

May 5, 2000

Office of Technical Information Services
Architectural and Transportation Barriers Compliance Board
1331 F Street, NW
Suite 1000
Washington, DC 20004-1111

Ladies and Gentlemen:

The National Restaurant Association, representing more than 38,000 member companies, and more than 180,000 individual foodservice establishments, wishes to enter comments for the record concerning the Architectural and Transportation Barriers Compliance Board Notice of Proposed Rulemaking, Docket No. 99-1, "Americans with Disabilities Act (ADA) Accessibility Guidelines for Building and Facilities; Architectural Barriers Act (ABA) Accessibility Guidelines," Federal Register, November 16, 1999. We appreciate the opportunity to comment on this proposed revision to the Americans with Disabilities Act Accessibility Guidelines and are encouraged that the agency will consider the special challenges our industry would face under the revisions. Our comments reflect not only our concerns for our members and their employees, but are, in some instances, in direct response to the agency's request for information concerning key provisions of the revised guidelines.

As a leading member of the hospitality industry, restaurants have a long-standing commitment to offer a warm welcome to all customers with or without special needs. As such, the restaurant industry in the U.S. has made a multi-billion dollar investment in improving access and eliminating barriers to persons with special needs over the past years. The substantial economic investment, commitment and hard work continue today in all restaurants across this nation. The architectural progress to build new facilities and to modify existing buildings, and to eliminate barriers for our customers has been particularly rapid given the life expectancy and construction times for new buildings, which may range from 20 to 30 years.

The National Restaurant Association, in cooperation with the Department of Justice (DOJ) has developed educational and informational materials based upon the current ADAAG requirements to rapidly and accurately disseminate access information to the restaurant industry. The publications and materials have assisted hundreds of thousands of restaurants in the identification and elimination of barriers to our customers. "*A Warm Welcome*" is the title of one of our

information videos on ADA and we believe it typifies the hospitality industry's attitude towards the accommodation of customers with special needs.

While the Access Board moves forward with proposed rulemaking for an ADAAG revision, we believe that it is particularly important to consider and weigh the concerns of the industries that will ultimately bear the cost and disruption of any proposed changes. The Access Board and others need to be fully aware that technical and other changes to the existing ADAAG benchmarks when enforced at the national and local levels have the potential to create significant cost and business disruptions to restaurants. Furthermore, many technical changes will necessitate costly changes without necessarily resulting in substantially improved access for the majority of special needs customers. We suggest that the Access Board fully clarify the intent of changes, the requirements and justifications for change in the preamble. We are particularly concerned with the economic and operational effect of changing dimensional benchmarks and definitions, and the effect on existing restaurants that have already made significant investments to comply with current ADAAG standards.

Clarifications and simplification of the current ADAAG definitions and dimensional benchmarks are encouraged and welcomed by the restaurant industry. Indeed, many of the proposed revisions are consistent with current ADAAG provisions and afford a measure of clarification. However, expanded definitions and dimensional changes without substantial new documented information and an absolutely clear and compelling benefit to a majority of special needs individuals should be strictly avoided. We are not opposed to reasonable ADAAG changes or clarifications; however, we encourage the Access Board to consider the cost and benefit of proposed changes and to consider the broad spectrum of special needs, appropriate, less costly and alternative technologies.

We have experienced too many instances in the past where "technical deviations" from vague ADAAG provisions or dimensional benchmarks were pursued by local or national regulatory authorities with great zeal. The resultant high cost of "technical litigation" did not ultimately improve the access for the majority of restaurant customers with special needs. In some instances, the technical compliance and litigation costs literally devastated smaller restaurant businesses. The correct ADAAG focus must always be on improved access not upon improved litigation. Acceptable technical deviations from every ADAAG standard must be clearly allowed in the preamble to avoid increased litigation and to maintain the proper focus of truly improved access.

In our view, the Access Board should focus changes to allow the "New ADAAG" to become a more simple, easily understood and widely applied document. We question the need for such a

massive rewrite of the existing guidelines after just eight years of use. We believe that such a proposed rewrite, brings troubling questions regarding the fundamental basis for the original ADAAG standards: Is the current ADAAG flawed to a point that it could not have been simply modified and what assurance is there that the New ADAAG proposals are not equally flawed? Will the ADAAG be substantially changed every eight years, and is this consistent and massive regulatory change beneficial to the public and business interests?

