

FEDERAL

When considering requirements for Federal Accessibility compliance (ADA) within Title III facilities, the following federal terminology, definitions and applicability dates are helpful:

New construction: Any facility occupied after January 26, 1993, for which the last application for a building permit or permit extension is certified as complete after January 26, 1992.

Existing Facility: Any building/facility constructed and occupied prior to January 26, 1993.

Alterations: After January 26, 1992, alterations to existing places of public accommodation and commercial facilities must be accessible to the maximum extent feasible.

Disability – Defined in 1990 ADA - The term “disability” means, with respect to an individual:

- a physical or mental impairment that substantially limits one or more of the major life activities of such individual;
- a record of such an impairment; or
- being regarded as having such impairment.

Removal of Barriers: (Existing Facilities):

Readily Achievable: Easily accomplishable and able to be carried out without much difficulty or expense. (Determined case by case, based on all resources available.) Continuous obligation regardless of whether work is proposed.

In determining whether an action is readily achievable factors to be considered include –

- 1) The nature and cost of the action needed under this part;
- 2) The overall financial resources of the site or sites involved in the action; the number of persons employed at the site; the effect on expenses and resources; legitimate safety requirements that are necessary for safe operation, including crime prevention measures; or the impact otherwise of the action upon the operation of the site;
- 3) The geographic separateness, and the administrative or fiscal relationship of the site or sites in question to any parent corporation or entity;
- 4) If applicable, the overall financial resources of any parent corporation or entity; the overall size of the parent corporation or entity with respect to the number of its employees; the number, type, and location of its facilities; and

5) 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.

Alternative to Barrier Removal – if barrier removal is not readily achievable, alternative steps must be taken to make goods and services accessible. Complete documentation shall be provided to demonstrate “not readily achievable”.

Equivalent Facilitation: Departures from particular technical and scoping requirements of the ADAAG by the use of other designs and technologies are permitted where the alternative designs and technologies used will provide substantially equivalent or greater access to and usability of the facility.

Public Accommodation: A facility whose operation affect commerce; and fall within at least one of the following 12 categories: 1) Places of lodging; 2) establishments serving food or drink 3) places of exhibition or entertainment 4) Places of public gathering 4) sales or rental establishments; 6) service establishments 7) Public transportation terminals, depots, or stations; 8) Places of public display or collection 9) Places of recreation 10) Places of education 11) Social service center establishments 12) Places of exercise or recreation (examples include but not limited to - restaurants, hotels, theaters, convention centers, retail stores, shopping centers, dry cleaners, laundromats, pharmacies, doctors’ offices, hospitals, museums, libraries, parks, zoos, amusement parks, private schools, day care centers, health spaces, bowling alleys

Both the landlord who owns the building that houses a place of public accommodation and the tenant who owns or operates the place of public accommodation are subject to the requirements, as between the parties, allocation of responsibility for complying with the obligations may be determined by lease or other contract.

Commercial facilities: Nonresidential facilities, including office buildings, factories and warehouses whose operations affect commerce.