

ADA  AUDIO
Conference
ADA NATIONAL NETWORK

ADA Audio Conference Series
February 19, 2013

This session is scheduled to begin at
2:00pm Eastern Time

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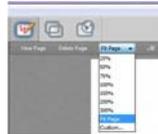
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Customize Your View *continued*



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1. **In webinar platform:** Send a private chat message to the host by double clicking "Great Lakes ADA" in the participant list. A tab titled "Great Lakes ADA" will appear in the chat panel. Type your comment in the text box and "enter" (Keyboard - F6, Arrow up or down to locate "Great Lakes ADA" and select to send a message); or
2. **By Email** adaconferences@adagreatlakes.org ; or
3. **Call** 877-232-1990 (V/TTY)

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"EVERYONE INTO THE POOL: REFRESHER ON THE REQUIREMENTS FOR SWIMMING POOL LIFTS"



Troy Balthazor, ADA Specialist
Great Plains ADA Center
Member of the ADA National Network



Great Plains ADA Center

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Swimming Pools & Spas

- January 31, 2013
- Pool and Spa Scoping and Building Standards
- Title II: Program Accessibility
- Title III: Readily Achievable Barrier Removal



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Swimming Pools and Spas

- Application: Entities covered by Titles II and III of the Americans with Disabilities Act
 - Type of facilities that don't qualify
- Scoping
- Design Standards for New Construction (Chapter 10 ADAAG)
- Alterations undertaken by Title II and Title III entities


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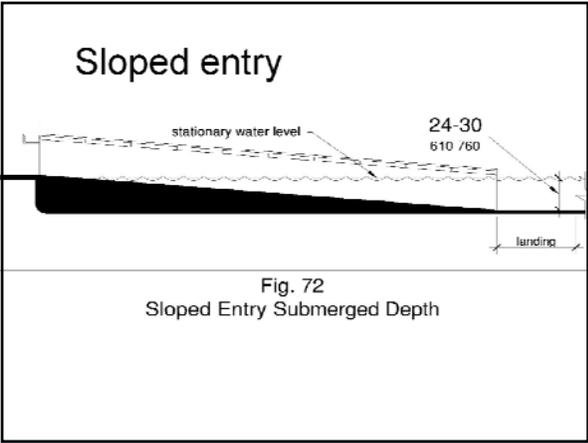
Swimming pools

- Required means of access into the water
 - Over 300 linear ft of pool wall = 2
 - Less than 300 linear ft of pool wall = 1
- Primary means of entry: Lift or sloped entry
- Secondary means - lift, sloped entry, transfer wall, stairs, or transfer system





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Pool lift

- Located where water does not exceed 48 inches
- Footrests – must be provided and move with seat.
- Armrest – if provided opposite water shall be removable or fold in raised or load position
- Capable of unassisted operation – both deck and water
- Lifting capacity: 300 lb. minimum
- Accessible route, operable controls, and reach range considerations

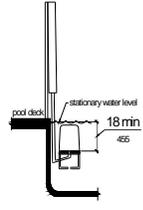


Fig 71
Pool Lift Submerged Depth



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Other means of access into the water



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Wading pools

- At least one sloped entry – handrails not required
- Extend to the deepest part of the wading pool



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Water play components

- Where water play components are provided, ground level access and transfer access to elevated play components required




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Accessibility not required to or on:

Water slides

- Accessible route required to edge of catch pool




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Spas

- Each spa requires one accessible means of entry.
- Spas in cluster: 5%, no less than 1
- This entry may be:
 - A pool lift
 - A transfer wall
 - A transfer system


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WHAT DOES DOJ EXPECT OF TITLE II ENTITIES?



What does DOJ expect?

- **New construction standard:** Fixed lift required at each swimming pool and spa covered by the standards
- No sharing
- Portables ONLY if in fixed position and independently usable during operating hours



What does DOJ expect of Title II entities?

