

# New Standards: The 2010 Standards Go Into Effect

## The 2010 Standards



James A. Bostrom  
Deputy Chief  
Disability Rights Section  
U. S. Department of Justice

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## 2010 Standards



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## 2010 Standards

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## 2010 Standards

### Title II Standards

Requirements in 28 CFR  
35.151

and

2004 ADAAG

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# Title II 2010 Standards

**28 CFR part 35.151 New Construction and Alterations**

- (a) Design and construction, including the exception for structural impracticability .....6
- (b) Alterations, including alterations to historic properties, path of travel, and primary function .....6
- (c) Accessibility standards and compliance date .....9
- (d) Scope of coverage .....11
- (e) Social service center establishments .....11
- (f) Housing at a place of education .....11
- (g) Assembly areas .....12
- (h) Medical care facilities .....13
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# 2010 Standards

## Title III Standards

Requirements in 28 CFR part 36 subpart D and 2004 ADA Accessibility Guidelines

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# Title III 2010 Standards

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- § 36.401 New construction.**
  - (a) General ..... 19
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  - (a) General ..... 21
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  - (c) To the maximum extent feasible ..... 22
- § 36.403 Alterations: Path of travel.**
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# 2010 Standards: 2004 ADAAG



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# 2010 Standards -- 2004 ADAAG

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# 2010 Standards: Guidance



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# 2010 Standards: Guidance

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2	State and Local Government Facilities: Guidance on the Revisions to 28 CFR 35.151....	3
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# 2010 Standards

## ADAAG Structure and Format

CHAPTER 1: APPLICATION AND  
ADMINISTRATION

CHAPTER 2: SCOPING  
REQUIREMENTS

CHAPTERS 3 - 10: TECHNICAL  
REQUIREMENTS

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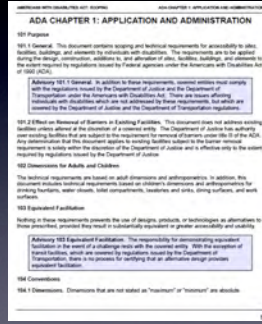
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# 2010 Standards



## Chapter 1

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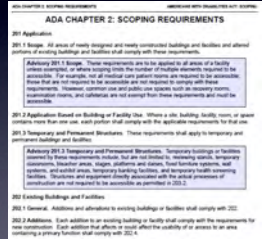
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# 2010 Standards



## Chapter 2

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# 2010 Standards for Accessible Design

## Where is Everything?

- CHAPTERS 3 - 10: TECHNICAL REQUIREMENTS

For internal use only -- do not distribute or copy

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# 2010 Standards

## A Kit of Parts...

Browsing through:

- Parking
- Entrance
- Golf

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# 2010 Standards

## Changes from 1991 Standards

### Key Concepts:

- Incremental Changes
- Supplemental Changes

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# 2010 Standards

## Incremental Changes

Requirements in the 1991 Standards that are modified in the 2010 Standards

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# 2010 Standards

## Incremental Changes

Maximum side reach was 54 inches AFF in 1991 Standards

Maximum side reach is 48 inches AFF in 2010 Standards

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# 2010 Standards

## Incremental Change 48" max, 15" min

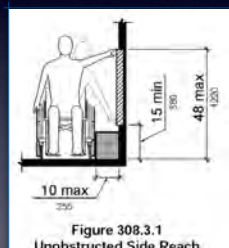


Figure 308.3.1  
Unobstructed Side Reach

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## 2010 Standards

Supplemental Changes  
are  
New Requirements

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## 2010 Standards

Supplemental Changes  
are  
Not covered by a Safe  
Harbor...

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## Existing Facilities...

How to apply new requirements in the  
2010 Standards to facilities built or  
altered to comply with the 1991  
Standards?

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## Existing Facilities...

An “existing facility” is:

“a facility in existence on any given  
date, without regard to whether the  
facility may also be considered  
newly constructed or altered under  
this part.”

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## Safe Harbor: Existing Facilities

Elements that comply with the corresponding requirements for those elements in the 1991 Standards or UFAS do not need to be modified to meet the 2010 Standards unless they are altered on or after March 15, 2012.

