

**GUIDANCE FOR POOLS AND SPAS REGARDING
DOCUMENTATION OF COMPLIANCE WITH THE
2010 AMERICANS WITH DISABILITIES ACT**

MARYLAND DEPARTMENT OF HEALTH AND MENTAL HYGIENE (DHMH)
Division of Community Services (DCS)
6 St. Paul Street, Suite 1301, Baltimore, Maryland 21202-1608
Phone: 410-767-8417 Fax: 410-333-8926
Toll Free: 1-877-4MD-DHMH ext. 8417

This document provides **UPDATED** guidance for Maryland public pool and spa owners regarding the 2010 ADA Standards for Accessible Design (“2010 Standards”), and replaces previous guidance.

ALL POOL AND SPA OWNERS MUST REVIEW AND COMPLETE THE “AMERICANS WITH DISABILITIES ACT (ADA) AFFIDAVIT FOR MARYLAND PUBLIC POOLS AND SPAS” (available at: <http://ideha.dhmh.maryland.gov/OEHFP/CHS/SitePages/consumer-product-safety.aspx>). This document replaces the previous ADA questionnaire, which is no longer in effect. *If you previously submitted an ADA questionnaire, you must still complete the ADA affidavit, even if your plans have not changed.* The table below shows what documents you should provide, depending on which box you select on the ADA affidavit.

All forms are available at: <http://ideha.dhmh.maryland.gov/OEHFP/CHS/SitePages/consumer-product-safety.aspx>.

Box checked on the ADA Affidavit	Your Facility’s Current Compliance Status with the 2010 ADA Standards	Documents You Should Submit to the Local Health Department
The pools and/or spas located at this facility are required to meet the 2010 ADA Standards and fully comply or will submit plans by September 15, 2012 to bring the facility into full compliance with these Standards.	Fully complies with 2010 ADA Standards or will by March 15, 2012	Signed affidavit by March 15, 2012
	Does not currently comply with 2010 ADA and you intend to bring it into compliance	Signed affidavit AND an <i>Application for Compliance Schedule</i> by March 15, 2012; construction permit application by September 15, 2012*
The pools and/or spas located at this facility are required to meet the 2010 ADA Standards but compliance is “ not readily achievable ” at this time.	Self-assessment has determined that compliance is not readily achievable at this time	Signed affidavit by March 15, 2012
The pools and/or spas located at this facility are not required to meet the 2010 ADA Standards.	Not applicable	Signed affidavit by March 15, 2012
The pools and/or spas located at this facility are required to meet the 2010 ADA Standards but do not meet the Standards.	Not currently in compliance and no plans to be in compliance	Signed affidavit by March 15, 2012

**For pools and spas in Anne Arundel, Baltimore, Howard, Montgomery, Prince George’s Counties and Baltimore City, submit the construction permit application to the Local Health Department. For pools and spas in other counties submit the construction permit application to the Division of Community Services, see address above.*

The Department of Health and Mental Hygiene and local health departments will not issue an operating permit to a facility that is not in compliance with the 2010 ADA Standards, unless there is either a compliance plan submitted by September 15, 2012, or the owner/operator indicates that the pools and spas at the facility are not required to meet the 2010 ADA Standards.

If you have additional questions related to the 2010 ADA Standards you may consult the ***Frequently Asked Questions (FAQ)*** document available at: <http://ideha.dhmh.maryland.gov/OEHFP/CHS/SitePages/consumer-product-safety.aspx>. For questions not covered in the FAQ you may contact the Department of Justice at 1-800-514-0301.

**AMERICANS WITH DISABILITIES ACT (ADA)
AFFIDAVIT FOR MARYLAND PUBLIC POOLS
AND SPAS**

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Who should use this form?

- Maryland pools and spas regulated by the Department of Health and Mental Hygiene

Why must I complete this form?

- To document the pool or spa compliance status with the 2010 ADA Standards for Accessible Design

When do I need to submit this form to the local health department?

- No later than March 15, 2012

What happens if the form is not submitted?