- **Alterations:** Required to meet new construction standards to the greatest degree feasible
- Fixed lift required at each pool and spa unless Title II entity can demonstrate:
 - financial hardship and/or technical infeasibility
 - overall program accessibility



Compliance when using portable lifts

- The fixed lift may include a “portable” or movable lift that otherwise complies with the 2010 Standards and has been attached to the pool deck
- Portable lift must be in fixed place and operational during all hours open to customers or members of the public

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PROGRAM ACCESSIBILITY

TITLE II: STATE AND LOCAL GOVERNMENTS

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Program Accessibility

A public entity shall **operate each service, program, or activity** so that the service, program, or activity, **when viewed in its entirety, is readily accessible to and usable by** individuals with disabilities.

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Limitations on Program Accessibility

- Entities need not make each existing facility accessible to and usable by PWD
- Does not require an entity to take an action that would destroy historic significance



Limitations on Program Accessibility

- Does not require taking action that would result in **undue financial and administrative burdens**
- Does not require taking action that would **fundamentally alter** the nature of the service, program, or activity



Fundamental Alteration and Undue Burden

- Burden of proof is on entity
- Decisions to be made by head of entity or that person's designee
 - Take into account all resources
 - Accompany with written statement of why compliance standard cannot be met



Safety § 35.130(h)

- A public entity may impose legitimate safety requirements necessary for the safe operation of its services, programs, or activities.
 - based on actual risks
 - not based on speculation, stereotypes, or generalizations



Methods to Achieve Program Accessibility

- Acquisition or redesign of equipment
- Assignment of aides to beneficiaries
- Relocate to alternate, accessible location
- Structural, architectural changes
- Home visits



Reasonable Modifications

- A public entity shall make **reasonable modifications in policies, practices, or procedures** when the modifications are necessary to avoid discrimination on the basis of disability
 - unless the public entity can demonstrate that making the modifications would **fundamentally alter the nature of** the service, program, or activity.



§ 35.135 Personal devices and services

A public entity is **NOT** required to provide personal devices to individuals with disabilities

- wheelchairs
- individually prescribed devices, such as prescription eyeglasses or hearing aids
- readers for personal use or study
- services of a personal nature including assistance in eating, toileting, or dressing



Questions????

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WHAT DOES DOJ EXPECT OF TITLE III ENTITIES?



What does DOJ expect?

- **New construction standard:** Fixed lift required at each swimming pool and spa covered by the standards
- No sharing
- Portables ONLY if in fixed position and independently usable during operating hours



What does DOJ expect of Title III entities?

- **Alterations:** Required to meet new construction standards to the greatest degree feasible
- Fixed lift required at each pool and spa unless not **readily achievable** for that public accommodation



Compliance when using portable lifts

- The fixed lift may include a “portable” or movable lift that otherwise complies with the 2010 Standards and has been attached to the pool deck
- Portable lift must be in fixed place and operational during all hours open to customers or members of the public



READILY ACHEIVABLE BARRIER REMOVAL

TITLE III: PUBLIC ACCOMODATIONS



Readily Achievable Barrier Removal

§ 36.304 Removal of barriers

- A public accommodation shall remove architectural barriers in existing facilities, including communication barriers that are structural in nature, where such removal is readily achievable, i.e., **easily accomplishable and able to be carried out without much difficulty or expense...**



Readily Achievable Factors

- The nature and cost of the action needed;
- Financial resources of the site or sites involved
 - the number of persons employed at the site;
 - effect on expenses and resources;
 - legitimate safety requirements
 - impact otherwise of the action upon the operation of the site;
- The geographic separateness, and the administrative or fiscal relationship of the site or sites in question to any parent corporation or entity;

Cont'd...



Readily Achievable Factors (cont'd)

- If applicable, the overall financial resources of any parent corporation or entity
- If applicable, the type of operation or operations of any parent corporation or entity, including the composition, structure, and functions of the workforce of the parent corporation or entity.



Priorities for Barrier Removal

PRIORITY 1

- provide access to a place of public accommodation from public sidewalks, parking, or public transportation
 - installing an entrance ramp
 - widening entrances
 - providing accessible parking spaces.



Priorities for Barrier Removal

PRIORITY 2

- provide access to those areas of a place of public accommodation where goods and services are made available to the public.
 - adjusting the layout of display racks
 - rearranging tables
 - providing Brailled and raised character signage



Priorities for Barrier Removal

PRIORITY 3

- provide access to restroom facilities
 - removal of obstructing furniture or vending machines
 - widening of doors
 - providing accessible signage
 - widening of toilet stalls
 - installation of grab bars.



