



# OFFICE OF ADVOCACY FACTSHEET

409 3<sup>rd</sup> Street, SW • MC 3114 • Washington, DC 20416 • 202/205-6533 ph. • 202/205-6928 fax • [www.sba.gov/advo](http://www.sba.gov/advo)

## ***Department of Justice Considering New Americans with Disabilities Act Rule that May Affect Restaurants***

Advocacy has prepared summary materials to inform small business restaurateurs on how new Americans with Disabilities Act (ADA) accessibility requirements could apply to them. On September 30, 2004, the Department of Justice (DOJ) published an advanced notice of proposed rulemaking asking the public to comment on how it should apply new handicapped accessibility requirements to existing facilities open to the public or even those only made available to employees. DOJ is considering adopting standards recently passed by another Federal agency, the Access Board, and is turning to regulated businesses and others to hear about how these new ADA rules could affect them. Below are a few of the issues raised in the rulemaking as it pertains to restaurants. Advocacy seeks your help in determining how these and other provisions not included here could affect small businesses.

**Contact assistant chief counsel Michael See for more information and information on how to submit comments to DOJ and to Advocacy at [Michael.See@sba.gov](mailto:Michael.See@sba.gov) or (202) 619-0312.**

- Title I of the ADA exempts very small employers from some employee accommodation requirements. But, these new rules fall within a different section of the ADA and would apply to *every* restaurant with employees, regardless of size.
- One provision of the new standards may require restaurants' *employee only* areas, such as kitchens and storage rooms, to be wheelchair accessible. This provision may apply whether the employer has ever had an employee in a wheelchair or is likely to in the future.
- Under the ADA, owners, landlords, and tenants may be held liable for not making improvements to meet the access standards set by DOJ.
- The new standards may change the current requirement for 50% of public entrances to be wheelchair accessible to 60%. For example, a restaurant with two public entrances would be required to have one accessible under the old rule, but the new rule may require both to be accessible.

There are many more requirements in the new standards DOJ is considering, covering areas from bathrooms to serving counters. Advocacy will be submitting detailed comments to DOJ on the effects the new ADA standards could have on small business, and seeks specific, detailed information from small business owners on how the new rule could affect them individually. Comments are due to DOJ by May 31, 2005.