

SPECIAL Report



NATIONAL ROOFING CONTRACTORS ASSOCIATION

AMERICANS WITH DISABILITIES ACT - 1/91 UPDATE

The Americans with Disabilities Act (ADA) became law last summer. It concerns employment discrimination and public accommodation.

A disabled person is one who **has, has a record of, or is regarded as having** a physical or mental impairment that substantially limits a major life activity. This definition has been in discrimination law for Federal contractors since 1973. An individual who is using illegal drugs would not be protected under the ADA.

Employment provisions take effect in July 1992, but for two years, employers with 25 or fewer employees are exempt. After July 1994, only employers with 15 or fewer employees are exempt.

To be covered, a disabled applicant or employee must be able to do the "essential functions" of a job. If necessary, an employer must make "reasonable accommodation" to help the disabled person work, unless it would cause "undue hardship." "Undue hardship" is defined as "an action requiring significant difficulty or expense."

The ADA permits job-related employment tests and preemployment inquiries into the ability of an applicant to perform job-related functions. A person can be denied employment if that person poses a "direct threat" to the health and safety of others and it cannot be eliminated by reasonable accommodation.

Draft employment regulations from the Equal Employment Opportunity Commission are expected in February. NRCA requested an exemption for roof construction because of safety risks and undue hardship.

The U.S. Attorney General will issue regulations on the ADA's **public accommodation provisions**, which involve private businesses serving the public and take effect in January, 1992. Facilities such as hotels, theaters and stores are of primary concern here, but your business is covered, too. Removing barriers for disabled customers isn't necessary unless "readily achievable;" that is, "easily accomplishable without much difficulty or expense."

The budget contains tax credits for small businesses that make expenditures to provide access to disabled persons. A business is eligible if its gross receipts for the preceding taxable year did not exceed \$1 million, or it has fewer than 30 full-time employees. The credit is an amount equal to 50 percent of the eligible access expenditure between \$250 and \$10,250; the work must be done on an existing structure. New construction does not qualify for the credit and must be accessible to and usable by disabled persons.