Priorities for Barrier Removal

PRIORITY 4

- any other measures necessary to provide access to the goods, services, facilities, privileges, advantages, or accommodations of a place of public accommodation



I've provided a lift, do I need to do anything else?

- If you've provided a lift or other accessible means of entry to your pool, it needs to be maintained so that it is available and in working condition when the pool is open.
- Understand the type and frequency of maintenance that your particular type of equipment requires.
- Certain types of equipment may require more staff support and maintenance than others (e.g. ensuring there are enough batteries for a pool lift to maintain a continued charge during pool hours).
- Entities should plan for these issues and modify operational policies as needed to provide accessible means of entry while the pool is open.



I've provided a lift, do I need to do anything else?

Ongoing staff training is essential to ensure that pool facilities (particularly pool lifts) are available whenever a pool is open. Staff should know:

- How to respond to requests or questions from individuals with disabilities;
- What accessible features or equipment are available;
- Where they are located;
- How to properly and safely set up and operate the accessible equipment; and
- How and when to perform maintenance.



DOJ on the fear that pools/spas may have to be closed

- "Closing a pool or spa will never be required if it is not readily achievable to comply with the requirements regardless of the reason that it is not readily achievable"
- The same basic concept applies to Title II entities and program accessibility



Questions???

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Appendix: ADDITIONAL ADDAG FIGURES



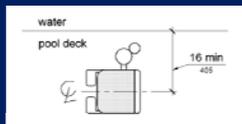


Figure 1008.2.2 Pool Lift Seat Location



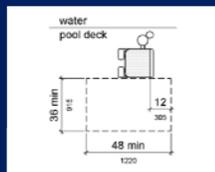


Figure 1008.2.3 Clear Deck Space at Pool Lifts



16-19
405-485
pool deck

Figure 1008.2.4 Pool Lift Seat Height

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pool deck
stationary water level
18 min
405

Figure 1008.2.8 Pool Lift Submerged Depth

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stationary water level
24-30
18-20
landing

Figure 1008.3.2 Sloped Entry Submerged Depth

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width of sloped entry
33-38
840-965

Figure 2008.3.3 Handrails for Sloped Entry

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water
pool wall
pool deck
60 min
132
60 min
1125
(a) (b)

Figure 2008.4.1 Clear Deck Space at Transfer Walls

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16-19
405-483
pool deck

Figure 2008.4.2 Transfer Wall Height

Great Plains ADA Center 57

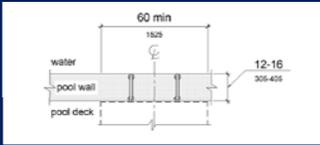


Figure 1009.4.3 Depth and Length of Transfer Walls



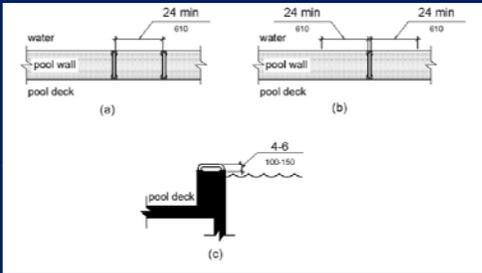


Figure 1009.4.5 Grab Bars for Transfer Walls



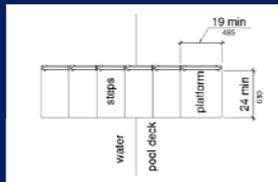


Figure 1009.5.1 Size of Transfer Platform



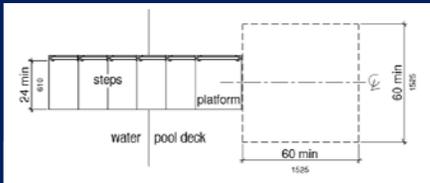


Figure 1009.5.2 Clear Deck Space at Transfer Platform



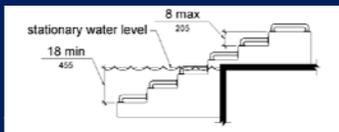


Figure 1009.5.4 Transfer Steps



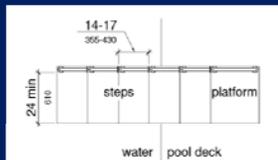


Figure 1009.5.6 Size of Transfer Steps