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## Safe Harbor: Existing Facilities

Safe Harbor does not apply to elements in existing facilities that were **not subject to specific requirements in the 1991 Standards.**

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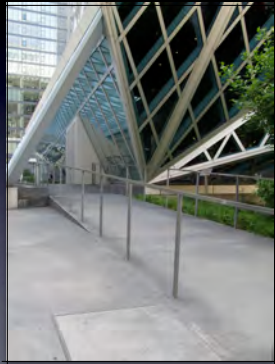
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## Noncomplying Facilities

Element by  
Element  
Compliance...



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## Not Subject to Safe Harbor

§35.150(b)(2)(ii) and §36.304(d)(2)(iii)

- (A) Residential facilities and dwelling units
- (B) Amusement rides
- (C) Recreational boating facilities
- (D) Exercise machines and equipment
- (E) Fishing piers and platforms
- (F) Golf facilities
- (G) Miniature golf facilities

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## Not Subject to Safe Harbor

§35.150(b)(2)(ii) and §36.304(d)(2)(iii)

- (H) Play areas
- (I) Saunas and steam rooms
- (J) Swimming pools, wading pools, and spas
- (K) Shooting facilities with firing positions
- (L) Miscellaneous
  - (1) Team or player seating
  - (2) Accessible route to bowling lanes
  - (3) Accessible route in court sports facilities

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## Supplemental Changes: Existing Facilities

Example:

Swimming  
Pools  
sections  
242 and 1009



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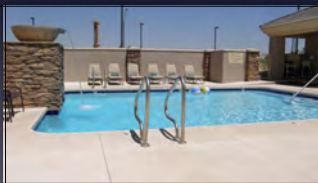
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## 2010 ADA Standards Supplemental Change -- New Requirement

Getting into the pool...



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## Noncomplying Facilities

§ 35.151(c)(5) and §36.304(d)(2)(ii)

Noncomplying facilities, i.e., facilities built after the compliance date for the 1991 Standards, but that are **not** in compliance with those standards, must be modified as follows:

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# Noncomplying Facilities

Before March 15, 2012, choice of:

- 1991 Standards
- 2010 Standards
- UFAS (title II only)

After March 15, 2012, entities must bring their noncomplying facilities into compliance with the 2010 Standards.

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# §35.133 Maintenance of Accessible Features

If the 2010 Standards reduce the technical requirements or the number of required accessible elements below the number required by the 1991 Standards, the technical requirements or the number of accessible elements in a facility subject to this part may be reduced in accordance with the requirements of the 2010 Standards.

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# §35.133 Maintenance...



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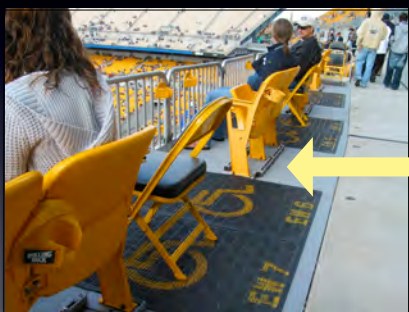
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# Companion Seats



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# §35.133 Maintenance...



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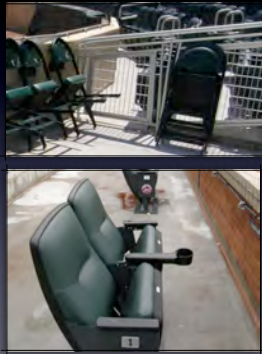
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# Companion Seats

- Equivalent in size, quality, comfort and amenities
- Permitted to be moveable



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# Maintenance...

Reducing the Number of Assistive Listening Systems

219 Assistive Listening Systems

706 Assistive Listening Systems

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# Assistive Listening Systems

Table 219.3 Receivers for Assistive Listening Systems

Capacity of Seating in Assembly Area	Minimum Number of Required Receivers	Minimum Number of Required Receivers Required to be Hearing-aid Compatible
50 or less	2	2
51 to 200	2, plus 1 per 25 seats over 50 seats <sup>1</sup>	2
201 to 500	2, plus 1 per 25 seats over 50 seats <sup>1</sup>	1 per 4 receivers <sup>1</sup>
501 to 1000	20, plus 1 per 33 seats over 500 seats <sup>1</sup>	1 per 4 receivers <sup>1</sup>
1001 to 2000	35, plus 1 per 50 seats over 1000 seats <sup>1</sup>	1 per 4 receivers <sup>1</sup>
2001 and over	55 plus 1 per 100 seats over 2000 seats <sup>1</sup>	1 per 4 receivers <sup>1</sup>

1. Or fraction thereof.

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# Titles II and III – Path of Travel

Title II Rule adds regulatory text mirroring path of travel requirements in title III.

