

Office of General Counsel
915 SW Harrison St., 6th Floor
Topeka, KS 66612-1570



Phone: (785) 296-3967
Fax: (785) 296-4960
www.dcf.ks.gov

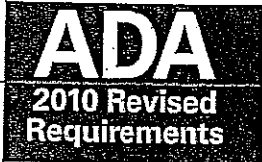
Phyllis Gilmore, Secretary

Sam Brownback, Governor

Chairman Ostmeyer and members of the committee, my name is Anthony Fadale and I am the State ADA Coordinator. My job is to ensure that the State of Kansas programs, services and activities and our facilities such as the Statehouse are accessible and usable to individuals with disabilities.

After the passage of the ADA, the Legislature incorporated Titles II and III into State statute to ensure that our state law paralleled Federal law. The United States Department of Justice recently issued updated regulations which had not been updated or modified for 20 years. After consulting with the Revisers, it was determined that we should update our statute to ensure the public of regulatory certainty as they build and alter facilities. These new Federal regulations also achieve a balanced approach for government and business, while still protecting people with disabilities civil rights, by allowing for practical exceptions and narrow safe harbors the 1991 standards do not have.

Under the ADA, State and local governments are allowed to have statutes which provide equal or stronger accessibility standards for people with disabilities. HB 2193 ensures that we bring that balance and consistency by aligning our state statutes. I would be happy to answer any questions the committee may have.



Effective Date Compliance Date

The Department of Justice published revised final regulations implementing the Americans with Disabilities Act (ADA) for title II (State and local government services) and title III (public accommodations and commercial facilities) on September 15, 2010, in the Federal Register. These requirements, or rules, clarify and refine issues that have arisen over the past 20 years and contain new, and updated, requirements, including the 2010 Standards for Accessible Design ("2010 Standards").

Overview

The effective date of the Department's two revised ADA rules is **March 15, 2011**. Of course, even before this date, entities covered by titles II and III of the ADA are still subject to the requirements in the Department's 1991 regulations. These new revised rules set out several different "compliance dates," dates by which entities covered by the ADA are required to comply with the new or revised provisions of the Department's rules.

Title II and title III have no effect on any State or local laws that provide protection for individuals with disabilities at a level greater than or equal to that provided by the ADA. Compliance with less stringent state or local laws does not constitute compliance with the ADA.

March 15, 2011, is the effective date for the revised title II and title III regulations which include, in part, requirements for:

- Service animals, ticketing, and use of wheelchairs, manually-powered mobility aids and other power-driven mobility devices;

For example, a sports arena, on or after March 15, 2011, must tell an individual with a disability and his or her companions about the features of accessible seating. If seating maps or brochures are provided to the general public, similar information showing accessible seating must be provided to individuals with disabilities.

- Effective Communication (auxiliary aids and services); and
- Examinations and Courses.

Overview (continued)

March 15, 2012 is the compliance date for provisions governing hotel reservation policies.

For example, on or after March 15, 2012, reservations staff (of a hotel or a third party) will be required to identify accessible features in guest rooms (e.g. guest room door widths and availability of roll-in showers) and other hotel amenities in sufficient detail so that an individual with a disability can make an independent assessment whether the hotel meets his or her accessibility needs.

March 15, 2012, is also the compliance date for using the 2010 Standards for new construction, alterations, program accessibility, and barrier removal.

Although under certain circumstances, the revised regulations permit the use of the 2010 Standards before the compliance date of March 15, 2012, entities are not required to comply with the 2010 Standards until March 15, 2012.

**Title II and Title III:
New Construction and Alterations**

From September 15, 2010, to March 15, 2012, if a title II or title III entity undertakes new construction or alterations, it may choose either the 1991 Standards or the 2010 Standards. Title II entities may also choose to use the Uniform Federal Accessibility Standards (UFAS). It must use that Standard for all elements in the entire facility. For example, an entity cannot use the 1991 Standards for accessible routes and the 2010 Standards for accessible seating.

