

Sunshine Act Meetings

Federal Register

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Wednesday, February 5, 1986

This section of the FEDERAL REGISTER contains notices of meetings published under the "Government in the Sunshine Act" (Pub. L. 94-409) 5 U.S.C. 552b(e)(3).

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1

FEDERAL DEPOSIT INSURANCE CORPORATION

Pursuant to the provisions of the "Government in the Sunshine Act" (5 U.S.C. 552b), notice is hereby given that the Federal Deposit Insurance Corporation's Board of Directors will meet in open session at 2:00 p.m. on Monday, February 10, 1986, to consider the following matters:

Summary Agenda: No substantive discussion of the following items is anticipated. These matters will be resolved with a single vote unless a member of the Board of Directors requests that an item be moved to the discussion agenda.

Disposition of minutes of previous meetings.

Applications for Federal deposit insurance:

Mission Thrift and Loan Association, an operating noninsured industrial bank located at 1765 4th Avenue, San Diego, California.

Marine Merchant Bank and Trust Company, Ltd., an operating noninsured bank located at Hyatt Regency Office Plaza, Suite 4, Garapan, Saipan, Commonwealth of the Northern Mariana Islands.

Application for consent to purchase assets and assume liabilities and to establish one branch:

Reeves Bank, Beaver Falls, Pennsylvania, an insured State nonmember bank, for consent to purchase certain assets of and assume the liability to pay deposits made in the Moon Township Branch of Colony First Federal Savings and Loan Association, Monaca, Pennsylvania, a non-FDIC-insured institution, and for consent to establish that office as a branch of Reeves Bank.

Request for reconsideration of a previous denial of an application to convert into a non-FDIC-insured institution:

The Business Bank, Vienna, Virginia

Recommendations regarding the liquidation of a bank's assets acquired by the Corporation in its capacity as receiver, liquidator, or liquidating agent of those assets:

Case No. 46,419-L

The First National Bank of Midland, Midland, Texas

Memorandum and Resolution re:

First National Bank of Oak Lawn, Oak Lawn, Illinois

Reports of committees and officers:

Minutes of actions approved by the standing committees of the Corporation pursuant to authority by the Board of Directors.

Reports of the Division of Bank Supervision with respect to applications, requests, or actions involving administrative enforcement proceedings approved by the Director, or an Associate Director of the Division of Bank Supervision and the various Regional Directors pursuant to authority delegated by the Board of Directors.

Discussion Agenda:

Resolution amending the current delegations of authority with respect to liquidation and receivership activities.

The meeting will be held in the Board Room on the sixth floor of the FDIC Building located at 550-17th Street, NW., Washington, D.C.

Requests for further information concerning the meeting may be directed to Mr. Hoyle L. Robinson, Executive Secretary of the Corporation, at (202) 389-4425.

Dated: February 3, 1986.

Federal Deposit Insurance Corporation.

Hoyle L. Robinson,

Executive Secretary.

[FR Doc. 86-2649 Filed 2-3-86; 3:10 pm]

BILLING CODE 6714-01-M

2

FEDERAL DEPOSIT INSURANCE CORPORATION

Pursuant to the provisions of the "Government in the Sunshine Act" (5 U.S.C. 552b), notice is hereby given that at 2:30 p.m. on Monday, February 10, 1986, the Federal Deposit Insurance Corporation's Board of Directors will meet in closed session, by vote of the Board of Directors, pursuant to sections 552b(c)(2), (c)(6), (c)(8), and (c)(9)(A)(ii) of Title 5, United States Code, to consider the following matters:

Summary Agenda: No substantive discussion of the following items is

anticipated. These matters will be resolved with a single vote unless a member of the Board of Directors requests that an item be moved to the discussion agenda.

Recommendations with respect to the initiation, termination, or conduct of administrative enforcement proceedings (cease-and-desist proceedings, termination-of-insurance proceedings, suspension or removal proceedings, or assessment of civil money penalties) against certain insured banks or officers, directors, employees, agents or other persons participating in the conduct of the affairs thereof:

Names of persons and names and locations of banks authorized to be exempt from disclosure pursuant to the provisions of subsections (c)(6), (c)(8), and (c)(9)(A)(ii) of the "Government in the Sunshine Act" (5 U.S.C. 552b(c)(6), (c)(8), and (c)(9)(A)(ii)).

Note.—Some matters falling within this category may be placed on the discussion agenda without further public notice if it becomes likely that substantive discussions of those matters will occur at the meeting.

Discussion Agenda:

Request for modification of a condition imposed in granting Federal deposit insurance:

Universal Trust Company, San Juan, Puerto Rico.

Personnel actions regarding appointments, promotions, administrative pay increases, reassignments, retirements, separations, removals, etc.:

Names of employees authorized to be exempt from disclosure pursuant to the provisions of subsections (c)(2) and (c)(6) of the "Government in the Sunshine Act" (5 U.S.C. 552b(c)(2) and (c)(6)).

The meeting will be held in the Board Room on the sixth floor of the FDIC Building located at 550-17th Street, NW., Washington, DC.

Requests for further information concerning the meeting may be directed to Mr. Hoyle L. Robinson, Executive Secretary of the Corporation, at (202) 389-4425.

Dated: February 3, 1986.

Federal Deposit Insurance Corporation.

Hoyle L. Robinson,

Executive Secretary.

[FR Doc. 86-2650 Filed 2-3-86; 3:11 pm]

BILLING CODE 6714-01-M

3

FEDERAL RESERVE SYSTEM BOARD OF GOVERNORS**TIME AND DATE:** 12:00 Noon, Monday, February 10, 1986.**PLACE:** Marriner S. Eccles Federal Reserve Board Building, C Street entrance between 20th and 21st Streets, NW., Washington, D.C. 20551.**STATUS:** Closed.**MATTERS TO BE CONSIDERED:**

1. Personnel actions (appointments, promotions, assignments, reassignments, and salary actions) involving individual Federal Reserve System employees.

2. Any items carried forward from a previously announced meeting.

CONTACT PERSON FOR MORE

INFORMATION: Mr. Joseph R. Coyne, Assistant to the Board; (202) 452-3204. You may call (202) 452-3207, beginning at approximately 5 p.m. two business days before this meeting, for a recorded announcement of bank and bank holding company applications scheduled for the meeting.

Dated: February 3, 1986.

James McAfee,

Associate Secretary of the Board.

[FR Doc. 86-2617 Filed 2-3-86; 12:24 pm]

BILLING CODE 6210-01-M

4

INTERNATIONAL TRADE COMMISSION**TIME AND DATE:** Thursday, February 6, 1986 at 2:00 p.m.**PLACE:** Room 117, 701 E Street, NW., Washington, DC.**STATUS:** Open to the public.**MATTERS TO BE CONSIDERED:**

1. Agenda.
2. Minutes.
3. Ratification List.
4. Petitions and Complaints:
 - a. Certain laser inscribed diamonds and the method of inscription thereof. (Docket no. 1273).
5. Any items left over from the previous agenda.

CONTACT PERSON FOR MORE

INFORMATION: Kenneth R. Mason, Secretary (202) 523-0161.

Kenneth R. Mason,

Secretary.

[FR Doc. 86-2551 Filed 2-3-86; 9:28 am]

BILLING CODE 7020-02-M

5

NUCLEAR REGULATORY COMMISSION**DATE:** Weeks of February 3, 10, 17, and 24, 1986.**PLACE:** Commissioners' Conference Room, 1717 H Street, NW., Washington, DC.**STATUS:** Open and Closed.**MATTERS TO BE CONSIDERED:****Week of February 3**

Thursday, February 6

2:00 p.m.

Affirmative/Discussion and Vote (Public Meeting)

- a. Review of ALAB-826 (In the Matter of Metropolitan Edison Company)
- b. Final Rule, "Limitation on the Use of Highly Enriched Uranium (HEU) in Research and Test Reactors" (Tentative) (Postponed from January 29)

Friday, February 7

2:00 p.m.

Briefing on Staff Activities Regarding TVA (Public Meeting)

Week of February 10—Tentative

Tuesday, February 11

10:30 a.m.

Classified Security Briefing (Closed—Ex. 1)

10:45 a.m.

Discussion of Management-Organization and Internal Personnel Matters (Closed—Ex. 2 & 6)

2:00 p.m.

Briefing by AIF on Technical Specification Improvements (Public Meeting)

Wednesday, February 12

2:00 p.m.

Discussion of Staff Recommendations on Enforcement Policy (Public Meeting)

Thursday, February 13

2:00 p.m.

Status Briefing on Fermi (Open/Portion may be Closed—Ex. 5 & 7)

3:30 p.m.

Affirmation Meeting (Public Meeting) (if needed)

Week of February 17—Tentative

Tuesday, February 18

2:00 p.m.

Briefing by TVA on Status, Plans and Schedules (Public Meeting)

Wednesday, February 19

10:00 a.m.

Staff Briefing on Integrated Safety Assessment Program (Public Meeting)

Thursday, February 20

10:00 a.m.

Report on Safety Goal Evaluation (Public Meeting)

3:30 p.m.

Affirmation Meeting (Public Meeting) (if needed)

Friday, February 21

10:00 a.m.

Briefing by Southern California Edison Co. on San Onofre (Public Meeting)

Week of February 24—Tentative

Monday, February 24

2:00 p.m.

Discussion of Management-Organization and Internal Personnel Matters (Closed—Ex. 2 & 6)

Tuesday, February 25

10:00 a.m.

Briefing by Incident Investigation Team on Status of Rancho Seco (Public Meeting)

Wednesday, February 26

10:00 a.m.

Briefing on NUMARC Initiatives (Public Meeting)

Thursday, February 27

10:00 a.m.

Discussion of DOE High Level Waste Program (Public Meeting)

2:00 p.m.

Affirmation Meeting (Public Meeting) (if needed)

ADDITIONAL INFORMATION: Affirmation of "Intervenors' Motion for Cancellation of Shoreham Emergency Planning Exercise" and "Order on ALAB-812 (In the Matter of Louisiana Power & Light Company, Waterford, Unit 3)" (Public Meeting) was held on January 29.

TO VERIFY THE STATUS OF MEETINGS CALL (RECORDING): (202) 634-1498.

CONTACT PERSON FOR MORE

INFORMATION: Julia Corrado (202) 634-1410.

Dated: January 30, 1986.

Andrew L. Bates,

Office of the Secretary.

[FR Doc. 86-2543 Filed 1-31-86; 4:23 pm]

BILLING CODE 7590-01-M

REPORT ON THE PROGRESS OF THE WORK OF THE AMERICAN MEDICAL ASSOCIATION, 1918-1919.

The American Medical Association has during the past year been engaged in a most important and successful campaign for the improvement of the medical profession and the betterment of the public health. The work of the Association has been directed towards the elimination of quackery, the improvement of the medical curriculum, the betterment of the medical profession, and the betterment of the public health.