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# Path of Travel Safe Harbor

If a covered entity has constructed or altered required elements of a path of travel under the 1991 Standards (or UFAS), before March 15, 2012, then retrofit of these elements to reflect incremental changes in the 2010 Standards is not required just because an area of a primary function area served by the path of travel was previously altered.

(§ 35.151(b)(4)(ii)(C) or § 36.403(a)(2))

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# Significant Changes:

Appendix 8 from Regulatory Impact Analysis -- ADA.gov

Blue = more stringent  
Green = less stringent  
Orange = supplemental

Section	2010 Standard	2008 Standard	2005 Standard
1.1.4	NEW! (Blue)	EXISTING (Green)	NEW! (Orange)
1.1.4.1	NEW! (Blue)	EXISTING (Green)	NEW! (Orange)
1.1.4.2	NEW! (Blue)	EXISTING (Green)	NEW! (Orange)
1.1.4.3	NEW! (Blue)	EXISTING (Green)	NEW! (Orange)
1.1.4.4	NEW! (Blue)	EXISTING (Green)	NEW! (Orange)
1.1.4.5	NEW! (Blue)	EXISTING (Green)	NEW! (Orange)
1.1.4.6	NEW! (Blue)	EXISTING (Green)	NEW! (Orange)
1.1.4.7	NEW! (Blue)	EXISTING (Green)	NEW! (Orange)
1.1.4.8	NEW! (Blue)	EXISTING (Green)	NEW! (Orange)
1.1.4.9	NEW! (Blue)	EXISTING (Green)	NEW! (Orange)
1.1.4.10	NEW! (Blue)	EXISTING (Green)	NEW! (Orange)
1.1.4.11	NEW! (Blue)	EXISTING (Green)	NEW! (Orange)
1.1.4.12	NEW! (Blue)	EXISTING (Green)	NEW! (Orange)
1.1.4.13	NEW! (Blue)	EXISTING (Green)	NEW! (Orange)
1.1.4.14	NEW! (Blue)	EXISTING (Green)	NEW! (Orange)
1.1.4.15	NEW! (Blue)	EXISTING (Green)	NEW! (Orange)
1.1.4.16	NEW! (Blue)	EXISTING (Green)	NEW! (Orange)
1.1.4.17	NEW! (Blue)	EXISTING (Green)	NEW! (Orange)
1.1.4.18	NEW! (Blue)	EXISTING (Green)	NEW! (Orange)
1.1.4.19	NEW! (Blue)	EXISTING (Green)	NEW! (Orange)
1.1.4.20	NEW! (Blue)	EXISTING (Green)	NEW! (Orange)
1.1.4.21	NEW! (Blue)	EXISTING (Green)	NEW! (Orange)
1.1.4.22	NEW! (Blue)	EXISTING (Green)	NEW! (Orange)
1.1.4.23	NEW! (Blue)	EXISTING (Green)	NEW! (Orange)
1.1.4.24	NEW! (Blue)	EXISTING (Green)	NEW! (Orange)
1.1.4.25	NEW! (Blue)	EXISTING (Green)	NEW! (Orange)
1.1.4.26	NEW! (Blue)	EXISTING (Green)	NEW! (Orange)
1.1.4.27	NEW! (Blue)	EXISTING (Green)	NEW! (Orange)
1.1.4.28	NEW! (Blue)	EXISTING (Green)	NEW! (Orange)
1.1.4.29	NEW! (Blue)	EXISTING (Green)	NEW! (Orange)
1.1.4.30	NEW! (Blue)	EXISTING (Green)	NEW! (Orange)
1.1.4.31	NEW! (Blue)	EXISTING (Green)	NEW! (Orange)
1.1.4.32	NEW! (Blue)	EXISTING (Green)	NEW! (Orange)
1.1.4.33	NEW! (Blue)	EXISTING (Green)	NEW! (Orange)
1.1.4.34	NEW! (Blue)	EXISTING (Green)	NEW! (Orange)
1.1.4.35	NEW! (Blue)	EXISTING (Green)	NEW! (Orange)
1.1.4.36	NEW! (Blue)	EXISTING (Green)	NEW! (Orange)
1.1.4.37	NEW! (Blue)	EXISTING (Green)	NEW! (Orange)
1.1.4.38	NEW! (Blue)	EXISTING (Green)	NEW! (Orange)
1.1.4.39	NEW! (Blue)	EXISTING (Green)	NEW! (Orange)
1.1.4.40	NEW! (Blue)	EXISTING (Green)	NEW! (Orange)
1.1.4.41	NEW! (Blue)	EXISTING (Green)	NEW! (Orange)
1.1.4.42	NEW! (Blue)	EXISTING (Green)	NEW! (Orange)
1.1.4.43	NEW! (Blue)	EXISTING (Green)	NEW! (Orange)
1.1.4.44	NEW! (Blue)	EXISTING (Green)	NEW! (Orange)
1.1.4.45	NEW! (Blue)	EXISTING (Green)	NEW! (Orange)
1.1.4.46	NEW! (Blue)	EXISTING (Green)	NEW! (Orange)
1.1.4.47	NEW! (Blue)	EXISTING (Green)	NEW! (Orange)
1.1.4.48	NEW! (Blue)	EXISTING (Green)	NEW! (Orange)
1.1.4.49	NEW! (Blue)	EXISTING (Green)	NEW! (Orange)
1.1.4.50	NEW! (Blue)	EXISTING (Green)	NEW! (Orange)

