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Summary of New 2010 Americans with Disabilities Act (ADA) ATM Standards



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Overview

On July 26, 2010, on the 20th anniversary of the Americans with Disabilities Act (ADA), the Department of Justice announced rules updating the ADA standards governing the construction and alteration of facilities, including places of public accommodation, commercial facilities and state and local government facilities.

The new standards adopt guidelines established by the Access Board, an independent federal agency that develops and maintains design criteria to ensure access for people with disabilities.

2010 Standards

Section 707 of the new 2010 Standards adds specific technical requirements to ATMs for speech output, privacy, tactilely-discernible input controls, display screens, and Braille instructions to the general accessibility requirements set out in the 1991 Standards. The 1991 Standards require ATMs to be accessible to and independently usable by persons with visual impairments, but do not contain any technical specifications.

Adopted Guidelines

The 2010 Standards adopted the following elements, among others, from the 2004 ADA/ABA Guidelines:

- **Clear Floor or Ground Space.** Clear floor space or ground space complying with section 305 of the ADA and ABA Accessibility Guidelines for Buildings and Facilities must be provided.² This is not required at drive-up only ATMs.
- **Operable Parts.** Operable parts must comply with section 309 of the ADA and ABA Accessibility Guidelines for Buildings and Facilities³, and each operable part must be able to be differentiated by sound or touch without activation. This is not required at drive-up only ATMs.
- **Privacy.** ATMs must provide the same degree of privacy input and output to all individuals.
- **Speech Output.** ATMs must be speech enabled. All displayed information and additional ATM functions (e.g., dispensing coupons or providing monthly statement copies) must be accessible to and independently usable by individuals with vision impairments. Speech can be recorded or synthesized.



New standards include new technical specifications for speech output guidance, keypad controls, display screens and Braille instructions for impaired consumers



Speech will be delivered through a mechanism that is readily available to all users, including an industry standard connector or telephone handset.

- Audible tones may be permitted instead of speech for security purposes, such as asterisks representing personal identification numbers (PINS)
- Advertisements and other similar information shall not be required to be audible unless they convey information that can be used in the transaction being conducted
- Where speech synthesis cannot be supported, dynamic alphabetic output shall not be required to be audible
- Speech shall be capable of being repeated or interrupted
- Where receipts are provided, speech output devices shall provide audible balance inquiry information, error messages, and all other information on the printed receipt necessary to complete or verify the transaction
- The following information is not required to be presented as audible receipts:
 - The location of the ATM, date and time of the transaction, customer account number and ATM identifier;
 - Information on printed receipts that duplicates information available on-screen; and
 - Printed copies of bank statements and checks

- **Input Controls.** At least one tactilely-discernible input control shall be provided for each function. Key surfaces not on active areas of display screens must be raised above surrounding surfaces. Where membrane keys are the only method of input, each shall be tactilely-discernible from surrounding surfaces and adjacent keys.
- **Numeric Keys.** Numeric keys shall be arranged in a 12-key ascending or descending telephone keypad layout. The number 5 key shall be tactilely distinct from the other keys.
- **Contrast.** Function keys shall contrast visually from background surfaces. Characters and symbols on key surfaces shall contrast visually from key surfaces. Visual contrast shall be either light-on-dark or dark-on-light.
- **Tactile Symbols.** Function key surfaces shall have tactile symbols as follows: Enter or Proceed key: raised circle; Clear or Correct key: raised left arrow; Cancel key: raised letter ex; Add Value key: raised plus sign; Decrease Value key: raised minus sign.



- **Visibility.** The display screen shall be visible from a point located 40 inches (1015 mm) above the center of the clear floor space in front of the machine. This does not apply to drive-up only ATMs.
- **Characters.** Characters displayed on the screen shall be in a sans serif font. Characters shall be 3/16 inch (4.8 mm) high minimum based on the uppercase letter "I". Characters shall contrast with their background with either light characters on a dark background or dark characters on a light background.
- **Braille.** Braille instructions for initiating the speech mode shall be provided. (Braille must comply with 703.3 of the ADA and ABA Accessibility Guidelines for Buildings and Facilities.)⁴

Undue Burden

Public accommodations must generally ensure that disabled customers are not treated differently than other customers because of the absence of auxiliary aids and services, unless so ensuring would 1) "fundamentally alter the nature of the goods, services, facilities...being offered"; or 2) "result in an undue burden."⁵

The Department of Justice final rule states, "Implicit in this duty to provide auxiliary aids and services is the underlying obligation of a public accommodation to communicate effectively with customers, clients, patients, companions, or participants who have disabilities affecting hearing, vision, or speech."

Specifically relating to ATMs, the final rule states, "The Department consistently has taken the position that the communication-related elements of ATMs are auxiliary aids and services, rather than structural elements...Thus, the safe harbor provision does not apply to these elements. The Department believes that the limitations on the effective communication requirements, which provide that a covered entity does not have to take measures that would result in a fundamental alteration of its program or would cause undue burdens, provide adequate protection to covered entities that operate ATMs."⁶

As noted, auxiliary aids and services are generally only required if they do not impose an "undue burden." ADA rules have defined this as a "significant difficulty or expense." What constitutes an undue burden will be determined on a case-by-case basis. In determining whether an action would result in an undue burden, factors to be considered include:

1. The nature and cost of the action needed;
2. The overall financial resources of the site or sites involved in the action; the number of persons employed at the site; the effect on expenses and resources; legitimate safety requirements that are necessary for safe operation, including crime prevention measures; or the impact otherwise of the action upon the operation of the site;

ADA rules have defined “undue burden” as a “significant difficulty or expense.” What constitutes an undue burden will be determined on a case-by-case basis.