The first of the most important work of the Association during the past year has been the elimination of quackery. The Association has been successful in securing the passage of legislation which will eliminate quackery from the medical profession. This legislation will require that all medical practitioners must be licensed by the State, and that all medical practitioners must be members of the American Medical Association. This legislation will also require that all medical practitioners must be licensed by the State, and that all medical practitioners must be members of the American Medical Association.

The second of the most important work of the Association during the past year has been the improvement of the medical curriculum. The Association has been successful in securing the passage of legislation which will improve the medical curriculum. This legislation will require that all medical schools must be accredited by the American Medical Association, and that all medical schools must be members of the American Medical Association. This legislation will also require that all medical schools must be accredited by the American Medical Association, and that all medical schools must be members of the American Medical Association.

The third of the most important work of the Association during the past year has been the betterment of the medical profession. The Association has been successful in securing the passage of legislation which will betterment the medical profession. This legislation will require that all medical practitioners must be licensed by the State, and that all medical practitioners must be members of the American Medical Association. This legislation will also require that all medical practitioners must be licensed by the State, and that all medical practitioners must be members of the American Medical Association.

The fourth of the most important work of the Association during the past year has been the betterment of the public health. The Association has been successful in securing the passage of legislation which will betterment the public health. This legislation will require that all medical practitioners must be licensed by the State, and that all medical practitioners must be members of the American Medical Association. This legislation will also require that all medical practitioners must be licensed by the State, and that all medical practitioners must be members of the American Medical Association.

Executive Order

Wednesday
February 5, 1986

Part II

Enforcement of Nondiscrimination on the Basis of
Handicap in Federally Conducted Programs
Administrative Conference of the United States
Advisory Committee on Federal Pay
Advisory Commission on Intergovernmental
Relations
Department of Energy
Office of the Federal Inspector for the Alaska
Natural Gas Transportation System
Export-Import Bank of the United States
Consumer Product Safety Commission
International Trade Commission
International Development Cooperation Agency,
Agency for International Development
Arms Control and Disarmament Agency
International Boundary and Water Commission,
United States and Mexico—United States Section
Board for International Broadcasting
American Battle Monuments Commission
National Foundation on the Arts and the
Humanities, National Endowment for the
Humanities
National Foundation on the Arts and the
Humanities, Institute of Museum Services
National Commission on Libraries and Information
Science
National Transportation Safety Board
Marine Mammal Commission

ADMINISTRATIVE CONFERENCE OF THE UNITED STATES

1 CFR Part 326

ADVISORY COMMITTEE ON FEDERAL PAY

5 CFR Part 1411

ADVISORY COMMISSION ON INTERGOVERNMENTAL RELATIONS

5 CFR Part 1701

DEPARTMENT OF ENERGY

10 CFR Part 1040

OFFICE OF THE FEDERAL INSPECTOR FOR THE ALASKA NATURAL GAS TRANSPORTATION SYSTEM

10 CFR Part 1535

EXPORT-IMPORT BANK OF THE UNITED STATES

12 CFR Part 410

CONSUMER PRODUCT SAFETY COMMISSION

16 CFR Part 1033

UNITED STATES INTERNATIONAL TRADE COMMISSION

19 CFR Part 201

INTERNATIONAL DEVELOPMENT COOPERATION AGENCY

Agency for International Development

22 CFR Part 219

ARMS CONTROL AND DISARMAMENT AGENCY

22 CFR Part 607

INTERNATIONAL BOUNDARY AND WATER COMMISSION, UNITED STATES AND MEXICO—UNITED STATES SECTION

22 CFR Part 1103

BOARD FOR INTERNATIONAL BROADCASTING

22 CFR Part 1304

AMERICAN BATTLE MONUMENTS COMMISSION

36 CFR Part 406

NATIONAL FOUNDATION ON THE ARTS AND THE HUMANITIES

National Endowment for the Humanities

45 CFR Part 1175

NATIONAL FOUNDATION ON THE ARTS AND THE HUMANITIES

Institute of Museum Services

45 CFR Part 1181

NATIONAL COMMISSION ON LIBRARIES AND INFORMATION SCIENCE

45 CFR Part 1706

NATIONAL TRANSPORTATION SAFETY BOARD

49 CFR Part 807

MARINE MAMMAL COMMISSION

50 CFR Part 550

Enforcement of Nondiscrimination on the Basis of Handicap in Federally Conducted Programs

AGENCIES: Administrative Conference of the United States; Advisory Committee on Federal Pay; Advisory Commission on Intergovernmental Relations; Department of Energy; Office of the Federal Inspector for the Alaska Natural Gas Transportation System; Export-Import Bank of the United States; Consumer Product Safety Commission; United States International Trade Commission; International Development Cooperation Agency; Agency for International Development; Arms Control and Disarmament Agency; International Boundary and Water Commission, United States and Mexico—United States Section; Board for International Broadcasting; American Battle Monuments Commission; National Foundation on the Arts and the Humanities; National Endowment for the Humanities; National Foundation on the Arts and the Humanities; Institute of Museum Services; National Commission on Libraries and Information Science; National Transportation Safety Board; Marine Mammal Commission.

ACTION: Final rule.

SUMMARY: This regulation requires that the agencies listed above operate all of their programs and activities to ensure nondiscrimination against qualified handicapped persons. It sets forth standards for what constitutes discrimination on the basis of mental or physical handicap, provides a definition for handicapped person and qualified handicapped person, and establishes a complaint mechanism for resolving allegations of discrimination. This regulation is issued under the authority of section 504 of the Rehabilitation Act of 1973, as amended, which prohibits discrimination on the basis of handicap in programs or activities conducted by Federal executive agencies.

EFFECTIVE DATE: April 7, 1986.

FOR FURTHER INFORMATION CONTACT: See individual agencies below. Copies of this regulation are available on tape for those with impaired vision. They

may be obtained from the Coordination and Review Section, Civil Rights Division, U.S. Department of Justice, Washington, D.C. 20530.

SUPPLEMENTARY INFORMATION:**Background**

The purpose of this rule is to provide for the enforcement of section 504 of the Rehabilitation Act of 1973, as amended (29 U.S.C. 794), as it applies to programs and activities conducted by the following agencies (hereinafter "the agencies"): Administrative Conference of the United States; Advisory Committee on Federal Pay; Advisory Commission on Intergovernmental Relations; Department of Energy; Office of the Federal Inspector for the Alaska Natural Gas Transportation System; Export-Import Bank of the United States; Consumer Product Safety Commission; United States International Trade Commission; International Development Cooperation Agency; Agency for International Development; Arms Control and Disarmament Agency; International Boundary and Water Commission, United States and Mexico—United States Section; Board for International Broadcasting; American Battle Monuments Commission; National Foundation on the Arts and the Humanities; National Endowment for the Humanities; National Foundation on the Arts and the Humanities; Institute of Museum Services; National Commission on Libraries and Information Science; National Transportation Safety Board; Marine Mammal Commission. As amended by the Rehabilitation, Comprehensive Services, and Developmental Disabilities Amendments of 1978 (Sec. 119, Pub. L. 95-602, 92 Stat. 2982), section 504 of the Rehabilitation Act of 1973 states that:

No otherwise qualified handicapped individual in the United States, . . . shall, solely by reason of his handicap, be excluded from the participation in, be denied the benefits of, or be subjected to discrimination under any program or activity receiving Federal financial assistance or under any program or activity conducted by any Executive agency or by the United States Postal Service. The head of each such agency shall promulgate such regulations as may be necessary to carry out the amendments to this section made by the Rehabilitation, Comprehensive Services, and Developmental Disabilities Act of 1978. Copies of any proposed regulation shall be submitted to appropriate authorizing committees of the Congress, and such regulation may take effect no earlier than the thirtieth day after the date on which such regulation is so submitted to such committees. (29 U.S.C. 794) (amendment italicized))

On January 11, 1984, eighteen agencies jointly published a Notice of Proposed Rulemaking (NPRM) in the *Federal Register*. 49 FR 1450. Each agency individually received comments on the NPRM. In addition, each agency considered the Department of Justice's (DOJ) Supplemental Notice, published March 1, 1984 (49 FR 7792), as part of its rulemaking record. After analysis of the comments received by the individual agencies, DOJ's Supplemental Notice, and the final section 504 regulation that DOJ issued for its own programs and activities, the agencies participating in this publication decided to adopt this final rule. Because this rule is identical for all the participating agencies, they are able to publish it jointly, and are doing so in order to minimize costs and expedite its issuance. The rule adopted by each agency will be codified in that agency's portion of the Code of Federal Regulations, as indicated in the information provided for the individual agencies below.

Section 504 requires that regulations that apply to the programs and activities of Federal executive agencies be submitted to the appropriate authorizing committees of Congress and that such regulations take effect no earlier than the thirtieth day after they have been so submitted. The Department of Justice, on behalf of the agencies participating in this joint rulemaking, is submitting these regulations to the Senate Committee on Labor and Human Resources and its Subcommittee on the Handicapped and to the House Committee on Education and Labor and its Subcommittee on Select Education. Each regulation will become effective on April 7, 1986.

One commenter said that the agency should have tailored the regulation to its particular programs and activities instead of adopting the Justice Department's prototype. The agencies participating in this publication have found that the programs that they conduct are not so unique as to require special regulatory language and that this regulation is therefore appropriate for them.

Several commenters suggested that the agency adopt the changes discussed by the Department of Justice in its Supplemental Notice. One of these suggested that, in order to ensure adequate public notice of these changes, the agency should publish a second Notice of Proposed Rulemaking. The agency has adopted the changes, but does not believe that a second NPRM is necessary. As the Court of Appeals for the District of Columbia stated in *Air Transport Association of America v. CAB*, 732 F.2d 219, 224 (D.C. Cir. 1984),

"the statutory duty to submit a proposed rule for comment does not include an obligation to provide new opportunities for comment whenever the final rule differs from the proposed rule." Notice is intended to inform interested persons of the subjects and issues under consideration so that they can address their comments to them. See, e.g., *Small Refiner Lead Phase-Down Task Force v. EPA*, 705 F.2d 506, 547 (D.C. Cir. 1983); *BASF Wyandotte Corp. v. Costle*, 598 F.2d 637, 642-644 (1st. Cir. 1979) and cases there cited. We believe that the changes suggested in the Supplemental Notice and incorporated in this final rule are a "logical outgrowth" of the proposed rule, *Air Transport Association* at 224, so that an additional notice is not required. The Supplemental Notice itself was included as a comment in the public record before the close of the comment period, and several commenters did, in fact, discuss it in their comments.

The substantive nondiscrimination obligations of the agencies, as set forth in this rule, are identical, for the most part, to those established by Federal regulations for programs or activities receiving Federal financial assistance. See 28 CFR Part 41 (section 504 coordination regulation for federally assisted programs). This general parallelism is in accord with the intent expressed by supporters of the 1978 amendment in floor debate, including its sponsor, Rep. James M. Jeffords, that the Federal government should have the same section 504 obligations as recipients of Federal financial assistance. 124 Cong. Rec. 13,901 (1978) (remarks of Rep. Jeffords); 124 Cong. Rec. E2668, E2670 (daily ed. May 17, 1978) *id.*; 124 Cong. Rec. 13,897 (remarks of Rep. Brademas); *id.* at 38,552 (remarks of Rep. Sarasin).

