



**Public Health**  
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Frederick County Health Department

Barbara A. Brookmyer, M.D., M.P.H. ▪ Health Officer

January 13, 2012

Public Pool Facility  
Frederick County, MD

Re: New ADA Regulations

Dear Pool/Spa Owner:

The United States Department of Justice recently revised accessibility standards for public pools and spas set forth in the Americans with Disabilities Act of 1990 (ADA). Many public pools and spas are required to be in compliance with these new ADA regulations by March 15, 2012.

Attached is a memo from the Maryland Department of Health and Mental Hygiene (DHMH) outlining the requirements and needed changes as a result of these new regulations. The Frederick County Health Department will work in conjunction with DHMH to ensure that all pools meet the minimum standards set forth in the new regulations. A 2012 operating permit will not be issued until all DHMH requirements have been fulfilled.

If you have not received an invitation, the FCHD will be hosting DHMH on January 17, 2012 from 9:30-3:30 to provide information about ADA and provide feedback to your questions. To attend on January 17<sup>th</sup>, please register at [ContactDCS@dhmh.state.md.us](mailto:ContactDCS@dhmh.state.md.us).

If you have any questions about your 2012 operating permit, please contact me at 301-600-3168 or [aevangelista@FrederickCountyMD.gov](mailto:aevangelista@FrederickCountyMD.gov). For specific questions concerning implementation of the new ADA regulations, please contact DHMH at 410-767-8417.

Sincerely,

*A. Evangelista, R.S.*

Alicia Evangelista, Program Manager  
Environmental Health  
Community Services/Development Review

Pc: George Keller, Director, Environmental Health Services



George Keller ▪ Director

Department of Environmental Health Services ▪ 350 Montevue Lane ▪ Frederick, MD 21702  
Phone: 301-600-1719 ▪ Fax: 301-600-3180 ▪ MD TTY: 1-800-735-2258





STATE OF MARYLAND

**DHMH**

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**Maryland Department of Health and Mental Hygiene**

Martin O'Malley, Governor – Anthony G. Brown, Lt. Governor – Joshua M. Sharfstein, M.D., Secretary

**Infectious Disease and Environmental Health Administration**

Heather L. Hauck, LICSW, MSW, Director

Meena Abraham, MPH, DrPH, Assistant Director  
Clifford S. Mitchell, MS, MD, MPH, Assistant Director

David Blythe, MD, MPH, Assistant Director/State Epidemiologist  
Richard W. Stringer, Chief Financial Officer

December 5, 2011

Dear Pool or Spa Operator/Owner:

This letter clarifies requirements for all pool and spa owners and operators who are subject to regulation by the Maryland Department of Health and Mental Hygiene and local health departments. It addresses accessibility requirements for issuance of annual operating permits and construction permits for pools and spas, as they are affected by the 2010 ADA Standards for Accessible Design.

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](http://www.ada.gov/2010ADASTandards_index.htm). The 2010 Standards set minimum requirements – both scoping and technical -- for newly designed and constructed or altered State and local government facilities, public accommodations, and commercial facilities to be readily accessible to and usable by individuals with disabilities. It should also be noted that swimming pools and spas are specifically not eligible for the so-called "safe harbor" provision of the regulation, so that if they are subject to the regulation at all they must comply with the provisions of 2010 Standards.

As a part of the 2010 Standards, the USDOJ has stated:

"At least two accessible means of entry shall be provided for swimming pools. Accessible means of entry shall be swimming pool lifts complying with 1009.2; sloped entries complying with 1009.3; transfer walls complying with 1009.4; transfer systems complying with 1009.5; and pool stairs complying with 1009.6. At least one accessible means of entry provided shall comply with 1009.2 or 1009.3." [Section 242.2 of the 2010 Standards]

Pools with less than 300 linear feet of wall must have at least one primary mean of entry - handicap lift or sloped entry. Wading pools are required to provide at least one accessible means of entry, which must be a sloped entry that complies with Section 1009.3 of the 2010 Standards. These rules apply to covered facilities on and after March 15, 2012.

Under the Code of Maryland Regulations (COMAR) 10.17.01.37, "An owner shall ensure that a public pool or spa is in compliance with all applicable federal, State, and local codes governing facilities for disabled individuals, including COMAR 05.02.02."