We have limited our discussion to only those changes we believe will have the greatest direct impact upon the restaurant industry and have responded to those questions posed by the Board whose resultant outcome may directly impact the restaurant industry.

Current ADAAG:

Section 4.1.1(3) Areas Used Only by Employees as Work Areas.

Areas that are used only as work areas shall be designed and constructed so that individuals with disabilities can approach, enter, and exit the areas. These guidelines do not require that any areas used only as work areas be constructed to permit maneuvering within the work area or be constructed or equipped (i.e., with racks or shelves) to be accessible.

Proposed New ADAAG:

Section 203.3 Employee Work Areas.

Employee work areas shall be designed and constructed so that individuals with disabilities can approach, enter, and exit the employee work areas. In addition, visual alarm coverage shall be provided where audible alarm coverage is provided in employee work areas. This part does not require that employee work areas be constructed to permit maneuvering within the employee work area or be constructed or equipped to be accessible.

Issue:

The preamble of the proposed revised ADAAG indicates that "the coverage of 'employee work areas' in section 203.3 like ADAAG 4.1.1(3), means that an accessible route is not required to individual work stations within the area. For example, an accessible route is required to a restaurant kitchen...but not to individual work stations, regardless of the number of stations or the size of the work area." However, the preamble's discussion relating to this issue explicitly

states that "the Advisory Committee recommended that ADAAG be changed to require an accessible route to each 'individual work station'...." This element was not incorporated into the proposal; however, the board is considering whether to include the advisory committee's language into the final rule.

Ultimately, it is clear that the Board is committed to applying the recommendations of the Advisory Committee to require accessible routes to each individual workstation. However, as noted in the preamble discussion, "the minimum level of compliance may prove to be unworkable in some employment settings." *We believe that restaurants are one of those settings.*

We are strongly opposed to the requirement of accessible routes to each individual workstation. We challenge the appropriateness of such a requirement because state and local sanitation laws generally bar customers from restaurant kitchens; thus, restaurant kitchens and work areas are clearly not public areas. Title III of the ADA's intent was to clearly establish accessibility in areas of "public accommodation" for individuals with disabilities. To require changes in a restricted area such as restaurant kitchens, is clearly a misapplication of the Title III access requirements. This is a matter that Congress clearly decided should be addressed under Title I of the Act, which is implemented by the EEOC.

Essentially, this type of requirement would fundamentally change the definition of a work area and would appear to be an initial attempt to force a one-size-fits-all employee accommodation model. We believe that the special needs of employees are more appropriately addressed on a case-by-case basis as provided in ADA, Title I requirements. Not only would this requirement, if implemented into the final rule, be massive and costly, we believe it would generally afford no increased restaurant access to the large majority of special needs individuals.

The proposed revised guidelines also differ from the current ADAAG in that they require employee work areas to be equipped with visual alarms where audible alarms are provided. The preamble to the revision specifically notes that "this is a change from the current ADAAG, which requires visual alarm in common use and public use spaces, but not in those spaces that serve only as a work area." We believe that the current ADAAG's requirement is most appropriate as the accessibility guidelines are designed for areas of "public accommodation." Employee work areas, specifically in restaurants, are not public use areas. We are not arguing that accommodations should not be made for disabled employees; however, we do maintain that the associated costs for visual alarm installations may constitute an "undue burden" under the terms of ADA, Title III, definitions and actually be detrimental to some employees with epilepsy.

Furthermore, we would like to formally address the questions posed by the Board concerning this issue:

1. *ADAAG requires that an accessible route be provided to employee work areas, but not to individual workstations. What obstacles have people with disabilities encountered as a result of this provision?*

ADA, Title I appropriately requires that reasonable accommodations be made for disabled employees and allows for individual disability accommodations. Since the issue of accommodation of employees is already adequately addressed under Title I and access by the general public to restricted employee work areas is prohibited—the question is moot for the restaurant industry.

2. *The Board is interested in learning what the impact might be if ADAAG requires access to "individual workstations" rather than to "employee work areas."*

If ADAAG requires access to individual workstations, it could be economically devastating for many small or medium restaurants and could virtually eliminate the popular "compact restaurant kitchens." If implemented as regulation, this proposed change could require expensive, massive changes in the design of new kitchens and redesign of many currently accessible restaurant kitchens. Access to freezers, dishwashers and walk-in refrigerators would be impossible or problematic in some locations. The massive new design, redesign and disruption costs would not improve public accommodation and would be on top of the cost and efforts expended by the restaurant industry over the last eight years truly improve public accommodations in the dining and public areas.

