

Duff on Hospitality Law

Department of Justice Extends Deadline for ADA's Pool Lift Requirement

By Michael Brunet on 5.31.12 | Posted in Employment Law

In [Mike Brunet's April 16, 2012 post](#), he discussed the history and potential future of the Department of Justice's (DOJ) controversial requirement that hoteliers install permanent lifts at all swimming pools to comply with the Americans with Disabilities Act (ADA). Today, he writes about a recent extension on the deadline to satisfy DOJ's mandate.

As of May 16, hotel owners and others operating swimming pools open to the public had a mere five days, until May 21, to install permanent pool lifts at their facilities pursuant to the DOJ's interpretation of the 2010 Standards to the Americans with Disabilities Act. However, on May 17, the DOJ extended the deadline for compliance with its requirement by over eight months, to January 31, 2013. The fact that DOJ extended the deadline is not a total surprise, as the agency has been accepting comments on a possible six-month extension since March of this year, and interested parties, including hoteliers and trade associations, have been vocal in their support. However, the length of the extension is somewhat of a surprise, especially given DOJ's hard-line stance on this issue in the past.

Notably, DOJ's announcement does not change the substance of its interpretation, but rather only the deadline for compliance. With few exceptions, discussed in my last post, pool owners must still install fixed (as opposed to portable) pool lifts at each of their pools by January 31, 2012. Although the extended compliance date seems far away, pool owners would be wise to contact pool lift manufacturers now, as the lead time for lift deliveries has skyrocketed in the wake of DOJ's interpretation earlier this year.

However, assuming manufacturing lead times permit it, hoteliers may want to wait to place orders; there are two pieces of legislation before Congress that could change the requirements for pool lifts under the ADA, or further extend the date for compliance. The Pool SAFE Act, discussed in my last post, would permit pool owners to conform to the 2010 ADA Standards by using portable lifts rather than fixed lifts, and would allow them to be shared among multiple pools. This bill is still in the very early stages of legislation. However, the House of Representatives just passed the Commerce, Justice, and Science Appropriations Bill, an omnibus budget bill that includes a section preventing DOJ from enforcing its fixed lift requirement for a year. Before this bill becomes law, the Senate must still pass it and it must be signed by the President. We will not likely have visibility into the likelihood of either bill becoming enacted for some time.

With eight more months for trade associations, hoteliers, disability rights organizations, and disabled guests to lobby congress and DOJ, the pool lift saga is likely far from over. However, with DOJ's recent action hoteliers at least now have time to consider their options and to comply with DOJ's mandate if Congress does not take action before January 31, 2013. Watch this space for more developments as they occur.

If you have any questions about this, please let [Mike](#) or [me](#) know.

Tags: ADA, DOJ, Pool Lift, The Pool SAFE Act