201 W. Preston Street, Baltimore, Maryland 21201  
410-767-6742 Fax 410-333-5995  
Toll Free 1-877-4MD-DHMH TTY for Disabled  
Maryland Relay Service 1-800-735-2258

500 N. Calvert Street, 5<sup>th</sup> Fl, Baltimore, Maryland 21202  
410-767-5227 • Fax 410-333-6333 • TDD for Disabled 410-333-4800  
Toll Free 1-800-358-9001 • TTY for Disabled  
Maryland Relay Service 1-800-735-2258

Web Site: <http://ideha.dhmh.maryland.gov>

Based on the new requirements of the 2010 Standards and COMAR 10.17.01.37, DHMH will require pools seeking operating permits or construction permits that become effective on or after March 15, 2012 to be in compliance with the 2010 Standards. A number of questions have been raised about these new standards by pool operators and municipalities, and these questions are addressed below. Pools or spas that have an existing operating permit or construction permit in effect before March 15, 2012 must, by March 15, 2012, either complete the required renovations to bring the pool or spa into compliance with the 2010 Standard or submit and have approved a compliance schedule to complete the renovations by March 15, 2013.

***Who is required to comply with the 2010 Standards?***

COMAR 10.17.01.37 states that public pools and spas must comply with these standards. In practical terms, this will apply to all publicly operated pools and spas, as well as privately owned and operated pools and spas if they are a "place of public accommodation." There are some potential exclusions related to historic preservation or undue hardship, but generally the burden is on the owner/operator to show why they cannot comply.

DHMH is not responsible for ADA compliance for pools that are not ordinarily subject to the requirements of COMAR 10.17.01.

***Are private pools subject to the 2010 Standards?***

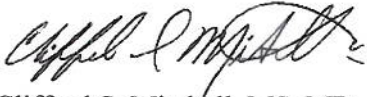
Pools that are places of public accommodation (e.g., hotel pools) are expected to comply in order for DHMH to issue either an annual operating permit or construction permit. Non-government pools that are open to the public by membership would also be expected to comply with the 2010 Standards. Pools that are operated by homeowners associations, apartment complexes, or condominium associations, may also be required to comply if they are places of public accommodation, for example, if the pool or spa is available for rental or for non-resident use. DHMH will make available on its website a form that permit applicants can use to determine and indicate whether they are subject to the requirements of the 2010 Standards. This form must be submitted to the local health department with the application for an annual operating permit if the owner or operator believes that the pool is not subject to the 2010 Standards, but the final determination will be made by DHMH and the local health department.

***Will DHMH require that work be completed by March 15, 2012 in order to qualify for an annual operating permit or construction permit?***

DHMH recognizes that there may be circumstances that will delay some pools in their ability to complete work required to comply fully with the 2010 Standards. DHMH will not require that all work be completed prior to March 15, 2012. However, before granting an annual operating permit or construction permit, DHMH will require evidence that the pool or spa owner or operator is actively in the process of achieving compliance. DHMH intends to evaluate all applications for construction and operating permits for evidence that the pool will meet the 2010 Standards before March 15, 2013. At a minimum, the operator or owner must submit with the application a compliance schedule if the work will not be completed by March 15, 2012. The compliance schedule must indicate that a construction permit application will be filed with DHMH or the local health department by a specific date sufficient to complete the work by March 15, 2013.

DHMH is committed to working closely with the pool and spa industry and other stakeholders during this implementation of the 2010 Standard. We will post information and updates on our website, at: <http://ideha.dhmh.maryland.gov/OFPCHS/consumer-product-safety.aspx>. If you have additional questions about this or other issues related to public health and pools and spas, please contact our office at: (410) 767-8417; fax to (410) 333-8926; or by email at [ContactDCS@dhmh.state.md.us](mailto:ContactDCS@dhmh.state.md.us).

Sincerely,



Clifford S. Mitchell, MS, MD, MPH  
Assistant Director

Cc: Frances Phillips, Deputy Secretary  
Heather Hauck, Administration Director  
Joshua Auerbach, Office of the Attorney General