3. *Are there specific types of individual workstations, not otherwise exempt from access by section 203, that could not be served by an accessible route?*

We strongly believe that the years of experience and other factors that go into safe, compact and functional kitchen designs (employee safety, public health, ventilation, traffic flow and cost efficiency) would needlessly be disrupted if this requirement were included in the new ADAAG. If mandated, this new requirement would require dimensional isle spacing and turning radii for access to individual workstations within restaurant kitchens and work areas. These requirements would necessitate complete redesigns of equipment such as dishwashers, walk-in freezers and refrigerators. Many existing restaurant workstations could not be served by an accessible route under the proposed change.

4. *The phrase "areas used only by employees as work areas" has been misinterpreted or considered unclear. If this requirement is retained in the final rule, how should it be clarified to prevent misinterpretation? If a requirement for workstations is included in the final rule, is the term "individual employee work stations" sufficiently specific or is further clarification, qualification, or definition needed?*

The term "areas used only by employees as work areas" is a clear and concise term used in section 106.5, defined terms, to help define "employee work area." This term needs no clarification. A further attempt to clarify the phrase may in itself lead to misinterpretation. It is very clear that the term relates to those areas *used only by employees* for work purposes.

Solution:

The current section 4.1.1(3) is clear and provides a workable, reasonable compromise for full public access and appropriate cost effective design of restaurant kitchens, storage areas and work areas. The Access Board should retain the existing ADAAG language regarding work areas. We recommend that the current workable and clear definition of a work area should not be changed. Accommodation of kitchen employees with special needs is more appropriately met under ADA, Title I and should be made with full consideration of the job, disability, and appropriate technology and not through a new and costly one-size-fits-all architectural model.

Response to General Question 37 - Convenience Food Restaurants:

Question: Should the Board require that convenience food drive through facilities provide accessible communications. If so, what means would provide the greatest access for a variety of people with disabilities? It has been suggested that an ATM type machine could substitute for voice communication systems currently used. Is such an application practical?

As noted in the preamble to the revised ADAAG guidelines, convenience food restaurants, or quick service restaurants, often provide consumers the opportunity to order from a drive through facility. The Board is considering including a provision in the final rule that would require quick

service restaurants to provide accessible "drive through" communications. We *strongly* believe that such a requirement would be unjustified, extremely costly to the restaurant industry and would not provide any greater access for disabled persons.

The Department of Justice employed sensible judgement when requiring restaurants to accept orders at pick-up windows when the communications system is not accessible to deaf, hard of hearing or other people who are unable to use voice communication. The Department's solution to this obstacle for the hearing impaired, etc., provides a reasonable appropriate accommodation for those aforementioned individuals and at the same time does not unduly burden quick service restaurants. For restaurants this issue has been fully addressed by DOJ and we concur with their findings. We strongly recommend that the Board not include this type of provision in the final revised ADAAG.

Current ADAAG:

Section 4.1.3(19)(b).

This paragraph applies to assembly areas where audible communications are integral to the use of the space (e.g., concert and lecture halls, playhouses and movie theaters, meeting rooms etc.) Such assembly areas, if (1) they accommodate at least 50 persons, or if they have audio-amplification systems, and (2) they have fixed seating, shall have a permanently installed assistive listening system complying with 4.33. For other assembly areas, a permanently installed assistive listening system, or an adequate number of electrical outlets or other supplementary wiring necessary to support portable assistive listening systems shall be provided.

Proposed New ADAAG:

Section 219.2 Required Systems.

In each assembly area where audible communication is integral to the use of the space, an assistive listening system shall be provided. EXCEPTION: Other than in courtrooms, this

requirement shall not apply where there is no audio amplification.

Issue:

This appears to be a significant change to this ADAAG section. As we read it the proposed revision would now apply to all assembly areas, any size with or without fixed seating. This new provision may also require assistive listening systems in restaurants with TV or radio amplification, given the removal from the ADAAG of the fixed seat provision. We believe that the Board did not intend this type of change.

While it is certainly appropriate to include the language "areas where audible communications are integral to the use of space"—a critical component to establish the need for assistive listening systems—the proposed revision lacks clear and well understood definitions for what is considered "integral to the use of space." For example, this could mandate that *any* restaurant, with or without fixed seating, that provides no entertainment (except background music or TV) provide assistive listening devices for customers, if the music is deemed "integral to the use of space." Conceivably, restaurants that have a single television behind the bar or that announce seating or order pick-up might logically be required to install such devices, again if the announcements are "amplified or integral to the use of space."