3. The geographic separateness, and the administrative or fiscal relationship of the site or sites in question to any parent corporation or entity;
4. If applicable, the overall financial resources of any parent corporation or entity; the overall size of the parent corporation or entity with respect to the number of its employees; the number, type, and location of its facilities; and
5. If applicable, the type of operation or operations of any parent corporation or entity, including the composition, structure, and functions of the workforce of the parent corporation or entity.⁷

If you have a question about whether or not the undue burden standard applies to you, please contact your legal counsel. The undue burden standard is a uniquely individualized determination and should be made after reviewing the 2010 Standards and weighing your organization’s unique circumstances.

Effective Date

The Department of Justice provided the following information about compliance timelines:

The rule will become effective March 15, 2011. By March 15, 2012, compliance with the 2010 Standards will be required for new construction and alterations and barrier removal.

For example, existing ATMs that are subject to the speech output upgrades in the 2010 Standards must have the alterations complete by March 15, 2012.

In the period between the date the final rule was published in the Federal Register (September 15, 2010) and the compliance date (March 15, 2012), covered entities may choose between the 1991 Standards and the 2010 Standards.

Covered entities that should have complied with the 1991 Standards during any new construction or alteration of facilities or elements but have not done so must comply with the 2010 Standards by March 15, 2012.

Compliance dates for new construction and alterations	Applicable standards
Before September 15, 2010	1991 Standards or UFAS
On or after September 15, 2010 and before March 15, 2012	1991 Standards, UFAS, or 2010 Standards
On or after March 15, 2012	2010 Standards

Sources

¹ Title III, Final Rule Amending 28 CFR Part 36, Nondiscrimination on the Basis of Disability by Public Accommodations and in Commercial Facilities, Issued by the Department of Justice, July 2010, http://www.ada.gov/regs2010/titleIII_2010/reg3_2010.html

² ADA and ABA Accessibility Guidelines, published in the Federal Register July 23, 2004, <http://www.access-board.gov/ada-aba/final.cfm>

³ ADA and ABA Accessibility Guidelines, published in the Federal Register July 23, 2004, <http://www.access-board.gov/ada-aba/final.cfm>

⁴ ADA and ABA Accessibility Guidelines, published in the Federal Register July 23, 2004, <http://www.access-board.gov/ada-aba/final.cfm>

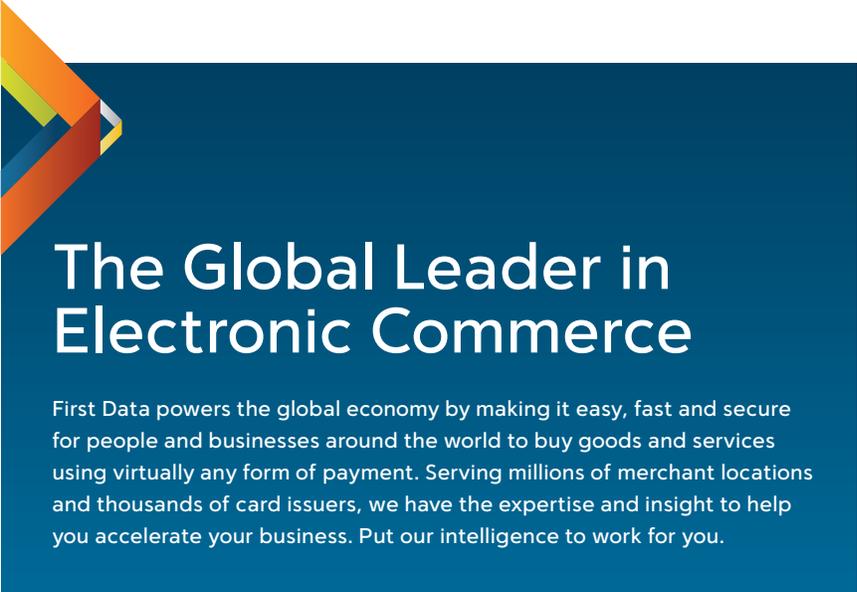
⁵ Section 36.303 Auxiliary Aids and Services, Title III, Final Rule Amending 28 CFR Part 36, Nondiscrimination on the Basis of Disability by Public Accommodations and in Commercial Facilities, Issued by the Department of Justice, July 2010, http://www.ada.gov/regs2010/titleIII_2010/reg3_2010.html

⁶ Section 36.303 Auxiliary Aids and Services, Title III, Final Rule Amending 28 CFR Part 36, Nondiscrimination on the Basis of Disability by Public Accommodations and in Commercial Facilities, Issued by the Department of Justice, July 2010, http://www.ada.gov/regs2010/titleIII_2010/reg3_2010.html

⁷ Subpart A, Sect. 36.104, Definitions, 1991 ADA STANDARDS FOR ACCESSIBLE DESIGN, as published in the Title III regulations (28 CFR Part 36, revised July 1, 1994) issued by the Department of Justice.

This Summary of the 2010 ADA Standards Applicable to ATMs, along with the information it contains, do not constitute legal advice and do not create any attorney-client relationship. Because of the generality of this Summary, the information provided may not apply to your business, should not be treated as legal advice, and should not be acted upon without specific advice from your legal counsel based on the facts and circumstances of your particular situation.

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