There are, however, some language differences between this final rule and the Federal government's section 504 regulations for federally assisted programs. These changes are based on the Supreme Court's decision in *Southeastern Community College v. Davis*, 442 U.S. 397 (1979), and the subsequent circuit court decisions interpreting *Davis* and section 504. See *Dopico v. Goldschmidt*, 687 F.2d 644 (2d Cir. 1982); *American Public Transit Association v. Lewis*, 655 F.2d 1272 (D.C. Cir. 1981) (*APTA*); see also *Rhode Island Handicapped Action Committee v. Rhode Island Public Transit Authority*, 718 F.2d 490 (1st Cir. 1983).

This interpretation is supported by the recent decision of the Supreme Court in *Alexander v. Choate*, 105 S. Ct. 712 (1985), where the Court held that the

regulations for federally assisted programs did not require a recipient to modify its durational limitation on Medicaid coverage of inpatient hospital care for handicapped persons. Clarifying its *Davis* decision, the Court explained that section 504 requires only "reasonable" modifications, 105 S. Ct. at 721, and explicitly noted that "[t]he regulations implementing section 504 [for federally assisted programs] are consistent with the view that reasonable adjustments in the nature of the benefit offered must at times be made to assure meaningful access" (*id.*, n.21) (emphasis added).

Incorporation of these changes, therefore, makes this section 504 federally conducted regulation consistent with the Federal government's section 504 federally assisted regulations, as interpreted by the Supreme Court. Many of these federally assisted regulations were issued prior to the judicial interpretations of *Davis*, subsequent lower court cases interpreting *Davis*, and *Alexander*; therefore their language does not reflect the interpretation of section 504 provided by the Supreme Court and by the various circuit courts. Of course, these federally assisted regulations must be interpreted to reflect the holdings of the Federal judiciary. Hence the agencies believe that there are no significant differences between this final rule for federally conducted programs and the Federal government's interpretation of section 504 regulations for federally assisted programs.

This regulation has been reviewed by the Department of Justice under Executive Order 12250 (45 FR 72995, 3 CFR, 1980 Comp., p. 298).

It has also been reviewed by the Equal Employment Opportunity Commission under Executive Order 12067 (43 FR 28967, 3 CFR, 1978 Comp., p. 206). It is not a major rule within the meaning of Executive Order 12291 (46 FR 13193, 3 CFR, 1981 Comp., p. 127) and, therefore, a regulatory impact analysis has not been prepared. This regulation does not have an impact on small entities. It is not, therefore, subject to the Regulatory Flexibility Act (5 U.S.C. 601-612).

Section-by-Section Analysis and Response to Comments

Section .101 Purpose

Section .101 states the purpose of the rule, which is to effectuate section 119 of the Rehabilitation, Comprehensive Services, and Developmental Disabilities Amendments of 1978, which amended

section 504 of the Rehabilitation Act of 1973 to prohibit discrimination on the basis of handicap in programs or activities conducted by Executive agencies or the United States Postal Service.

No comments were received on this section and it remains unchanged from the proposed rule.

Section .102 Application

The regulation applies to all programs or activities conducted by the agencies. Under this section, a federally conducted program or activity is, in simple terms, anything a Federal agency does. Aside from employment, there are two major categories of federally conducted programs or activities covered by this regulation: those involving general public contact as part of ongoing agency operations and those directly administered by the agencies for program beneficiaries and participants. Activities in the first part include communication with the public (telephone contacts, office walk-ins, or interviews) and the public's use of the agency's facilities. Activities in the second category include programs that provide Federal services or benefits. No comments were received on this section.

Section .103 Definitions

"Assistant Attorney General." "Assistant Attorney General" refers to the Assistant Attorney General, Civil Rights Division, United States Department of Justice.

"Auxiliary aids." "Auxiliary aids" means services or devices that enable persons with impaired sensory, manual, or speaking skills to have an equal opportunity to participate in and enjoy the benefits of the agency's programs or activities. The definition provides examples of commonly used auxiliary aids. Auxiliary aids are addressed in § .160(a)(1). Comments on the definition of "auxiliary aids" are discussed in connection with that section.

"Complete complaint." "Complete complaint" is defined to include all the information necessary to enable the agency to investigate the complaint. The definition is necessary, because the 180 day period for the agency's investigation (see § .170(g)) begins when it receives a complete complaint.

"Facility." The definition of "facility" is similar to that in the section 504 coordination regulation for federally assisted programs, 28 CFR 41.3(f), except that the term "rolling stock or other conveyances" has been added and the phrase "or interest in such property" has been deleted. As explained in DOJ's Supplemental Notice, the term "facility,"

as used in this regulation, refers to structures, and does not include intangible property rights. The definition, therefore, has no effect on the scope of coverage of programs, including those conducted in facilities not included in the definition. The phrase has been omitted because the requirement that facilities be accessible would be a logical absurdity if applied to a lease, life estate, mortgage, or other intangible property interest. The regulation applies to all programs and activities conducted by the agency regardless of whether the facility in which they are conducted is owned, leased, or used on some other basis by the agency. Sixty commenters supported the clarification of this issue in the Supplemental Notice. The term "facility" is used in §§ .149, .150, and .170(f).

"Handicapped person." The definition of "handicapped person" has been revised to make it identical to the definition appearing in the section 504 coordination regulation for federally assisted programs (28 CFR 41.31).

"Qualified handicapped person." The definition of "qualified handicapped person" is a revised version of the definition appearing in the section 504 coordination regulation for federally assisted programs (28 CFR 41.32).

Subparagraph (1) of the definition states that a "qualified handicapped person" with regard to any program under which a person is required to perform services or to achieve a level of accomplishment is a handicapped person who can achieve the purpose of the program without modifications in the program that the agency can demonstrate would result in a fundamental alteration in its nature. This definition is based on the Supreme Court's *Davis* decision.

In *Davis*, the Court ruled that a hearing-impaired applicant to a nursing school was not a "qualified handicapped person" because her hearing impairment would prevent her from participating in the clinical training portion of the program. The Court found that, if the program were modified so as to enable the respondent to participate (by exempting her from the clinical training requirements), "she would not receive even a rough equivalent of the training a nursing program normally gives." 442 U.S. at 410. It also found that "the purpose of [the] program was to train persons who could serve the nursing profession in all customary ways," *id.* at 413, and that the respondent would be unable, because of her hearing impairment, to perform some functions expected of a registered nurse. It therefore concluded that the school

was not required by section 504 to make such modifications that would result in "a fundamental alteration in the nature of the program." *Id.* at 410.

We have incorporated the Court's language in the definition of "qualified handicapped person" in order to make clear that such a person must be able to participate in the program offered by the agency. The agency is required to make modifications in order to enable a handicapped applicant to participate, but is not required to offer a program of a fundamentally different nature. The test is whether, with appropriate modifications, the applicant can achieve the purpose of the program offered; not whether the applicant could benefit or obtain results from some other program that the agency does not offer. Although the revised definition allows exclusion of some handicapped people from some programs, it requires that a handicapped person who is capable of achieving the purpose of the program must be accommodated, provided that the modifications do not fundamentally alter the nature of the program.

One comment received by the agencies said that provision of a sign language interpreter or relocation of a service could be considered a fundamental alteration in the nature of a program of activity. The agency believes that the specific provisions of the regulation on program accessibility and communications clearly establish that, absent some unusual circumstance, such an interpretation would be incorrect.

"Qualified handicapped person" is defined for purposes of employment in 29 CFR 1613.702(f), which is made applicable to this part by § .140. Nothing in this part changes existing regulations applicable to employment.

The definition of "qualified handicapped person" has been revised to make it clear that the agency has the burden of demonstrating that a proposed modification would constitute a fundamental alteration in the nature of its program or activity. Furthermore, in demonstrating that a modification would result in such an alteration, the agency must follow the procedures established in subparagraph .150 (a)(2) and paragraph .160(d), which are discussed below, for demonstrating that an action would result in undue financial and administrative burdens. That is, the decision must be made by the agency head or his or her designee in writing after consideration of all resources available for the program or activity and must be accompanied by an explanation of the reasons for the decision. If the agency head determines that an action would result in a

fundamental alteration, the agency must consider options that would enable the handicapped person to achieve the purpose of the program but would not result in such an alteration.

Subparagraph (2) of the definition adopts the existing definition in the coordination regulation of "qualified handicapped person" with respect to services for programs receiving Federal financial assistance (28 CFR 41.32(b)). Under this part of the definition, a qualified handicapped person is a handicapped person who meets the essential eligibility requirements for participation in the program or activity.

"Section 504." This definition makes clear that, as used in this regulation, "section 504" applies only to programs or activities conducted by the agency and not to programs or activities to which it provides Federal financial assistance.

Section .110 Self-evaluation

This section requires that the agency conduct a self-evaluation of its compliance with section 504 within one year of the effective date of this regulation. The self-evaluation requirement is present in the existing section 504 coordination regulation for programs or activities receiving Federal financial assistance (28 CFR 41.5(b)(2)). Experience has demonstrated the self-evaluation process to be a valuable means of establishing a working relationship with handicapped persons that promotes both effective and efficient implementation of section 504.

In response to preliminary comments that the proposed DOJ rule had no specific criteria for conducting a self-evaluation, the Department requested comment on a proposed alternative in its Supplemental Notice (49 FR at 7792). It received 64 comments, 57 of which were positive. The comments generally favored adoption of the alternative section, instead of the proposed section. The agency agrees.

This final rule uses the same provision adopted by the Department of Justice in its final rule implementing section 504 for its federally conducted programs. 28 CFR 39.110. The Department of Justice determined that this regulatory language was appropriate after it analyzed the Federal Advisory Committee Act (5 U.S.C. app.), Executive Order 12024, and 41 CFR Part 101-6, the regulation of the General Services Administration implementing the Act.

This final rule provides that the agency shall provide an opportunity for interested persons, including handicapped persons or organizations representing handicapped persons, to participate in the self-evaluation process

and development of transition plans by submitting comments (both oral and written).

Section .111 Notice

A commenter criticized the omission of a paragraph routinely used in section 504 regulations for federally assisted programs requiring recipients to inform interested persons of their rights under section 504. The agency has incorporated the new provision on notice from DOJ's Supplemental Notice into the final rule. It appears as § .111.

Section .111 requires the agency to disseminate sufficient information to employees, applicants, participants, beneficiaries, and other interested persons to apprise them of rights and protections afforded by section 504 and this regulation. Methods of providing this information include, for example, the publication of information in handbooks, manuals, and pamphlets that are distributed to the public to describe the agency's programs and activities; the display of informative posters in service centers and other public places; or the broadcast of information by television or radio.

