



OFFICE OF ADVOCACY FACTSHEET

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Department of Justice Seeks Comment on Applying New ADA Accessibility Requirements to Existing Buildings

The Office of Advocacy of the U.S. Small Business Administration encourages small businesses to review and comment on an advanced notice of proposed rulemaking published on September 30, 2004, by the Department of Justice (DOJ). The DOJ is seeking comments on how it should propose to apply handicapped accessibility requirements to existing facilities that are open to the public or employees, as required by the Americans with Disabilities Act (ADA). In addition to commenting to the DOJ, small businesses are encouraged to contact the Office of Advocacy to share information on the potential costs of compliance and proposals for less burdensome alternatives so that Advocacy can reflect such small business impacts in its comments to DOJ.

- The ADA requires every business that is open to the public to have facilities that are accessible to individuals with disabilities. A federal agency called the Access Board sets the architectural standards that businesses must meet for new construction or when remodeling existing buildings to be considered “accessible.” The DOJ is required by the ADA to issue regulations to apply these accessibility standards to existing facilities, prompting the need for retrofitting to comply with the standards and DOJ’s request for information from the public.
- On July 23, 2004, the Access Board issued revised regulations that changed many of the accessibility standards that have been in place since 1991. During development of the Access Board’s new rule, small businesses raised concerns to Advocacy on how these requirements could affect them if the DOJ were to apply the new requirements to all existing facilities, requiring remodeling and retrofitting.
- The types of businesses potentially affected by the accessibility standards include retail establishments, restaurants, hotels, movie theaters, and any business with employees (disabled or not). See the chart attached to this fact sheet for representative examples of some of the new accessibility requirements. This is an illustrative, rather than exhaustive list. The new accessibility guidelines adopted by the Access Board are available online at: <http://www.access-board.gov/ada-aba/Blue%20HTML/ADA-ABA%20Guidelines%20Blue.htm>
- DOJ has requested comments on three ways to reduce the potential impact of a forthcoming rulemaking on small businesses. In particular, DOJ asked for comment on: (1) exempting small businesses that already comply with the existing ADA standards enacted in 1991, (2) modifying some of the requirements to make them less costly, and (3) exempting existing small businesses entirely from certain provisions.

The deadline for comments is January 28, 2005. A link to DOJ’s notice and information on how to submit your comments is available on Advocacy’s Regulatory Alerts page at http://www.sba.gov/advo/laws/law_regalerts.html. For more information on the Office of Advocacy’s efforts on this and other rulemakings, contact Michael See at Michael.See@sba.gov or (202) 619-0312.

DOJ is seeking comment on these and other changes to the architectural requirements:

	Current Standard for Retrofitting Existing Buildings	Possible New Standard for Retrofitting Existing Buildings
Employee Work Areas	<i>Must provide wheelchair access up to the employee work area, not through area.</i>	<i>Must provide wheelchair access through employee work area.</i>
Windows	<i>None.</i>	<i>One window in each room with windows must be accessible to a disabled individual.</i>
Restrooms	<i>If a bathroom has less than six water closets, it is not required to offer an accessible water closet, urinals are not counted.</i>	<i>If a bathroom has more than six water closets and urinals combined, it must offer an accessible water closet.</i>
Swimming Pools	<i>None.</i>	<i>If a pool's perimeter is more than 300 feet, must provide 2 accessible entrances (one must be a lift or a sloped entry).</i>
Fire Alarms in Hotels	<i>A certain number of rooms per hotel must be equipped with a visible fire alarm for guests, portable fire alarms are acceptable.</i>	<i>The same number of rooms per hotel must have a visible fire alarm for guests, and it must be permanently installed (hardwired to the buildings electrical system).</i>