On or after March 15, 2012, all newly constructed or altered facilities must comply with all of the requirements in the 2010 Standards.

If elements in existing facilities already comply with corresponding elements in the 1991 Standards and are not being altered, then entities are not required to make changes to those elements to bring them into compliance with the 2010 Standards.

New Construction and Alterations	
Dates	Applicable Standards
September 15, 2010, to March 15, 2012	<p>title II: 1991 Standards, UFAS, or 2010 Standards</p> <p>title III: 1991 Standards or 2010 Standards</p>
On or after March 15, 2012	2010 Standards

**Title II:
Program Accessibility**

From September 15, 2010, to March 15, 2012, State and local governments (public entities) have the option of choosing to follow the 1991 Standards, the UFAS, or the 2010 Standards when making architectural changes to provide program access. The elevator exception in the 1991 Standards may not be used.

NOTE: Public entities must comply with either the 1991 Standards, UFAS, or the 2010 Standards for all elements within a single building. For example, a county has never taken any measures to make its community center's programs accessible to individuals with disabilities. In April 2011 the county begins to make architectural changes to meet its program accessibility obligation at the community center. The county may choose the 1991 Standards, UFAS or the 2010 Standards but must use the chosen standard for all architectural changes it makes to the building. For example, it cannot use the 1991 Standards for the building's entrance and the 2010 Standards for its restrooms.

On or after March 15, 2012, public entities must comply with the 2010 Standards in making architectural changes to achieve program accessibility and for all new construction and alterations.

On or after March 15, 2012, public entities must consider the supplemental requirements (such as swimming pools, play areas, and fishing piers) in the 2010 Standards to assess compliance with program accessibility.

If elements in existing facilities already comply with corresponding elements in the 1991 Standards or the UFAS and are not being altered, then title II entities are not required to make changes to those elements to bring them into compliance with the 2010 Standards.

Program Accessibility	
Dates	Applicable Standards
September 15, 2010, to March 15, 2012	1991 Standards, UFAS, or 2010 Standards
On or after March 15, 2012	2010 Standards

**Title III:
Readily Achievable
Barrier Removal**

From September 15, 2010, to March 15, 2012, if the elements in a business serving the public (public accommodation) do not comply with the requirements for those elements in the 1991 Standards, the elements must be modified, to the extent readily achievable, using either the 1991 Standards or the 2010 Standards. The public accommodation must use only one standard for removing barriers in the entire facility. For example, it cannot choose the 1991 Standards for accessible routes and the 2010 Standards for restrooms.

On or after March 15, 2012, elements in a facility that do not comply with the 1991 Standards' requirements for those elements (for example where an existing restaurant has never undertaken readily achievable barrier removal) must be modified using the 2010 Standards to the extent readily achievable.

March 15, 2012, is the compliance date for the 2010 Standards which include revisions to the 1991 Standards as well as supplemental requirements for which there are no technical or scoping requirements in the 1991 Standards (such as swimming pools, play areas, marinas, or golf facilities). Public accommodations must comply with the 2010 Standards' supplemental requirements in existing facilities to the extent readily achievable.

Readily Achievable Barrier Removal	
Dates	Applicable Standards
September 15, 2010, to March 15, 2012	1991 Standards or 2010 Standards
On or after March 15, 2012	2010 Standards

**For more information about the ADA,
please visit our website or call our toll-free number.**

ADA Website: www.ADA.gov

ADA Information Line

800-514-0301 (Voice) and 800-514-0383 (TTY)

24 hours a day to order publications by mail.

M-W, F 9:30 a.m. – 5:30 p.m., Th 12:30 p.m. – 5:30 p.m. (Eastern Time)

to speak with an ADA Specialist. All calls are confidential.

For persons with disabilities, this publication
is available in alternate formats.

Duplication of this document is encouraged. February 2011