Solution:

We are not opposed to a requirement for assistive listening systems in assembly areas, where communication is integral to the use of space, per se. However, without reasonable, clear, and well-understood definitions of the terms or phrases "areas where communications are integral to the use of space" and "audio amplification," the proposed revision is vague and could greatly expand the requirement for assistive listening devices in restaurants. We believe that the Board must incorporate concise clarification and definitions into the revision to alleviate ambiguous interpretations of the requirement. We strongly recommend clarification of "integral communications" provision in the ADAAG preamble.

Current ADAAG:

Section 4.1.3(19) Assembly areas.

(a) In places of assembly with fixed seating accessible wheelchair locations shall comply with 4.33.2, 4.33.3, and 4.33.4 and shall be provided consistent with the following table:

<u>Seating</u>	<u>Number of Required Wheelchair Locations</u>
<i>4 to 25.....</i>	<i>1</i>
<i>26 to 50.....</i>	<i>2</i>
<i>51 to 300.....</i>	<i>4</i>
<i>301 to 500.....</i>	<i>6</i>
<i>over 500.....</i>	<i>6, plus 1 additional space for each total seating capacity increase of 100</i>

In addition, one percent, but not less than one, of all fixed seats shall be aisle seats with no armrests on the aisle side, or removable or folding armrests on the aisle side. Each such seat shall be identified by a sign or marker. Signage notifying patrons of the availability of such seats shall be posted at the ticket office. Aisle seats are not required to comply with 4.33.4.

Proposed New ADAAG:

Section 221 Assembly Seating.

221.1 General. In a motion picture house, theater, concert hall, stadium, arena, auditorium, convention center, lecture hall, courtroom, legislative chamber, public meeting room, hearing room, or similar assembly area that contains seating, wheelchair spaces, readily removable companion seats, and designated aisle seats shall be provided and shall comply with 221 and 802 in each type of seating area.

Issue:

The proposed revision lists the types of assembly areas covered such as a motion picture house, etc., in an effort to "limit coverage" of the provision to "listed entities and other similar assembly areas." Though not stated in the rewritten ADAAG, the preamble to the document indicates that the revised guidelines "clarify that assembly areas like libraries or *restaurants* are not required to comply with the requirements of 221." However, we are concerned with the use of the term "similar assembly areas".

While we agree with the interpretation, we do not believe that the proposed ADAAG, as written, sufficiently expresses the fact that restaurants, specifically, would not be required to comply with the requirement. The inclusion of the language "or similar assembly area..." in section 221.1

would seem to indicate that places of public accommodation, such as restaurants, would be required to comply with the section. In fact, the definition of assembly area in the proposed ADAAG includes "a room or space accommodating a group...for the consumption of food and drink."

Solution:

We believe that a clearly stated exception to the proposed requirements governing assembly seating for "assembly areas like libraries or restaurants" must be incorporated into this section of the proposed ADAAG to avoid misinterpretations. As such, we strongly recommend that clearly defined language recognizing such an exception be developed and placed into the body of this provision for further clarification. Also discussion of the interpretation of "similar assembly areas" should be included in the preamble.

Current ADAAG:

Section 4.22.6 Lavatories and Mirrors.

If lavatories and mirrors are provided, then at least one shall comply with 4.19

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Proposed New ADAAG:

Section 213.3.4 Lavatories.

Where lavatories are provided, at least one shall comply with 606. Where only one accessible lavatory is provided, it shall not be located in a toilet compartment.

Issue:

This change will require restaurants to provide additional accessible lavatories and sinks in many restaurant locations in states that mandate accessible lavatories be located inside toilet compartments. The cost-benefit relationship of providing two accessible lavatories in many small restroom facilities should be more fully developed. We suggest that a more cost effective way to approach this issue may be to convince states authorities that the mandated in-toilet-compartment accessible sink requirements should be modified to allow sink placement outside the toilet compartment.

Additionally, we question whether there is clear and compelling evidence that special needs customers are being denied reasonable access to lavatories in small rest rooms or if this is simply another anecdotal or preference issue. Again, this is a costly change in an established benchmark without fully exploring modifying conflicting state regulations. This issue might be better addressed by an attempt to reduce conflicting state regulations or fully discussing additional options in the preamble.

Solution:

Retain the *current* widely adopted ADAAG standard and language in the “New ADAAG”.

