: *Absolutely. We can perform a pool lift site survey and advise you of your options.*