

Revised ADA Regulations for Titles II and III

July 27, 2010

On July 26, 2010, the 20th anniversary of the signing of the Americans with Disabilities Act, the Department of Justice announced the issuance of the Revised ADA Regulations governing Titles II and III. These final rules will take effect six months from the date of their publication in the Federal Register. Compliance with the 2010 Standards for Accessible Design ("2010 ADAAG") is permitted after that date, but not required of newly constructed or altered facilities until 18 months after the eventual date of publication in the *Federal Register*.

The 2010 ADAAG contains an element-by-element safe harbor. Therefore, elements within existing facilities that were built or modified in compliance with the current ADAAG need not comply with the 2010 ADAAG until they are next modified.

These revised regulations will impact a broad range of industries - e.g., sports/entertainment venues; lodging; restaurants; retail establishments; and academic institutions - in a variety of ways, including policies, practices and procedure, and design/construction. Later this week, we will be circulating a client alert, providing detailed information regarding these many changes.

In the interim, we wish to highlight a few major revisions to the law:

- **Employee-Only Work Areas:** Accessible common-use circulation paths must now be provided within employee-only work areas (subject to specified exceptions).
- **Service Animals:** The definition of service animal has been significantly narrowed to only include dogs (with an exception for the use of miniature horses in some situations). Emotional support animals are expressly excluded from coverage as service animals.
- **Accessible Seating in Restaurants:** Restaurants must now provide accessible seating equal to 5 percent of the total number of general seating spaces and standing spaces at dining surfaces.

- **Accessible Seating Locations in Places of Assembly:** The scoping of seating in large facilities has been significantly reduced. Pursuant to the 2010 ADAAG: (i) facilities with 500-5000 seats must only have six accessible seating locations (wheelchair location and companion seat) plus one additional accessible seating location for every additional 150 fixed seats in the general seating area; and (ii) facilities with 5001 or more fixed seats in the general seating area must have only 36 accessible seating locations (wheelchair location and companion seat) plus one additional accessible seating location for every 200 fixed seats above 5000 in the general seating area. (Accessible seating for suites and luxury boxes are to be determined separately.) For larger facilities, this is a substantial reduction of the existing "1 percent +1" requirement.
- **Designated Aisle Seats in Places of Assembly:** Under the 2010 ADAAG, designated aisle seats must now be provided for 5 percent of the total number of aisle seats, instead of for 1 percent of all seats.

Full copies of the Revised ADA Regulations can be found at:

www.ada.gov/regs2010/ADAregs2010.htm