Current ADAAG:

Section 4.1.2(5)(e) Valet Parking.

Valet parking facilities shall provide a passenger loading zone complying with 4.6.6 located on an accessible route to the entrance of the facility. Paragraphs 5(a), 5(b), and 5(d) of this section do not apply to valet parking facilities.

Proposed New ADAAG:

Deleted.

Issue:

The “New ADAAG”, through the deletion of an exception in the current ADAAG language, would require facilities that provide valet parking to also provide accessible parking spaces. Currently, when valet parking is provided and maintained, it is generally viewed as providing accessibility. How can the “New ADAAG” requirement for accessible parking be justified when

valet parking exists and it affords no greater access? We believe that the answer is that it does not afford greater access to establishments when valet parking is provided and therefore can not be reasonably justified.

Solution:

Include the current ADAAG valet parking language and exception in the “New ADAAG.” If valet parking is discontinued at any time, accessible parking must then be provided.

Current ADAAG:

Section 4.1.3(17)(c).

The following shall be provided in accordance with 4.31.9:

Proposed New ADAAG:

Section 217.4 TTY's.

TTY's complying with 704.4 shall be provided in accordance with 217.4.

Issue:

These proposed changes greatly expand the requirement for the number of TTY public telephones and the associated installation costs, while completely ignoring the fact that portable communications technologies for the hearing impaired is available and expanding rapidly. We question whether an expansion of this magnitude is reasonable or even necessary in light of the rapidly expanding personal alternative technologies.

Again, this appears to be a one-size-fits-all benchmark change to require large numbers of new equipment without full consideration of less costly alternative technologies. We believe that a full cost benefit analysis must be developed and included to support this proposal. Without clear compelling data, the number of public TTYs needed in restaurants and other facilities becomes pure speculation, subject to wild change on each re-write of the ADAAG.

Solution:

Retain the current TTY number requirements and consistent language until a valid cost benefit

analysis is conducted to set appropriate TTY requirements. The analysis should include available alternative technologies, demand analysis and cost.

Current ADAAG:

No requirement.

Proposed New ADAAG:

Section 228.4 Coat Hooks and Folding Shelves.

Where coat hooks or folding shelves are provided in inaccessible toilet rooms, toilet compartments, or in dressing, fitting or locker rooms, at least one of each type shall be provided in accessible toilet rooms, toilet compartments or dressing, fitting and locker rooms.

Issue:

While we believe that the intent is to provide accessible hooks and shelves in accessible toilet facilities, the language is vague, appears contradictory and apparently attempts to connect inaccessible areas with accessible areas. We find the “New ADAAG” approach to be confusing and possibly requiring an unreasonable number of accessible shelves and hooks. This complex vague approach may also encourage the elimination of shelves and hooks in all areas.

Solution:

Delete the section or simply state that an appropriate accessible hook and shelf be provided in accessible toilet, dressing, fitting or locker rooms.

Current ADAAG:

Section 4.17.3 Exception.

In instances of alteration work where provision of a standard stall (Fig.30(a)) is technically infeasible or where plumbing code requirements prevent combining existing stalls to provide space, either alternate stall (Fig. 30(b)) may be provided in lieu of the standard stall.

Section 4.1.6(3)(e)(ii).

Where it is technically infeasible to install a required standard stall (Fig. 30(a)), or where other codes prohibit reduction of the fixture count (i.e., removal of water closet in order to create a double-wide stall), either alternate stall (Fig. 30(b)) may be provided in lieu of the standard stall.

Proposed New ADAAG:

Deleted.

Issue:

The committee has deleted an important and reasonable provision to address this real world conflict. We contend that this regulatory conflict and issue can not be simply dismissed by the ADAAG. The reasonable provisions of section 4.17.3 in the current ADAAG should be retained. It is our understanding that the broad definition in 203.3 still applies and it would be helpful to have this stated in the ADAAG preamble.

Solution:

Retain the current language, discuss in the preamble or develop a new exception to address this specific situation.

Current ADAAG:

Section 4.17.5 Doors.

Toilet stall doors, including door hardware, shall comply with 4.13. If toilet stall approach is from the latch side of the stall door, clearance between the door side of the side of the stall and any obstruction may be reduced to a minimum of 42 in (1065mm)(Fig. 30).

Proposed New ADAAG:

Section 604.8.1.2 Doors.