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# New Construction



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## Chapter 2: Scoping Requirements

### Section 201.1 Scope

All areas of newly designed and newly constructed *buildings* and *facilities* and *altered* portions of existing *buildings* and *facilities* shall comply with these requirements.

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## 2010 ADA Standards What's IN / What's OUT

**201.1 Scope.** All areas of newly designed and newly constructed *buildings* and *facilities* and *altered* portions of existing *buildings* and *facilities* shall comply with these requirements.

**Advisory 201.1 Scope.** These requirements are to be applied to all areas of a facility unless exempted, or where scoping limits the number of multiple elements required to be accessible. For example, not all medical care patient rooms are required to be accessible; those that are not required to be accessible are not required to comply with these requirements. However, common use and public use spaces such as recovery rooms, examination rooms, and cafeterias are not exempt from these requirements and must be accessible.

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## Comparing 1991 & 2010 Scoping

### 1991 Standards

- **4.1.1\* Application.** (1) General. All areas of newly designed or newly constructed buildings and facilities required to be accessible by 4.1.2 and 4.1.3 and altered portions of existing buildings and facilities required to be accessible by 4.1.6 shall comply with these guidelines, 4.1 through 4.35, unless otherwise provided in this section or as modified in a special application section.
- **Section III-5.3000** of the title III TA Manual -- reasonable number or at least one...

### 2010 Standards

- **201.1 Scope.** All areas of newly designed and newly constructed *buildings* and *facilities* and *altered* portions of existing *buildings* and *facilities* shall comply with these requirements.

All Covered Unless  
Exempted or Scoping  
Limits...

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## Chapter 2: Scoping Requirements

### Section 201.2

**Application Based on Building or Facility Use.**  
Where a *site*, *building*, *facility*, *room*, or *space* contains more than one use, each portion shall comply with the applicable requirements for that use.

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## Chapter 2: Scoping Requirements

### Section 202.2 Additions

Each *addition* to an existing *building* or *facility* shall comply with the requirements for *new construction*.

Each *addition* that affects or could affect the usability of or access to an area containing a primary function shall comply with 202.4.

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## Alterations

Each facility or part of a facility altered by, on behalf of, or for the use of a public entity in a manner that affects or could affect the usability of the facility or part of the facility shall, to the maximum extent feasible, be altered in such manner that the altered portion of the facility is readily accessible to and usable by individuals with disabilities, if the alteration was commenced after January 26, 1992.