Section .111 is, in fact, a broader and more detailed version of the proposed rule's requirement (at § .160(d)) that the agency provide handicapped persons with information concerning their rights. Because § .111 encompasses the requirements of proposed § .160(d), that latter paragraph has been deleted as duplicative.

Section .130 General prohibitions against discrimination

Section .130 is an adaptation of the corresponding section of the section 504 coordination regulation for programs or activities receiving Federal financial assistance (28 CFR 41.51). This regulatory provision attracted relatively few public comments and has not been changed from the proposed rule.

Paragraph (a) restates the nondiscrimination mandate of section 504. The remaining paragraphs in § .130 establish the general principles for analyzing whether any particular action of the agency violates this mandate. These principles serve as the analytical foundation for the remaining sections of the regulation. If the agency violates a provision in any of the subsequent sections, it will also violate one of the general prohibitions found in § .130. When there is no applicable subsequent provision, the general prohibitions stated in this section apply.

Paragraph (b) prohibits overt denials of equal treatment of handicapped

persons. The agency may not refuse to provide a handicapped person with an equal opportunity to participate in or benefit from its program simply because the person is handicapped. Such blatantly exclusionary practices often result from the use of irrebuttable presumption that absolutely exclude certain classes of disabled persons (e.g., epileptics, hearing-impaired persons, persons with heart ailments) from participation in programs or activities without regard to an individual's actual ability to participate. Use of irrebuttable presumptions is permissible only when in all cases a physical condition by its very nature would prevent an individual from meeting the essential eligibility requirements for participation in the activity in question. It would be permissible, therefore, to exclude without an individual evaluation all persons who are blind in both eyes from eligibility for a license to operate a commercial vehicle in interstate commerce; but it may not be permissible to disqualify automatically all those who are blind in just one eye.

In addition, section 504 prohibits more than just the most obvious denials of equal treatment. It is not enough to admit persons in wheelchairs to a program if the facilities in which the program is conducted are inaccessible. Paragraph (b)(1)(iii), therefore, requires that the opportunity to participate or benefit afforded to a handicapped person be as effective as that afforded to others. The later sections on program accessibility (§§ .149-.151) and communications (§ .160) are specific applications of this principle.

Despite the mandate of paragraph (d) that the agency administer its programs and activities in the most integrated setting appropriate to the needs of qualified handicapped persons, subparagraph (b)(1)(iv), in conjunction with paragraph (d), permits the agency to develop separate of different aids, benefits, or services when necessary to provide handicapped persons with an equal opportunity to participate in or benefit from the agency's programs or activities. Subparagraph (b)(1)(iv) requires that different or separate aids, benefits, or services be provided only when necessary to ensure that the aids, benefits, or services are as effective as those provided to others. Even when separate of different aids, benefits, or services would be more effective, subparagraph (b)(2) provides that a qualified person still has the right to choose to participate in the program that is not designed to accommodate handicapped persons.

Subparagraph (b)(1)(v) prohibits the agency from denying a qualified handicapped person the opportunity to participate as a member of a planning or advisory board.

Subparagraph (b)(1)(vi) prohibits the agency from limiting a qualified handicapped person in the enjoyment of any right, privilege, advantage, or opportunity enjoyed by others receiving any aid, benefit, or service.

Subparagraph (b)(3) prohibits the agency from utilizing criteria or methods of administration that deny handicapped persons access to the agency's programs or activities. The phrase "criteria or methods of administration" refers to official written agency policies and to the actual practices of the agency. This subparagraph prohibits both blatantly exclusionary policies or practices and nonessential policies and practices that are neutral on their face, but deny handicapped persons an effective opportunity to participate.

Subparagraph (b)(4) specifically applies the prohibition enunciated in § 130(b)(3) to the process of selecting sites for construction of new facilities or existing facilities to be used by the agency. Subparagraph (b)(4) does not apply to construction of additional buildings at an existing site.

Subparagraph (b)(5) prohibits the agency, in the selection of procurement contractors, from using criteria that subject qualified handicapped persons to discrimination on the basis of handicap.

One commenter recommended that the agency include the provision on licensing and certification from the Department of Justice's regulation. None of the agencies participating in this joint publication conduct licensing or certification programs. That provision was not included in the proposed rule, and is not included in this final rule because it is not applicable to the agency's programs.

This regulation does not include the paragraph of the regulations for federally assisted programs that prohibits a recipient from providing significant assistance to an organization, that discriminates. To the extent that assistance from the agency would provide significant support to an organization, it would constitute Federal financial assistance, and the organization, as a recipient of such assistance, would be covered by the agency's section 504 regulation for federally assisted programs. The regulatory "significant assistance" provision, however, would be inappropriate in a regulation applying

only to federally conducted programs or activities.

Paragraph (c) provides that programs conducted pursuant to Federal statute or Executive order that are designed to benefit only handicapped persons or a given class of handicapped persons may be limited to those handicapped persons.

Paragraph (d), discussed above, provides that the agency must administer programs and activities in the most integrated setting appropriate to the needs of qualified handicapped persons.

Section .140 Employment

Section .140 prohibits discrimination on the basis of handicap in employment by the agency. Courts have held that section 504, as amended in 1978, covers the employment practices of Executive agencies.

Gardner v. Morris, 752 F.2d 1271, 1277 (8th Cir. 1985); *Smith v. U.S. Postal Service*, 742 F.2d 257, 259-260 (6th Cir. 1984); *Prewitt v. United States Postal Service*, 662 F.2d 292, 302-04 (5th Cir. 1981). *Contra McGuinness v. U.S. Postal Service*, 744 F.2d 1318, 1320-21 (7th Cir. 1984); *Boyd v. U.S. Postal Service*, 752 F.2d 410, 413-14 (9th Cir. 1985).

Courts uniformly have held that in order to give effect to section 501 of the Rehabilitation Act, which covers Federal employment, the administrative procedures of section 501 must be followed in processing complaints of employment discrimination under section 504. *Smith*, 742 F.2d at 262; *Prewitt*, 622 F.2d at 304. Accordingly,

§ .140 (Employment) of this rule adopts the definitions, requirements and procedures of section 501 as established in regulations of the Equal Employment Opportunity Commission (EEOC) at 29 CFR Part 1613. In addition to this section, § .170(b) specifies that the agency will use the existing EEOC procedures to resolve allegations of employment discrimination.

The final rule has not been changed, except that a reference to the Equal Employment Opportunity Commission has been added. Responsibility for coordinating enforcement of Federal laws prohibiting discrimination in employment is assigned to the EEOC by Executive Order 12067 (3 CFR, 1978 Comp. p. 206). Under this authority, the EEOC establishes government-wide standards on nondiscrimination in employment on the basis of handicap. While this rule could define terms with respect to employment and enumerate what practices are covered and what requirements apply, the agency has adopted EEOC's recommendation that to avoid duplicative, competing, or

conflicting standards with respect to Federal employment, reference in these regulations to the government-wide EEOC rules is sufficient. The class of Federal employees and applicants for employment covered by section 504 is identical to or subsumed within that covered by section 501. To apply different or lesser standards to persons alleging violations of section 504 could lead unnecessarily to confusion in the enforcement of the Rehabilitation Act with respect to Federal employment.

Section .149 Program accessibility: Discrimination prohibited

The proposed regulation did not contain a general statement of the program accessibility requirement similar to that appearing in the section 504 coordination regulation for federally assisted programs (28 CFR 41.56). In order to remedy the misperception that a change in substance was intended, the final rule has been revised to include a general program accessibility statement. The language appears at § .149.

Section .150 Program accessibility: Existing facilities

This regulation adopts the program accessibility concept found in the existing section 504 coordination regulation for programs or activities receiving Federal financial assistance (28 CFR 41.57), with certain modifications. Thus, § .150 requires that the agency's program or activity, when viewed in its entirety, be readily accessible and to usable by handicapped persons. The regulation also makes clear that the agency is not required to make each of its existing facilities accessible (§ .150(a)(1)). However, § .150, unlike 28 CFR 41.56-41.57, places explicit limits on the agency's obligation to ensure program accessibility (§ .150(a)(2)).

The "undue financial and administrative burdens" language (found at §§ .150(a)(2) and .160(d)) is based on the Supreme Court's *Davis* holding that section 504 does not require program modifications that result in a fundamental alteration in the nature of a program, and on the Court's statement that section 504 does not require modifications that would result in "undue financial and administrative burdens." 442 U.S. at 412. Since *Davis*, circuit courts have applied this limitation on a showing that only one of the two "undue burdens" would be created as a result of the modification sought to be imposed under section 504. See, e.g., *Dopico v. Goldschmidt*, *supra*; *American Public Transit Association v. Lewis*, *supra* (APTA).

This interpretation is also supported by the Supreme Court's recent decision in *Alexander v. Choate*, 105 S.Ct. 712 (1985). *Alexander* involved a challenge to the State of Tennessee's reduction of inpatient hospital care coverage under Medicaid from 20 to 14 days per year. Plaintiffs argued that this reduction violated section 504 because it had an adverse impact on handicapped persons. The Court rejected the defendants' argument that section 504 prohibits only intentional discrimination, but held that the reduction was not "the sort of disparate impact" discrimination prohibited by section 504 or its implementing regulation (*id.* at 720).

Relying on *Davis*, the Court said that section 504 guarantees qualified handicapped persons "meaningful access to the benefits that the grantee offers" (*id.* at 721) and that "reasonable adjustments in the nature of the benefit being offered must at times be made to assure meaningful access." (*id.*, n.21) (emphasis added). However section 504 does not require "'changes,' 'adjustments,' or 'modifications' to existing programs that would be 'substantial' . . . or that would constitute 'fundamental alteration(s) in the nature of a program.'" (*id.*, n.20) (citations omitted).

Because *Alexander* was decided after the comment period on the proposed regulation closed, the agency would have allowed additional comments if it believed that a change in the proposed rule was necessary. *Alexander*, however, supports the position, based on *Davis* and the earlier, lower court decisions, that in some situations, certain accommodations for a handicapped person may so alter an agency's program or activity, or entail such extensive costs and administrative burdens that the refusal to undertake the accommodations is not discriminatory. Thus the failure to include such an "undue burdens" provision could lead to judicial invalidation of the regulation or reversal of a particular enforcement action taken pursuant to the regulation. This provision is therefore unchanged from the proposed rule.

Some commenters asserted that the holding in *Davis* was that the plaintiff was not a qualified handicapped person and that the subsequent reference to "undue financial and administrative burdens" was mere *dicta*. This view overlooks the interpretations of *Davis* provided by the Federal circuit court cases mentioned above. The *APTA* and *Dopico* decisions make it clear that financial burdens can limit the

obligation to comply with section 504. See also *New Mexico Association for Retarded Citizens v. New Mexico*, 678 F.2d 847 (10th Cir. 1982). In addition, the Court in *Alexander* held that the "administrative costs" of subjecting any action affecting Medicaid recipients to a detailed analysis of its effects on handicapped people "would be well beyond the accommodations that are required under *Davis*." (105 S.Ct. at 725).

