

ABA: The Forgotten Law
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Long in ADA's shadow, ABA guidelines receive an update that will affect accessibility in federally financed facilities

The Architectural Barriers Act of 1968 (ABA) has been a forgotten regulation for the past 14 years. Since the passage of the Americans with Disabilities Act (ADA) and its implementing regulations, the ADA accessibility guidelines (ADAAG), few people have given much thought to the ABA.

Recent activity, however, will change that. Updated ABA guidelines set to go into effect this spring contain revised provisions for federally financed facilities that aim to improve accessibility while facilitating compliance. They will affect the design and construction of new and leased facilities, as well as altered areas of existing facilities.

A first for accessibility

A short history lesson might help. Established in 1968, the ABA was the first federal accessibility law. The Access Board issued minimum guidelines for federally funded facilities under the ABA in 1982. These guidelines served as the basis for enforceable standards known as the Uniform Federal Accessibility Standards (UFAS).

This all happened long before the ADA was a law, but it did not get as much attention because it dealt specifically with facilities designed, built, altered or leased with federal funds. Not until the introduction of the ADA in 1990 and ADAAG in 1992 did private-sector facilities have an obligation to provide accessible facilities.

The revised ADA guidelines and the final rule published by the Access Board in July 2004 have received considerable attention. The process still is underway for the ADA guidelines to become enforceable by the U.S. Department of Justice (DOJ), the federal agency responsible for the enforcement of Title II and Title III of the ADA. These revised regulations are not yet enforceable standards.

The public comment period that ended in May 2005 resulted in thousands of comments from all areas of the public and private sectors, and the DOJ estimates it will be several years before the revised guidelines will be an enforceable standard, as modified. In the meantime, the current ADAAG remains the enforceable standard.

Updating ABA

The ABA standards also were updated and revised as part of this total effort. Many of its revisions were consistent with those of the ADA, designed to make them more consistent with model building codes, such as the international Building Code and ANSI A117, and to format the requirements so all elements are in the same section. This process began shortly after the ADAAG was released in 1992 and has been an arduous task.

The board's ABA guidelines serve as the basis for standards issued by four standard-setting federal agencies: the U.S. General Services Administration (GSA), the U.S. Department of Defense (DOD), the

U.S. Department of Housing and Urban Development (HUD), and the U.S. Postal Service (USPS). The standards originally issued by these agencies are known as UFAS.

The technical changes to the ABA are similar to those found in the ADA. For example, a change in reach ranges now will only have a consistent 48 inches for side and front approaches. Also, toilet centerlines will allow a range of 16-18 inches, rather than the absolute 18 inches.

The major differences between ABA and ADA relate to modifications, waivers, definitions, and leasing issues, and they will be resolved by the four individual enforcement agencies. The differences range from options for variances to exceptions in employee areas and military housing issues.

Key developments

Among the key ABA developments managers should be aware of are these:

- The Access Board announced on Nov. 8, 2005, that the GSA adopted new accessibility standards for federally funded facilities based on updated guidelines the board issued in 2004. They will replace the existing UFAS.
- The standards will affect the design and construction of new facilities, altered areas of existing facilities, and leased facilities. They contain updated provisions that improve accessibility while facilitating compliance. The new standards will apply to construction and alterations that start after May 8, 2006, and to leases entered into after this date.
- Compliance with UFAS will be permitted for construction and alterations that begin before this date and for projects on which design is substantially complete by this date.
- GSA's ABA standards apply to all federally funded facilities, except residential, postal, and military facilities, which are covered by standards maintained by other federal agencies.
- Last May, the USPS similarly updated its standards governing post offices and other postal facilities.

The DOJ and HUD will follow suit and complete the implementation of new standards under the ABA.

Assessing the impact

What do these changes mean for maintenance managers and building owners in facilities that are altered, designed or constructed with federal dollars?

First, managers need to become familiar with the final rule published by the Access Board in July 2004. The ABA guidelines are available at www.access-board.gov. Managers must be careful to review the scoping requirements for the ABA, not the ADA, because they are substantially different. The technical requirements are the same.

Next, managers should make sure to know which federal agency or agencies fund a particular facility or project because HUD and the U.S. Department of Defense have not yet implemented the new standards.

Finally, managers need to make sure that the timeline for alterations, design and new construction falls within the timeframe noted above. If a project begins or is substantially complete before May 8, 2006, managers still can use UFAS.

Compliance strategies

Due diligence should not be limited to real estate transactions. Managers and their organizations can save considerable cost and aggravation in the long run by ensuring that every alteration or new construction project that affects the usability of spaces and facilities comply with the most current federal, state or local accessibility requirements.

Managers also should make sure design and construction professionals are thoroughly familiar with the requirements and can demonstrate and offer references. Insert compliance with the ADA or ABA specifically into all contracts, instead of simply saying, “must comply with all applicable codes.”

One recommendation is to add a contract warranty to all projects and get an outside professional assessment to ensure that all items were designed and constructed to comply with the applicable requirements. Most important of all, managers must document all of their work.

People with disabilities represent the fastest growing minority in the United States, numbering more than 54 million, and they spend more than \$67 billion annually in commerce. As the population ages, all people will expect that the facilities in which they do business are accessible, and that they are desirable places to spend money, live and “age in place.”

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First published in the BOA Magazine, April 2006