

DEPARTMENT OF JUSTICE**Office of the Assistant Attorney General for Civil Rights; Certification of the State of Texas Accessibility Standards Under the Americans With Disabilities Act**

AGENCY: Department of Justice.

ACTION: Notice of certification.

SUMMARY: The Department of Justice has certified that the State of Texas Accessibility Standards meet or exceed the new construction and alterations requirements of title III of the Americans with Disabilities Act (ADA).

DATES: October 3, 1996.

ADDRESSES: Inquiries may be addressed to: John L. Wodatch, Chief, Disability Rights Section, Civil Rights Division, U.S. Department of Justice, P.O. Box 66738, Washington, D.C. 20035-6738.

FOR FURTHER INFORMATION CONTACT: John L. Wodatch, Chief, Disability Rights Section, Civil Rights Division, U.S. Department of Justice, P.O. Box 66738, Washington, D.C. 20035-6738.

Copies of this notice are available in formats accessible to individuals with vision impairments and may be obtained by calling (800) 514-0301 (Voice) or (800) 514-0383 (TDD).

SUPPLEMENTARY INFORMATION:**Background**

The ADA authorizes the Department of Justice, upon application by a State or local government, to certify that a State or local law that establishes accessibility requirements meets or exceeds the minimum requirements of title III of the ADA for new construction and alterations. 42 U.S.C.

§ 12188(b)(1)(A)(ii); 28 CFR § 36.601 *et seq.* Certification constitutes rebuttable evidence, in any ADA enforcement action, that a building constructed or altered in accordance with the certified code complies with the new construction and alterations requirements of title III of the ADA.

By letter dated November 17, 1994, the Texas Department of Licensing and Regulation requested that the Department of Justice (Department) certify that the State of Texas Accessibility Standards, effective April 1, 1994, as adopted pursuant to Texas Civil Statutes, Article 9102, as amended effective September 1, 1993, and the Architectural Barriers Administrative Rules, Chapter 68, as amended effective June 1, 1994 (Texas Standards), meet or exceed the new construction and alterations requirements of title III of the ADA.

The Department analyzed the Texas Standards, and made a preliminary

determination that they meet or exceed the new construction and alterations requirements of title III of the ADA. By letter dated May 10, 1996, the Department notified the Texas Department of Licensing and Regulation of its preliminary determination of equivalency.

On May 28, 1996, the Department published notices in the Federal Register announcing its preliminary determination of equivalency and requesting public comments thereon. The period for submission of written comments ended on July 29, 1996. In addition, the Department held public hearings in Austin, Texas on June 25, 1996, and in Washington, DC on August 1, 1996.

Fourteen persons submitted comments. Commenters included disability-rights advocates, design professionals, and interested individuals, including individuals with disabilities. The Department has analyzed the testimony submitted at the hearings and has consulted with the U.S. Architectural and Transportation Barriers Compliance Board.

The vast majority of the comments supported certification of the Texas Standards. Two individuals testified in opposition to certification of the Texas Standards because they objected to the coverage of churches under the Texas Standards. However, because coverage of churches is neither required nor prohibited by the ADA, such coverage does not preclude certification. One other commenter complained that Texas accessibility requirements were too vigorously enforced against public schools. Because certification does not apply to title II facilities, such as public schools, and does not address enforcement efforts, this comment also does not affect certification.

Based on these comments, the Department has determined that the Texas Standards are equivalent to the new construction and alterations requirements of title III of the ADA. Therefore, the Department has informed the submitting official of its decision to certify the Texas Standards.

Effect of Certification

The certification determination is limited to the version of the Texas Standards that has been submitted to the Department. The certification will not apply to amendments or interpretations that have not been submitted and reviewed by the Department.

Certification will not apply to buildings constructed by or for State or local government entities, which are subject to title II of the ADA. Nor does

certification apply to accessibility requirements that are addressed by the Texas Standards that are not addressed by the ADA Standards for Accessible Design, such as the provisions for children's facilities in the Texas Standards.

Finally, certification does not apply to variances or waivers granted under the Texas Standards by the Commissioner of Licensing and Regulation. Therefore, if a builder receives a variance, waiver, modification, or other exemption from the requirements of the Texas Standards for any element of construction or alterations, the certification determination will not constitute evidence of ADA compliance with respect to that element.

Dated: September 26, 1996.

Deval L. Patrick,

Assistant Attorney General for Civil Rights.

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BILLING CODE 4410-01-M

Notice of Lodging of Consent Decree Pursuant to the Comprehensive Environmental Response, Compensation and Liability Act

Notice is hereby given that a proposed consent decree in *United States v. Coaters, Inc. and Fibre Leather Manufacturing Corporation*, Civil Action No. 3:96CV01945(JBA), was lodged on September 20, 1996, with the United States District Court for the District of Connecticut. The Proposed decree resolves the United States' claims under CERCLA against defendants Coaters, Inc. and Fibre leather Manufacturing Corporation with respect to the Solvent Recovery Service Superfund Site, in Southington, Connecticut. The Defendants are alleged generators that arranged for the treatment or disposal of hazardous substances at the Site. Under the terms of the proposed decree, the Coaters, Inc. will pay \$115,000 and Fibre Leather Manufacturing Corporation will pay \$30,000 in reimbursement of past and future response costs incurred and to be incurred at the Site.

The Department of Justice will receive, for a period of thirty (30) days from the date of this publication, comments relating to the proposed consent decree. Comments should be addressed to the Assistant Attorney General for the Environment and Natural Resources Division, Department of Justice, Washington, D.C. 20530, and should refer to *United States v. Coaters, Inc. and Fibre Leather Manufacturing Corporation*, DOJ Ref. #90-7-1-23H.

The proposed consent decree may be examined at the office of the United