Toilet compartment doors, including door hardware shall comply with 404 except that if the approach is to the latch side of the compartment door, clearance between the door side of the stall

and any obstruction shall be a minimum of 42 inches (1065mm). The door shall be hinged 4 inches (100mm) maximum from the sidewall or partition farthest from the water closet. The door shall be self-closing. A door pull complying with 404.2.7 shall be placed on both sides of the door near the latch. Compartment doors shall not swing into the minimum required compartment area.

Issue:

We believe that the additional criteria added to stall door requirements make the section hard to understand and overly technical. The expanded recommendations do not include any reference to research or studies to support the additional and specific requirements. In the absence of studies or research, we question the basis for the proposed changes, in particular the self-closing stall door requirement. We contend that a self-closing stall door may actually be more difficult for a mobility-impaired person to gain access to the stall.

Solution:

Retain the original language or remove the added overly technical requirements.

Current ADAAG:

Section 4.1.3 (5) and Exception 4 (d).

One passenger elevator complying with 4.10 shall serve each level, including mezzanines, in all multi-story buildings and facilities unless exempted below. If more than one elevator is provided, each full passenger elevator shall comply with 4.10.

Platform lifts (wheelchair lifts) complying with 4.11 of this guideline and applicable state or local codes may be used in lieu of an elevator only under the following conditions: To provide access where existing site constraints or other constraints make use of a ramp or an elevator infeasible.

Proposed "New" ADAAG:

Deleted.

Issue:

Why was this taken out and yet identified in 206.7. The proposed revision removes an exception cited in the current ADAAG that allows the use of wheelchair lifts where "existing site constraints or other constraints make use of a ramp or an elevator infeasible." The committee believed that the exception "is not considered warranted in new construction." While the exception may not be warranted in new construction, it must be included given the fact that the ADAAG applies to remodel facilities in many situations. Is it the Board's position and thusly DOJ's position that the new ADAAG will never be applied to existing facilities under any situation? This has clearly not been the situation in the past. Given that it will be applied to existing facilities in some situations the provision must be retained.

Solution:

Retain the exception included in the current ADAAG to provide reasonable alternatives to those facilities operators who are remodeling existing facilities.

Current ADAAG:

No provision.

Proposed "New" ADAAG:

Section 206.6.1 Existing Elevators.

Altered elements of existing elevators shall comply with 407.5. Such elements shall also be altered in all elevators that are programmed to respond to the same hall call control as the altered elevator and shall comply with the requirements of 407.5.

Issue:

A requirement has been added to the proposed ADAAG that when an elevator is altered, all elevators programmed to respond to the same hall call control shall be brought into compliance. The Board in the preamble discussion notes that the provision was included so that "persons with disabilities are not limited to the use of one car at multi-car elevator banks."

This new requirement could prove to be extremely costly for industry and is unnecessary. Elevator access for disabled persons is required when an existing elevator is altered. As such, requiring access to *all* elevators is duplicative. The bottom line is access is access.

Solution:

Delete section 206.6.1 from the proposed rule.

Response to General Question 16 - Windows:

Question: Should a maximum sill height for the glazed area of those windows required to be accessible be specified in the final rule so that people who use wheelchairs, located on any floor, can look through the window to view ground level activities? The Board also seeks information on any design requirements, practices, or considerations that would specify installation above an accessible height in certain occupancies for security or safety reasons...to prevent improper use by building occupants, including children.

We strongly believe that requiring a maximum sill height in the final rule that would allow for persons using wheelchairs to look through the window to view ground level activities could inadvertently create a safety hazard in public spaces that may contain young children. The provision of the proposed ADAAG governing windows, in essence, requires that accessible windows be operable by all potential building occupants, including those with disabilities. Obviously, for a window to be in compliance for disabled persons, who use wheelchairs, the sill of operable, accessible windows must be lowered—creating a window that may now be accessible and operable by children, leading to possible accidents. Hence, we strongly recommend that this new requirement be omitted from the final rule. There also is a question about the potential costs that would be required to alter windows that must be considered in regard to the need for such changes.

The National Restaurant Association takes a great interest in the "New ADAAG" proposals, and we believe it is in our best interest to work with businesses, interest groups and government officials to remove barriers to any potential restaurant customers. We thank you for the opportunity to comment on this important proposed rulemaking. Please feel free to contact us at any time to discuss our comments and specific concerns.

Sincerely,

Steven C. Anderson, CAE
President and Chief Executive Officer

Cc: Lee Culpepper,
Peter Kilgore
Steven Grover