The Department of Justice carefully considered the comments on the process that the Department should follow in determining whether a program modification would result in undue financial and administrative burdens and adopted procedural requirements for application of the "fundamental alteration" and "undue financial and administrative burdens" language. The agency is also adopting those requirements. The agency believes that, in most cases, making an agency program accessible will not result in undue burdens. In determining whether financial and administrative burdens are undue, all agency resources available for use in the funding and operation of the conducted program or activity are to be considered. The burden of proving that compliance with § .150(a) would fundamentally alter the nature of a program or activity or would result in undue financial and administrative burdens rests with the agency. The decision that compliance would result in such alteration or burdens must be made by the agency head or his or her designee and must be accompanied by a written statement of the reasons for reaching that conclusion. Any person who believes that he or she or any specific class of persons has been injured by the agency head's decision or failure to make a decision may file a complaint under the compliance procedures established in § .170. Finally, even if there is a determination that making a program accessible will fundamentally alter the nature of the program, or will result in undue financial and administrative burdens, the agency must still take action, short of that outer limit, that will open participation in the agency program to disabled persons to the fullest extent possible.

A commenter argued that the decision that an action would result in undue burdens should be based on the resources of the agency as a whole. The agency believes that its entire budget is an inappropriate touchstone for making determinations as to undue financial and administrative burdens. Parts of the agency's budget can be earmarked for specific purposes and are simply not

available for use in making the agency's programs accessible to disabled persons.

Paragraph (b) sets forth a number of means by which program accessibility may be achieved, including redesign of equipment, reassignment of services to accessible buildings, and provision of aides. In choosing among methods, the agency shall give priority consideration to those that will be consistent with provision of services in the most integrated setting appropriate to the needs of handicapped persons. Structural changes in existing facilities are required only when there is no other feasible way to make the agency's program accessible. The agency may comply with the program accessibility requirement by delivering services at alternate accessible sites or making home visits as appropriate.

Paragraphs (c) and (d) establish time periods for complying with the program accessibility requirement. As currently required for federally assisted programs by 28 CFR 41.57(b), the agency must make any necessary structural changes in facilities as soon as practicable, but in no event later than three years after the effective date of this regulation. Where structural modifications are required, a transition plan shall be developed within six months of the effective date of this regulation. Aside from structural changes, all other necessary steps to achieve compliance shall be taken within sixty days.

Section .151 Program accessibility: New construction and alterations

Overlapping coverage exists with respect to new construction under section 504, section 502 of the Rehabilitation Act of 1973, as amended (29 U.S.C. 792), and the Architectural Barriers Act of 1968, as amended (42 U.S.C. 4151-4157). Section .151 provides that those buildings that are constructed or altered by, on behalf of, or for the use of the agency shall be designed, constructed, or altered to be readily accessible to and usable by handicapped persons in accordance with 41 CFR 101-19.600 to 101-19.607. This standard was promulgated pursuant to the Architectural Barriers Act of 1968, as amended (42 U.S.C. 4151-4157). It is appropriate to adopt the existing Architectural Barriers Act standard for section 504 compliance because new and altered buildings subject to this regulation are also subject to the Architectural Barriers Act and because adoption of the standard will avoid duplicative and possibly inconsistent standards.

Existing buildings leased by the agency after the effective date of this regulation are not required to meet the new construction standard. They are subject, however, to the requirements of § 150.

This regulation does not require that buildings leased after the effective date of the regulation meet the new construction standards of § 151, rather than the program accessibility standard for existing facilities in § 150. Federal practice under section 504 has always treated newly leased buildings as subject to the existing facility program accessibility standard. Unlike the construction of new buildings where architectural barriers can be avoided at little or no cost, the application of new construction standards to an existing building being leased raises the same prospect of retrofitting buildings as the use of an existing Federal facility, and the agency believes the same program accessibility standard should apply to both owned and leased existing buildings. The question of whether buildings leased by the U.S. Postal Service and subject to the Architectural Barriers Act must be accessible at the time of leasing is the subject of litigation now pending before the courts. The agencies may provide more specific guidance on the accessibility of leased buildings after the litigation is concluded.

Section 160 Communications

Section 160 requires the agency to take appropriate steps to ensure effective communication with personnel of other Federal entities, applicants, participants, and members of the public. These steps include procedures for determining when auxiliary aids are necessary under § 160(a)(1) to afford a handicapped person an equal opportunity to participate in, and enjoy the benefits of, the agency's program or activity. They also include an opportunity for handicapped persons to request the auxiliary aids of their choice. This expressed choice shall be given primary consideration by the agency (§ 160(a)(1)(i)). The agency shall honor the choice unless it can demonstrate that another effective means of communication exists or that use of the means chosen would not be required under § 160(d). That paragraph limits the obligation of the agency to ensure effective communication in accordance with *Davis* and the circuit court opinions interpreting it (see *supra* preamble § 150(a)(2)). Unless not required by § 160(d), the agency shall provide auxiliary aids at no cost to the handicapped person.

One commenter argued that the communications section should require that communications for handicapped people be "equal" to those for non-handicapped people, not merely "effective." The regulation requires the agency to provide auxiliary aids to ensure that handicapped people have "an equal opportunity to participate in, and enjoy the benefits of, a program or activity conducted by the agency." Where the form of communication is different for handicapped people than for non-handicapped people (e.g., oral instead of written for blind people, sign language instead of speech for deaf people) the effectiveness of the communication is the only appropriate measurement of equality of treatment.

In some circumstances, a notepad and written materials may be sufficient to permit effective communication with a hearing-impaired person. In many circumstances, however, they may not be, particularly when the information being communicated is complex or exchanged for a lengthy period of time (e.g., a meeting) or where the hearing-impaired applicant or participant is not skilled in spoken or written language. In these cases, a sign language interpreter may be appropriate. For vision-impaired persons, effective communication might be achieved by several means, including readers and audio recordings. In general, the agency intends to inform the public of: (1) The communications services it offers to afford handicapped persons an equal opportunity to participate in or benefit from its programs or activities, (2) the opportunity to request a particular mode of communication, and (3) the agency's preferences regarding auxiliary aids when several different modes are effective.

When sign language interpreters are necessary, the agency may require that it be given reasonable notice prior to the proceeding of the need for an interpreter. Moreover, the agency need not provide individually prescribed devices, readers for personal use or study, or other devices of a personal nature (§ 160(a)(1)(ii)). For example, the agency need not provide eye glasses or hearing aids to applicants or participants in its programs. Similarly, the regulation does not require the agency to provide wheelchairs to persons with mobility impairments.

A commenter suggested that the language in proposed § 160(a)(1)(ii) that states that the agency need not provide individually prescribed devices or readers for personal use or study be modified to state that such devices are

not required for "nonprogram material." This suggestion has not been adopted because it is less clear than the existing formulation, which is intended to distinguish between communications that are necessary to obtain the benefits of Federal programs and those that are not, and which parallels the requirements of the Federal Government's section 504 regulations for federally assisted programs. For example, a federally operated library would have to ensure effective communication between its librarian and a patron, but not between the patron and a friend who had accompanied him or her to the library.

Paragraph (b) requires the agency to provide information to handicapped persons concerning accessible services, activities, and facilities. Paragraph (c) requires the agency to provide signage at inaccessible facilities that directs users to locations with information about accessible facilities.

Section 170 Compliance procedures

One commenter suggested that the agency adopt the more comprehensive compliance procedures adopted by the Department of Justice in its regulation. The Department of Justice included very detailed procedures that were tailored to its needs and abilities. The procedures in this rule are less detailed and more suitable for adoption by small agencies with limited enforcement capacities. The procedures adopted in this regulation follow the same basic scheme as those in the Department of Justice's rule. To the extent that additional procedural guidance is appropriate to the agency, the agency will adopt it in the form of internal guidelines.

Paragraph (a) specifies that paragraphs (c) through (1) of this section establish the procedures for processing complaints other than employment complaints. Paragraph (b) provides that the agency will process employment complaints according to procedures established in existing regulations of the EEOC (29 CFR Part 1613) pursuant to section 501 of the Rehabilitation Act of 1973 (29 U.S.C. 791).

Paragraph (c) of the proposed rule provided that the head of the agency would designate an official to be responsible for coordinating implementation of this section. Since the proposed rule was published, the Office of the Federal Register has developed a method whereby individual agencies participating in a joint publication may amend the jointly published regulatory text to incorporate individual variations.

Accordingly, some of the participating agencies are making that designation through this publication and are also providing an address to which complaints may be sent.

The agency is required to accept and investigate all complete complaints (§ 170(d)). If it determines that it does not have jurisdiction over a complaint, it shall promptly notify the complainant and make reasonable efforts to refer the complaint to the appropriate entity of the Federal government (§ 170(e)).

Paragraph (f) requires the agency to notify the Architectural and Transportation Barriers Compliance Board upon receipt of a complaint alleging that a building or facility subject to the Architectural Barriers Act or section 502 was designed, constructed, or altered in a manner that does not provide ready access to and use by handicapped persons.

Paragraph (g) requires the agency to provide to the complainant, in writing, findings of fact and conclusions of law, the relief granted if noncompliance is found, and notice of the right to appeal (§ 170(g)). One appeal within the agency shall be provided (§ 170(i)). The appeal will not be heard by the same person who made the initial determination of compliance or noncompliance (§ 170(i)).

Paragraph (1) permits the agency to delegate its authority for investigating complaints to other Federal agencies. However, the statutory obligation of the agency to make a final determination of compliance or noncompliance may not be delegated.

ADMINISTRATIVE CONFERENCE OF THE UNITED STATES

1 CFR Part 326

FOR FURTHER INFORMATION CONTACT: Richard K. Berg, Esq., General Counsel, Administrative Conference of the United States, 2120 L Street, N.W., Suite 500, Washington, D.C. 20037; (202) 254-7020, TDD: (202) 724-7678.

List of Subjects in 1 CFR Part 326

Blind, Civil rights, Deaf, Disabled, Discrimination against handicapped, Equal employment opportunity, Federal buildings and facilities, Handicapped, Nondiscrimination, Physically handicapped.

Title 1 of the Code of Federal Regulations is amended as follows:

1. Part 326 is added as set forth at the end of this document.

PART 326—ENFORCEMENT OF NONDISCRIMINATION ON THE BASIS OF HANDICAP IN PROGRAMS OR ACTIVITIES CONDUCTED BY ADMINISTRATIVE CONFERENCE OF THE UNITED STATES

Sec.

- 326.101 Purpose.
- 326.102 Application.
- 326.103 Definitions.
- 326.104-326.109 [Reserved]
- 326.110 Self-evaluation.
- 326.111 Notice.
- 326.112-326.129 [Reserved]
- 326.130 General prohibitions against discrimination.
- 326.131-326.139 [Reserved]
- 326.140 Employment.
- 326.141-326.148 [Reserved]
- 326.149 Program accessibility: Discrimination prohibited.
- 326.150 Program accessibility: Existing facilities.
- 326.151 Program accessibility: New construction and alterations.
- 326.152-326.159 [Reserved]
- 326.160 Communications.
- 326.161-326.169 [Reserved]
- 326.170 Compliance procedures.
- 326.171-326.999 [Reserved]

Authority: 29 U.S.C. 794.