...an alteration is a change to a place of public accommodation or a commercial facility that affects or could affect the usability of the building or facility or any part thereof.

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## Alterations



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## Chapter 2: Scoping Requirements

### Section 202.3 Alterations

Where existing *elements* or *spaces* are *altered*, each *altered element* or *space* shall comply with the applicable requirements of Chapter 2.

**EXCEPTIONS:** 1. Unless required by 202.4, where *elements* or *spaces* are *altered* and the *circulation path* to the *altered element* or *space* is not *altered*, an *accessible* route shall not be required.

2. In *alterations*, where compliance with applicable requirements is *technically infeasible*, the *alteration* shall comply with the requirements to the maximum extent feasible.

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## Chapter 2: Scoping Requirements

### Section 202.3 Alterations

#### Section 106.5 -- Technically Infeasible

With respect to an alteration of a building or a facility, something that has little likelihood of being accomplished because existing structural conditions would require removing or altering a load-bearing member that is an essential part of the structural frame; or because other existing physical or site constraints prohibit modification or addition of elements, spaces, or features that are in full and strict compliance with the minimum requirements.

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## Chapter 2: Scoping Requirements

### Section 202.3 Alterations

The requirement in section 4.1.6(1)(c), "If alterations of single elements, when considered together, amount to an alteration of a room or space in a building or facility, the entire space shall be made accessible." **is not in the 2010 Standards.**

See Advisory 202.3 Alterations.

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## Chapter 2: Scoping Requirements

### Section 202.4

#### Alterations Affecting Primary Function Areas

For title II facilities, read with 35.151(b)(4) Path of Travel.

Residential dwelling units are not required to comply with 202.4

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## Historic Facilities



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## Chapter 2: Scoping Requirements

### Section 202.5 Alterations to Qualified Historic Buildings and Facilities

Alterations to a qualified historic building or facility shall comply with 202.3 and 202.4.

Read with 28 CFR 35.151 or 28 CFR 36.405

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## Chapter 2: Scoping Requirements

### Read with...

**232.1 General.** Buildings, facilities, or portions thereof, in which people are detained for penal or correction purposes, or in which the liberty of the inmates is restricted for security reasons shall comply with 232. [See additional requirements at 28 CFR 35.151(k), p. 13.]

**Advisory 232.1 General.** Detention facilities include, but are not limited to, jails, detention centers, and holding cells in police stations. Correctional facilities include, but are not limited to, prisons, reformatories, and correctional centers.

Search for [See additional requirements...

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## 2010 Standards Structural Impracticability

28 CFR 35.151(a)(2)

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## 2010 Standards Structural Impracticability

- (i) Full compliance with the requirements of this section is not required where a public entity can demonstrate that it is structurally impracticable to meet the requirements. Full compliance will be considered structurally impracticable only in those rare circumstances when the unique characteristics of terrain prevent the incorporation of accessibility features.
- (ii) If full compliance with this section would be structurally impracticable, compliance with this section is required to the extent that it is not structurally impracticable. In that case, any portion of the facility that can be made accessible shall be made accessible to the extent that it is not structurally impracticable.
- (iii) If providing accessibility in conformance with this section to individuals with certain disabilities (e.g., those who use wheelchairs) would be structurally impracticable, accessibility shall nonetheless be ensured to persons with other types of disabilities, (e.g., those who use crutches or who have sight, hearing, or mental impairments) in accordance with this section.

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# 2010 Standards

## Path of Travel

28 CFR 35.151(b)(4)

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# 2010 Standards

## Path of Travel

An alteration that affects or could affect the usability of or access to an area of a facility that contains a primary function shall be made so as to ensure that, to the maximum extent feasible, the path of travel to the altered area and the restrooms, telephones, and drinking fountains serving the altered area are readily accessible to and usable by individuals with disabilities, including individuals who use wheelchairs, unless the cost and scope of such alterations is disproportionate to the cost of the overall alteration.

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# 2010 Standards

## Disproportionate Costs

Alterations made to provide an accessible path of travel to the altered area will be deemed disproportionate to the overall alteration when the cost exceeds 20% of the cost of the alteration to the primary function area.

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# 2010 Standards at ADA.gov



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# Questions



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