

Definition of “safe harbor” in terms of the Americans with Disabilities Act

You have a “safe harbor” for any elements of your facility that were built in compliance with the 1991 ADA Standards or were altered to meet those standards. These elements do NOT need to be altered to meet the 2010 standards. However, when an alteration is performed, it must comply with the new 2010 ADA Standards.

Here’s more formal and complete language about this situation

From <https://www.adachecklist.org/about.html>

Safe Harbor – Construction Prior to March 15, 2012

Elements in facilities built or altered before March 15, 2012 that comply with the 1991 ADA Standards for Accessible Design (1991 Standards) are not required to be modified to specifications in the [2010 ADA Standards](#). For example, the 1991 Standards allow 54 inches maximum for a side reach range to a control such as the operating part of a paper towel dispenser. The 2010 Standards lower that side reach range to 48 inches maximum. If a paper towel dispenser was installed prior to March 15, 2012 with the highest operating part at 54 inches, the paper towel dispenser does not need to be lowered to 48 inches. Since the dispenser complies with the 1991 Standards, that Standard provides a “safe harbor.”

[When an alteration is performed, it must comply with the new 2010 ADA Standards. In cases where the nature of the facility makes full compliance with the 2010 ADA Standards virtually impossible, the alteration must provide the maximum physical accessibility that is feasible. Also, as outlined below, safe harbor does not apply to those elements of a facility that were not covered in the 1991 ADA Standards.]

Elements in the 2010 ADA Standards Not in the 1991

The [2010 ADA Standards](#) contain elements that are not in the 1991 Standards. These elements include recreation facilities such as swimming pools, team and player seating, accessible routes in court sports facilities, saunas and steam rooms, fishing piers, play areas, exercise machines, golf facilities, miniature golf facilities, amusement rides, shooting facilities with firing positions, and recreational boating facilities. Because these elements are not in the 1991 Standards, they are not subject to the safe harbor exemption. Public accommodations must remove architectural barriers to these items when it is readily achievable to do so. For example, a hotel must determine whether it is readily achievable to make its swimming pool accessible by installing a lift, a sloped entry or both as specified in the 2010 Standards. State and local governments must consider accessibility improvements to these recreation areas to ensure “program accessibility.” For example a town must look at its play areas and determine which should be made accessible.