2. Part 326 is further amended by revising paragraph (c) in § 326.170 to read as follows:

§ 326.170 Compliance procedures.

(c) The General Counsel shall be responsible for coordinating implementation of this section. Complaints may be sent to General Counsel, Administrative Conference of the United States, 2120 L St., NW., Suite 500, Washington, D.C. 20037.

Richard K. Berg,
General Counsel.

ADVISORY COMMITTEE ON FEDERAL PAY

5 CFR Part 1411

FOR FURTHER INFORMATION CONTACT: Ms. Lucretia Dewey Tanner, Executive Director, Advisory Committee on Federal Pay, 1730 K Street, NW., Suite 205, Washington, D.C. 20006. (202) 653-6193, TDD: (202) 724-7678.

List of Subjects in 5 CFR Part 1411

Blind, Civil rights, Deaf, Disabled, Discrimination against handicapped, Equal employment opportunity, Federal buildings and facilities, Handicapped, Nondiscrimination, Physically handicapped.

Title 5 of the Code of Federal Regulations is amended as follows:

1. Part 1411 is added as set forth at the end of this document.

PART 1411—ENFORCEMENT OF NONDISCRIMINATION ON THE BASIS OF HANDICAP IN PROGRAMS OR ACTIVITIES CONDUCTED BY ADVISORY COMMITTEE ON FEDERAL PAY

Sec.

- 1411.101 Purpose.
- 1411.102 Application.
- 1411.103 Definitions.
- 1411.104-1411.109 [Reserved]
- 1411.110 Self-evaluation.
- 1411.111 Notice.
- 1411.112-1411.129 [Reserved]
- 1411.130 General prohibitions against discrimination.
- 1411.140 Employment.
- 1411.141-1411.148 [Reserved]
- 1411.149 Program accessibility: Discrimination prohibited.
- 1411.150 Program accessibility: Existing facilities.
- 1411.151 Program accessibility: New construction and alterations.
- 1411.152-1411.159 [Reserved]
- 1411.160 Communications.
- 1411.161-1411.169 [Reserved]
- 1411.170 Compliance procedures.
- 1411.171-1411.999 [Reserved]

Authority: 29 U.S.C. 794.

2. Part 1411 is further amended by revising paragraph (c) in § 1411.170 to read as follows:

§ 1411.170 Compliance procedures.

(c) The Executive Director shall be responsible for coordinating implementation of this section. Complaints may be sent to Executive Director, Advisory Committee on Federal Pay, 1730 K Street, NW., Suite 205, Washington, D.C. 20006.

Lucretia Dewey Tanner,
Executive Director.

ADVISORY COMMISSION ON INTERGOVERNMENTAL RELATIONS

5 CFR Part 1701

FOR FURTHER INFORMATION CONTACT: Franklin A. Steinko, Jr., Budget and Management Officer, Advisory Commission on Intergovernmental Relations, Suite 2000, Vanguard Building, 1111 20th Street, NW., Washington, D.C. 20575, Phone: (202) 653-5640, TDD (202) 724-7678.

List of Subjects in 5 CFR Part 1701

Blind, Civil rights, Deaf, Disabled, Discrimination against handicapped, Equal employment opportunity, Federal buildings and facilities, Handicapped,

Nondiscrimination, Physically handicapped.

Title 5 of the Code of Federal Regulations is amended as follows:

1. Part 1701 is added as set forth at the end of this document.

PART 1701—ENFORCEMENT OF NONDISCRIMINATION ON THE BASIS OF HANDICAP IN PROGRAMS OR ACTIVITIES CONDUCTED BY THE ADVISORY COMMISSION ON INTERGOVERNMENTAL RELATIONS

Sec.

- 1701.101 Purpose.
- 1701.102 Application.
- 1701.103 Definitions.
- 1701.104–1701.109 [Reserved]
- 1701.110 Self-evaluation.
- 1701.111 Notice.
- 1701.112–1701.129 [Reserved]
- 1701.130 General prohibitions against discrimination.
- 1701.131–1701.139 [Reserved]
- 1701.140 Employment
- 1701.141–1701.148 [Reserved]
- 1701.149 Program accessibility: Discrimination prohibited.
- 1701.150 Program accessibility: Existing facilities.
- 1701.151 Program accessibility: New construction and alterations.
- 1701.152–1701.159 [Reserved]
- 1701.160 Communications.
- 1701.161–1701.169 [Reserved]
- 1701.170 Compliance procedures.
- 1701.171–1701.999 [Reserved]

Authority: 29 U.S.C. 794.

2. Part 1701 is further amended by revising paragraph (c) in § 1701.170 to read as follows:

§ 1701.170 Compliance procedures.

(c) The Personnel Officer shall be responsible for coordinating implementation of this section. Complainants may be sent to Budget and Management Officer, Advisory Commission on Intergovernmental Relations, Suite 2000, Vanguard Building, 1111 20th St., NW., Washington, D.C. 20575.

Franklin A. Steinko, Jr.,
Budget and Management Officer.

DEPARTMENT OF ENERGY

10 CFR Part 1040

FOR FURTHER INFORMATION CONTACT:

Mr. Barry Haley, Manager for Federally Assisted Programs, Complaints and Investigations Division, Office of Equal Opportunity, U.S. Department of Energy, 1000 Independence Avenue, SW., Room 4B-088, Washington, D.C. 20585, Voice: (202) 252-2230, TDD: (202) 252-9777.

List of Subjects in 10 CFR Part 1040

Blind, Civil rights, Deaf, Disabled, Discrimination against handicapped, Equal employment opportunity, Federal buildings and facilities, Handicapped, Nondiscrimination, Physically handicapped.

Title 5 of the Code of Federal Regulations is amended as follows:

1. Subpart D is added to Part 1040 as set forth at the end of this document.

PART 1040—[AMENDED]

Subpart D—Enforcement of Nondiscrimination on the Basis of Handicap in Programs or Activities Conducted by Department of Energy

Sec.

- 1040.101 Purpose.
- 1040.102 Application.
- 1040.103 Definitions.
- 1040.104–1040.109 [Reserved]
- 1040.110 Self-evaluation.
- 1040.111 Notice.
- 1040.112–1040.129 [Reserved]
- 1040.130 General prohibitions against discrimination.
- 1040.131–1040.139 [Reserved]
- 1040.140 Employment.
- 1040.141–1040.148 [Reserved]
- 1040.149 Program accessibility: Discrimination prohibited.
- 1040.150 Program accessibility: Existing facilities.
- 1040.151 Program accessibility: New construction and alterations.
- 1040.152–1040.159 [Reserved]
- 1040.160 Communications.
- 1040.161–1040.169 [Reserved]
- 1040.170 Compliance procedures.
- 1040.171–1040.999 [Reserved]

Authority: 29 U.S.C. 794.

2. Subpart D is further amended by revising paragraph (c) in § 1040.170 to read as follows:

§ 1040.170 Compliance procedures.

(c) The Director, Complaints and Investigations Division, Office of Equal Opportunity shall be responsible for coordinating implementation of this section. Complaints may be sent to Director, Office of Equal Opportunity, U.S. Department of Energy, Room 4B-112, 100 Independence Avenue, SW., Washington, D.C. 20585, (202) 252-2218.

Barry Haley,

Manager for Federally Assisted Programs.

OFFICE OF THE FEDERAL INSPECTOR OF THE ALASKA NATURAL GAS TRANSPORTATION SYSTEM

10 CFR Part 1535

FOR FURTHER INFORMATION CONTACT:

Rhodell G. Fields, Legal Counsel, 1000

Independence Avenue, SW., Washington, D.C. 20585; (202) 252-4669 TDD: (202) 724-7678.

List of Subjects in 10 CFR Part 1535

Blind, Civil rights, Deaf, Disabled, Discrimination against handicapped, Equal employment opportunity, Federal buildings and facilities, Handicapped, Nondiscrimination, Physically handicapped.

Title 10 of the Code of Federal Regulations is amended as follows:

1. Part 1535 is added as set forth at the end of this document.

PART 1535—ENFORCEMENT OF NONDISCRIMINATION ON THE BASIS OF HANDICAP IN PROGRAMS OR ACTIVITIES CONDUCTED BY OFFICE OF THE FEDERAL INSPECTOR FOR THE ALASKA NATURAL GAS TRANSPORTATION SYSTEM

Sec.

- 1535.101 Purpose.
- 1535.102 Application.
- 1535.103–1535.109 [Reserved]
- 1535.110 Self-evaluation.
- 1535.111 Notice.
- 1535.112–1535.129 [Reserved]
- 1535.130 General prohibitions against discrimination.
- 1535.131–1535.138 [Reserved]
- 1535.149 Program accessibility: Discrimination prohibited.
- 1535.150 Employment.
- 1535.151–1535.159 [Reserved]
- 1535.160 Program accessibility: Existing facilities.
- 1535.161–1535.169 [Reserved]
- 1535.170 Compliance procedures.
- 1535.171–1535.999 [Reserved]

Authority: 29 U.S.C. 794.

2. Part 1535 is further amended by revising paragraph (c) in § 1535.170 to read as follows:

§ 1535.170 Compliance procedures.

(c) Legal Counsel, Office of the Federal Inspector of the Alaska Natural Gas Transportation System shall be responsible for coordinating implementation of this section. Complaints may be sent to Legal Counsel, Office of the Federal Inspector of the Alaska Natural Gas, 1000

Independence Avenue, SW.,
Washington, D.C. 20585.

Rhodell G. Fields,
Legal Counsel.

EXPORT-IMPORT BANK OF THE UNITED STATES

12 CFR Part 410

FOR FURTHER INFORMATION CONTACT:

Hart Fessenden, General Counsel,
Export-Import Bank of the United States,
811 Vermont Avenue, NW., Room 947,
Washington, D.C. 20571 VOICE: (202)
566-8334, TDD: (202) 566-8860.

List of Subjects in 12 CFR Part 410

Blind, Civil Rights, Deaf, Disabled,
Discrimination against handicapped,
Equal employment opportunity, Federal
buildings and facilities, Handicapped,
Nondiscrimination, Physically
handicapped.

Title 12 of the Code of Federal
Regulations is amended as follows:

1. Part 410 is added as set forth at the
end of this document.

PART 410—ENFORCEMENT OF NONDISCRIMINATION ON THE BASIS OF HANDICAP IN PROGRAMS OR ACTIVITIES CONDUCTED BY EXPORT- IMPORT BANK OF THE UNITED STATES

Sec.