- The operating permit for the pool or spa will be denied or suspended

Maryland pools and spas regulated by the Department of Health and Mental Hygiene are required to comply with disability access laws (COMAR 10.17.01.37). The U.S. Department of Justice (USDOJ) published revised regulations for Titles II and III of the Americans with Disabilities Act of 1990 (“ADA”) in the Federal Register on September 15, 2010. These regulations adopted revised, enforceable accessibility standards called the 2010 ADA Standards for Accessible Design (“2010 Standards” or “Standards”), which are available online at http://www.ada.gov/2010ADASTandards_index.htm. The 2010 Standards set minimum requirements – both scoping and technical – for State and local government facilities, public accommodations, and commercial facilities to be readily accessible to and usable by individuals with disabilities. To determine if your facility is required to meet the 2010 ADA Standards, please see the information and guidance on the ADA website, for example, http://www.ada.gov/pools_2010.htm, contact the USDOJ for assistance at 1-800-514-0301, or consult with your attorney. The 2010 ADA Standards go into effect **on March 15, 2012**.

Provide the following information about your facility:

Name of Owner: _____

Mailing Address: _____

Contact name: _____ Phone number(s): _____

Contact email: _____

Type:	Pool	Wading pool	Spa	Pool(s) and/or spa(s) physical address:
Number:				

Check one of the following regarding compliance with the 2010 ADA Standards:

- The pools and/or spas located at this facility **are required** to meet the 2010 ADA Standards and **fully comply** or will submit plans by September 15, 2012 to bring the facility into full compliance with these Standards.
- The pools and/or spas located at this facility **are required** to meet the 2010 ADA Standards but compliance is **“not readily achievable”** at this time (see, for example, <http://www.ada.gov/regs2010/smallbusiness/smallbusprimer2010.htm#readilyachievable>).
- The pools and/or spas located at this facility **are not required** to meet the 2010 ADA Standards.
- The pools and/or spas located at this facility **are required** to meet the 2010 ADA Standards but **do not** meet the Standards.

Owner’s Statement:

I have carefully examined and read this form and understand that providing false information may result in denial, suspension or revocation of an operating permit. I solemnly affirm under the penalties of perjury and upon personal knowledge that the contents of the foregoing affidavit are true.

Signature _____

Title _____

Date _____

How do I determine if the 2010 ADA Standards for Accessible Design apply to my facility or if my facility is already in compliance?

Review the 2010 ADA Standards for Accessible Design available at:
http://www.ada.gov/2010ADASTandards_index.htm;

Review the U.S. Department of Justice's (USDOJ) technical guidance document related to swimming pools and spas available at: http://www.ada.gov/pools_2010.htm;

Call the USDOJ at 1-800-514-0301; and

Consult with your attorney

Does installing a portable lift require a construction permit?

Yes, because this constitutes an alteration to the pool/spa.

Does Maryland allow the use of portable lifts?

Yes. The owner of the pool/spa should consult the USDOJ to determine if it is appropriate to use a portable lift at their facility for compliance with the 2010 ADA Standards for Accessible Design.

What does "not readily achievable" mean?

See, for example,

<http://www.ada.gov/regs2010/smallbusiness/smallbusprimer2010.htm#readilyachievable>

How often will I be required to submit the ADA affidavit?

Only once. The affidavit statement will be incorporated into the operating permit application for the 2013 season.

If my facility is not required to meet the 2010 ADA Standards for Accessible Design, why must I submit the ADA affidavit?

The ADA affidavit must be submitted to document to the local health department the current status of the pool/spa related to ADA. This information is needed in order for the local health department to issue your operating permit for the pool/spa.

If I check option four (4) on the ADA affidavit what happens?

The local health department will not issue your operating permit.

What is the difference between option two (2) and option four (4)?

For option two (2), the owner completed a self-assessment of the facility and provided access where achievable but there is a portion of the pool/spa facility that cannot be brought into full compliance at this time.

For option four (4), the owner understands that the facility must comply with the 2010 ADA Standards for Accessible Design; however, has chosen not to take any action to bring the facility into compliance at this time.

What will Maryland pool inspectors be looking for at my facility?

Inspectors will verify that the ADA affidavit was submitted and that any alterations to the pool/spa were completed in accordance with Public Swimming Pools and Spas Regulations, COMAR 10.17.01. Inspectors in Anne Arundel, Baltimore, Howard, Montgomery, Prince George's Counties and Baltimore City will also ensure that any alterations to the pool/spa were completed in accordance with their respective local codes.

If I already submitted an ADA questionnaire, do I need to submit the ADA affidavit?

Yes. All owners must submit the ADA affidavit.

If I have multiple pools and/or spas at my facility and these pools/spas are in different compliance categories, how do I complete the ADA affidavit?

All pools/spas falling into the same compliance category can be listed on a single ADA affidavit. For pools/spas falling into different compliance categories you should complete separate ADA affidavits for each group.