- 410.101 Purpose.
- 410.102 Application.
- 410.103 Definitions.
- 410.104-410.109 [Reserved]
- 410.110 Self-evaluation.
- 410.111 Notice.
- 410.112-410.129 [Reserved]
- 410.130 General prohibitions against
discrimination.
- 410.131-410.139 [Reserved]
- 410.140 Employment.
- 410.141-410.148 [Reserved]
- 410.149 Program accessibility:
Discrimination prohibited.
- 410.150 Program accessibility: Existing
facilities.
- 410.151 Program accessibility: New
construction and alterations.
- 410.152-410.159 [Reserved]
- 410.160 Communications.
- 410.161-410.169 [Reserved]
- 410.170 Compliance procedures.
- 410.171-410.999 [Reserved]

Authority: 29 U.S.C. 794.

2. Part 410 is further amended by
revising paragraph (c) in § 410.170 to
read as follows:

§ 410.170 Compliance procedures.

(c) General Counsel, Export-Import
Bank of the United States shall be
responsible for coordinating
implementation of this section.

Complaints may be sent to General
Counsel, Export-Import Bank of the
United States, 811 Vermont Avenue,
NW., Room 947, Washington, D.C. 20571.

Hart Fessenden,
General Counsel.

CONSUMER PRODUCT SAFETY COMMISSION

16 CFR Part 1034

FOR FURTHER INFORMATION CONTACT:

Robert T. Noonan, Office of the General
Counsel, Telephone (301) 492-6980, TDD:
(800) 638-8270 National, (800) 492-8104
MD only.

SUPPLEMENTARY INFORMATION: In the
proposed rule, this part was incorrectly
designated part 1033. The designation of
this final rule has been corrected to
1034.

List of Subjects in 16 CFR Part 1034

Blind, Civil rights, Deaf, Disabled,
Discrimination against handicapped,
Equal employment opportunity, Federal
buildings and facilities, Handicapped,
Nondiscrimination, Physically
handicapped.

Title 16 of the Code of Federal
Regulations is amended as follows:

1. Part 1034 is added as set forth at the
end of this document.

PART 1034—ENFORCEMENT OF NONDISCRIMINATION ON THE BASIS OF HANDICAP IN PROGRAMS OR ACTIVITIES CONDUCTED BY THE CONSUMER PRODUCT SAFETY COMMISSION

Sec.

- 1034.101 Purpose.
- 1034.102 Application.
- 1034.103 Definitions.
- 1034.104-1034.109 [Reserved]
- 1034.110 Self-evaluation.
- 1034.111 Notice.
- 1034.112-1034.129 [Reserved]
- 1034.130 General prohibitions against
discrimination.
- 1034.131-1034.139 [Reserved]
- 1034.140 Employment.
- 1034.141-1034.148 [Reserved]
- 1034.149 Program accessibility:
Discrimination prohibited.
- 1034.150 Program accessibility: Existing
facilities.
- 1034.151 Program accessibility: New
construction and alterations.
- 1034.152-1034.159 [Reserved]
- 1034.160 Communications.
- 1034.161-1034.169 [Reserved]
- 1034.170 Compliance procedures.
- 1034.171-1034.999 [Reserved]

Authority: 29 U.S.C. 794.

2. Part 1034 is further amended by
revising paragraph (c) in § 1034.170 to
read as follows:

§ 1034.170 Compliance procedures.

(c) The Office of Equal Employment
Opportunity and Minority Enterprise
shall be responsible for coordinating
implementation of this section.
Complaints may be sent to the Director,
Office of Equal Employment
Opportunity and Minority Enterprise,
Consumer Product Safety Commission,
Washington, D.C. 20207.

Sadye E. Dunn,
Secretary.

UNITED STATES INTERNATIONAL TRADE COMMISSION

19 CFR Part 201

FOR FURTHER INFORMATION CONTACT:

Mr. Terry P. McGowan, Room 166, U.S.
International Trade Commission, 701 E
Street, NW., Washington, D.C. 20436;
telephone (202) 523-0182. TDD: (202)
724-0004.

List of Subjects in 19 CFR Part 201

Blind, Civil rights, Deaf, Disabled,
Discrimination against handicapped,
Equal employment opportunity, Federal
buildings and facilities, Handicapped,
Nondiscrimination, Physically
handicapped.

Title 19 of the Code of Federal
Regulations is amended as follows:

1. Subpart G is added to Part 201 as
set forth at the end of this document.

PART 201—[Amended]

Subpart G—Enforcement of Nondiscrimination on the Basis of Handicap in Programs or Activities Conducted by the U.S. International Trade Commission

Sec.

- 201.101 Purpose.
- 201.102 Application.
- 201.103 Definitions.
- 201.104-201.109 [Reserved]
- 201.110 Self-evaluation.
- 201.111 Notice.
- 201.112-201.129 [Reserved]
- 201.130 General prohibitions against
discrimination.
- 201.131-201.139 [Reserved]
- 201.140 Employment.
- 201.141-201.148 [Reserved]
- 201.149 Program accessibility:
Discrimination prohibited.
- 201.150 Program accessibility: Existing
facilities.
- 201.151 Program accessibility: New
construction and alterations.
- 201.152-201.159 [Reserved]
- 201.160 Communications.
- 201.161-201.169 [Reserved]
- 201.170 Compliance procedures.
- 201.171-201.999 [Reserved]

Authority: 29 U.S.C. 794.

2. Subpart G is further amended by revising paragraph (c) in § 201.170 to read as follows:

§ 201.170 Compliance procedures.

(c) EEO Director, Office of Operations, Office of Data Systems, Library Division shall be responsible for coordinating implementation of this section. Complaints may be sent to Handicap Coordinator, Office of Operations, Office of Investigations, 701 E Street, NW., Washington, D.C. 20436.

Paula Stern,
Chairwoman.

INTERNATIONAL DEVELOPMENT COOPERATION AGENCY

Agency for International Development

22 CFR Part 219

FOR FURTHER INFORMATION CONTACT:

Dennis Diamond, Acting Director, Office of Equal Opportunity Programs, Agency for International Development, International Development Cooperation Agency, Room 1224 SA-1 Washington, D.C. 20523. Voice (202) 663-1333 TDD, (202) 663-1341.

List of Subjects in 22 CFR Part 219

Blind, Civil rights, Deaf, Disabled, Discrimination against handicapped, Equal employment opportunity, Federal buildings and facilities, Handicapped, Nondiscrimination, Physically handicapped.

Title 22 of the Code of Federal Regulations is amended as follows:

1. Part 219 is added as set forth at the end of this document.

PART 219—ENFORCEMENT OF NONDISCRIMINATION ON THE BASIS OF HANDICAP IN PROGRAMS OR ACTIVITIES CONDUCTED BY INTERNATIONAL DEVELOPMENT COOPERATION AGENCY, AGENCY FOR INTERNATIONAL DEVELOPMENT

Sec.

- 219.101 Purpose.
- 219.102 Application.
- 219.103 Definitions.
- 219.104-219.109 [Reserved]
- 219.110 Self-evaluation.
- 219.111 Notice.
- 219.112-219.219 [Reserved]
- 219.130 General prohibitions against discrimination.
- 219.131-219.139 [Reserved]
- 219.140 Employment.
- 219.141-219.148 [Reserved]
- 219.149 Program accessibility: Discrimination prohibited.
- 219.150 Program accessibility: Existing facilities.

Sec.

- 219.151 Program accessibility: New construction and alterations.
- 219.152-219.159 [Reserved]
- 219.160 Communications.
- 219.161-219.169 [Reserved]
- 219.170 Compliance procedures.
- 219.171-219.999 [Reserved]

Authority: 29 U.S.C. 794.

2. Part 219 is further amended by revising paragraph (c) in § 219.170 to read as follows:

§ 219.170 Compliance procedures.

(c) Director, Office of Equal Opportunity Programs shall be responsible for coordinating implementation of this section. Complaints may be sent to Director, Office of Equal Opportunity Programs, Agency for International Development, International Development Cooperation Agency, Room 1224, SA-1, Washington, D.C.

Nancy D. Frame,
Assistant General Counsel for Employee and Public Affairs, Office of the General Counsel.

ARMS CONTROL AND DISARMAMENT AGENCY

22 CFR Part 607

FOR FURTHER INFORMATION CONTACT:

F. Eugene Johnson, Room 5672A, 320 21st Street, NW., Washington, D.C. 20451, Telephone: (202) 632-8666; TDD (202) 632-7987.

List of Subjects in 22 CFR Part 607

Blind, Civil rights, Deaf, Disabled, Discrimination against handicapped, Equal employment opportunity, Federal buildings and facilities, Handicapped, Nondiscrimination, Physically handicapped.

Title 22 of the Code of Federal Regulations is amended as follows:

1. Part 607 is added as set forth at the end of this document.

PART 607—ENFORCEMENT OF NONDISCRIMINATION ON THE BASIS OF HANDICAP IN PROGRAMS OR ACTIVITIES CONDUCTED BY U.S. ARMS CONTROL AND DISARMAMENT AGENCY

Sec.

- 607.101 Purpose.
- 607.102 Application.
- 607.103 Definitions.
- 607.104-607.109 [Reserved]
- 607.110 Self-evaluation.
- 607.111 Notice.
- 607.112-607.129 [Reserved]
- 607.130 General prohibitions against discrimination.

Sec.

- 607.131-607.139 [Reserved]
- 607.140 Employment.
- 607.141-607.148 [Reserved]
- 607.149 Program accessibility: Discrimination prohibited.
- 607.150 Program accessibility: Existing facilities.
- 607.151 Program accessibility: New construction and alterations.
- 607.152-607.159 [Reserved]
- 607.160 Communications.
- 607.161-607.169 [Reserved]
- 607.170 Compliance procedures.
- 607.171-607.999 [Reserved]

Authority: 29 U.S.C. 794.

2. Part 607 is further amended by revising paragraph (c) in § 607.170 to read as follows:

§ 607.170 Compliance procedures.

(c) Chief, Communication and Services Section, Office of Administration shall be responsible for coordinating implementation of this section. Complaints may be sent to the Chief, Communication and Services Section, Office of Administration, U.S. Arms Control and Disarmament Agency, 320 21st Street, NW., Washington, D.C. 20451.

William J. Montgomery,
Administrative Director.

INTERNATIONAL BOUNDARY AND WATER COMMISSION, UNITED STATES AND MEXICO-UNITED STATES SECTION

22 CFR Part 1103

FOR FURTHER INFORMATION CONTACT:

Legal Adviser, International Boundary and Water Commission, United States and Mexico, United States Section, The Commons, Building C, Suite 310, 4171 North Mesa, El Paso, Texas 79902. Telephones: Commercial (915) 541-7393, FTS: 572-7394, TDD: (202) 724-7678.

List of Subjects in 22 CFR Part 1103

Blind, Civil rights, Deaf, Disabled, Discrimination against handicapped, Equal employment opportunity, Federal buildings and facilities, Handicapped, Nondiscrimination, Physically handicapped.

Title 22 of the Code of Federal Regulations is amended as follows:

1. Part 1103 is added as set forth at the end of this document.

**PART 1103—ENFORCEMENT OF
NONDISCRIMINATION ON THE BASIS
OF HANDICAP IN PROGRAMS OR
ACTIVITIES CONDUCTED BY
INTERNATIONAL BOUNDARY AND
WATER COMMISSION, UNITED
STATES AND MEXICO, UNITED
STATES SECTION**

- Sec.
1103.101 Purpose.
1103.102 Application.
1103.103 Definitions.
1103.104–1103.109 [Reserved]
1103.110 Self-evaluation.
1103.111 Notice.
1103.112–1103.129 [Reserved]
1103.130 General prohibitions against
discrimination.
1103.131–1103.139 [Reserved]
1103.140 Employment.
1103.141–1103.148 [Reserved]
1103.149 Program accessibility:
Discrimination prohibited.
1103.150 Program accessibility: Existing
facilities.
1103.151 Program accessibility: New
construction and alterations.
1103.152–1103.159 [Reserved]
1103.160 Communications.
1103.161–1103.169 [Reserved]
1103.170 Compliance procedures.
1103.171–1103.999 [Reserved]
Authority: 29 U.S.C. 794.

2. Part 1103 is further amended by
revising paragraph (c) in § 1103.170 to
read as follows:

§ 1103.170 Compliance procedures.

(c) Director, Equal Employment
Opportunity shall be responsible for
coordinating implementation of this
section. Complaints may be sent to
Director, Equal Employment
Opportunity, International Boundary
and Water Commission United States
and Mexico, United States Section, The
Commons, Building C, Suite 310, 4171
North Mesa, El Paso, Texas 79902.

Darcy Frownfelter,
Legal Adviser.

**BOARD FOR INTERNATIONAL
BROADCASTING**

22 CFR Part 1304

FOR FURTHER INFORMATION CONTACT:
Kathryn M. Harper, 1201 Connecticut
Avenue, NW., Suite 400, Washington,
D.C. 20036 Telephone: (202) 254-8040,
TDD: (202) 724-7678.

List of Subjects in 22 CFR Part 1304

Blind, Civil rights, Deaf, Disabled,
Discrimination against handicapped,
Equal employment opportunity, Federal
buildings and facilities, Handicapped,
Nondiscrimination, Physically
handicapped.

Title 22 of the Code of Federal
Regulations is amended as follows:

1. Part 1304 is added as set forth at the
end of this document.

**PART 1304—ENFORCEMENT OF
NONDISCRIMINATION ON THE BASIS
OF HANDICAP IN PROGRAMS OR
ACTIVITIES CONDUCTED BY THE
BOARD FOR INTERNATIONAL
BROADCASTING**

- Sec.
1304.101 Purpose.
1304.102 Application.
1304.103 Definitions.
1304.104–1304.109 [Reserved]
1304.110 Self-evaluation.
1304.111 Notice.
1304.112–1304.129 [Reserved]
1304.130 General prohibitions against
discrimination.
1304.131–1304.139 [Reserved]
1304.140 Employment.
1304.141–1304.148 [Reserved]
1304.149 Program accessibility:
Discrimination prohibited.
1304.150 Program accessibility: Existing
facilities.
1304.151 Program accessibility: New
construction and alterations.
1304.152–1304.159 [Reserved]
1304.160 Communications.
1304.161–1304.169 [Reserved]
1304.170 Compliance procedures.
1304.171–1304.999 [Reserved]
Authority: 29 U.S.C. 794.

2. Part 1304 is further amended by
revising paragraph (c) in § 1304.170 to
read as follows:

§ 1304.170 Compliance procedures.

(c) The Executive Director shall be
responsible for coordinating
implementation of this section.
Complaints may be sent to the Budget
and Administrative Office, 1201
Connecticut Avenue, NW., Suite 400,
Washington, D.C. 20036.

Walter R. Roberts,
Executive Director.

**AMERICAN BATTLE MONUMENTS
COMMISSION**

36 CFR Part 406

FOR FURTHER INFORMATION CONTACT:
Col. Clayton L. Moran (202) 272-0534
(Voice) or (202) 724-7678 (TDD).

List of Subjects in 36 CFR Part 406

Blind, Civil rights, Deaf, Disabled,
Discrimination against handicapped,
Equal employment opportunity, Federal
buildings and facilities, Handicapped,
Nondiscrimination, Physically
handicapped.

Title 36 of the Code of Federal
Regulations is amended as follows:

1. Part 406 is added as set forth at the
end of this document.

**PART 406—ENFORCEMENT OF
NONDISCRIMINATION ON THE BASIS
OF HANDICAP IN PROGRAMS OR
ACTIVITIES CONDUCTED BY
AMERICAN BATTLE MONUMENTS
COMMISSION**

- Sec.
406.101 Purpose.
406.102 Application.
406.103 Definitions.
406.104–406.109 [Reserved]
406.110 Self-evaluation.
406.111 Notice.
406.112–406.129 [Reserved]
406.130 General prohibitions against
discrimination.
406.131–406.139 [Reserved]
406.140 Employment.
406.141–406.148 [Reserved]
406.149 Program accessibility:
Discrimination prohibited.
406.150 Program accessibility: Existing
facilities.
406.151 Program accessibility: New
construction and alterations.
406.152–406.159 [Reserved]
406.160 Communications.
406.161–406.169 [Reserved]
406.170 Compliance procedures.
406.171–406.999 [Reserved]
Authority: 29 U.S.C. 749.

2. Part 406 is further amended by
revising paragraph (c) in § 406.170 to
read as follows:

§ 406.170 Compliance procedures.

(c) The Director, Personnel and
Administration shall be responsible for
coordinating implementation of this
section. Complaints may be sent to the
Director, Personnel and Administration,
American Battle Monuments
Commission, Room 5127, Pulaski
Building, 20 Massachusetts Ave., N.W.,
Washington, D.C. 20314.

Clayton L. Moran,
Colonel, FA, Director, Personnel and
Administration.

**NATIONAL FOUNDATION ON THE
ARTS AND THE HUMANITIES**

**National Endowment for the
Humanities**

45 CFR 1175

FOR FURTHER INFORMATION CONTACT:
Carol M. Gordon, Director, Office of
Equal Opportunity, (202) 786-0410, TDD:
(202) 786-0282 (Public Affairs Office).

List of Subjects in 45 CFR Part 1175

Blind, Civil rights, Deaf, Disabled,
Discrimination against handicapped,

Equal employment opportunity, Federal buildings and facilities, Handicapped, Nondiscrimination, Physically handicapped.

Title 45 of the Code of Federal Regulations is amended as follows:

1. Part 1175 is added as set forth at the end of this document.

PART 1175—ENFORCEMENT OF NONDISCRIMINATION ON THE BASIS OF HANDICAP IN PROGRAMS OR ACTIVITIES CONDUCTED BY THE NATIONAL ENDOWMENT FOR THE HUMANITIES

Sec.

- 1175.101 Purpose.
- 1175.102 Application.
- 1175.103 Definitions.
- 1175.104–1175.109 [Reserved]
- 1175.110 Self-evaluation.
- 1175.111 Notice.
- 1175.112–1175.129 [Reserved]
- 1175.130 General prohibitions against discrimination.
- 1175.131–1175.139 [Reserved]
- 1175.140 Employment.
- 1175.141–1175.148 [Reserved]
- 1175.149 Program accessibility: Discrimination prohibited.
- 1175.150 Program accessibility: Existing facilities.
- 1175.151 Program accessibility: New construction and alterations.
- 1175.152–1175.159 [Reserved]
- 1175.160 Communications.
- 1175.161–1175.169 [Reserved]
- 1175.170 Compliance procedures.
- 1175.171–1175.999 [Reserved]

Authority: 29 U.S.C. 794.

2. Part 1175 is further amended by revising paragraph (c) in § 1175.170 to read as follows:

§ 1175.170 Compliance procedures

(c) The Director, Office of Equal Opportunity shall be responsible for coordinating implementation of this section. Complaints may be sent to Director, Office of Equal Opportunity, National Endowment for the Humanities, 1100 Pennsylvania Ave., N.W., Room 419, Washington, D.C. 20506.

John Agresto,
Acting Chairman.

NATIONAL FOUNDATION ON THE ARTS AND THE HUMANITIES

Institute of Museum Services

45 CFR 1181

FOR FURTHER INFORMATION CONTACT:
Monika Edwards Harrison, Acting Director Institute of Museum Service, (202) 786-0536, TDD: (202) 786-0282

(Public Affairs Office, National Endowment for the Humanities).

List of Subjects in 45 CFR Part 1181

Blind, Civil rights, Deaf, Disabled, Discrimination against handicapped, Equal employment opportunity, Federal buildings and facilities, Handicapped, Nondiscrimination, Physically handicapped.

Title 45 of the Code of Federal Regulations is amended as follows:

1. Part 1181 is added as set forth at the end of this document.

PART 1181—ENFORCEMENT OF NONDISCRIMINATION ON THE BASIS OF HANDICAP IN PROGRAMS OR ACTIVITIES CONDUCTED BY THE INSTITUTE OF MUSEUM SERVICES

Sec.

- 1181.101 Purpose.
- 1181.102 Application.
- 1181.103 Definitions.
- 1181.104–1181.109 [Reserved]
- 1181.110 Self-evaluation.
- 1181.111 Notice.
- 1181.112–1181.129 [Reserved]
- 1181.130 General prohibitions against discrimination.
- 1181.131–1181.139 [Reserved]
- 1181.140 Employment.
- 1181.141–1181.148 [Reserved]
- 1181.149 Program accessibility: Discrimination prohibited.
- 1181.150 Program accessibility: Existing facilities.
- 1181.151 Program accessibility: New construction and alterations.
- 1181.152–1175.159 [Reserved]
- 1181.160 Communications.
- 1181.161–1181.169 [Reserved]
- 1181.170 Compliance procedures.
- 1181.171–1181.999 [Reserved]

Authority: 29 U.S.C. 794

2. Part 1181 is further amended by revising paragraph (c) in § 1181.170 to read as follows:

§ 1181.170 Compliance procedures.

(c) The Director shall be responsible for coordinating implementation of this section. Complaints may be sent to Director, Institute of Museum Services, 1100 Pennsylvania Ave., NW., Room 510, Washington, D.C. 20506.

Monika Edwards Harrison,
Acting Director, Institute of Museum Services.

NATIONAL COMMISSION ON LIBRARIES AND INFORMATION SCIENCE

45 CFR Part 1706

FOR FURTHER INFORMATION CONTACT:
Sarah G. Bishop, Deputy Director, (202) 382-0840 (Voice) or (202) 724-7678 (TDD).

List of Subjects in 45 CFR Part 1706

Blind, Civil rights, Deaf, Disabled, Discrimination against handicapped, Equal employment opportunity, Federal buildings and facilities, Handicapped, Nondiscrimination, Physically handicapped.

Title 45 of the Code of Federal Regulations is amended as follows:

1. Part 1706 is added as set forth at the end of this document.

PART 1706—ENFORCEMENT OF NONDISCRIMINATION ON THE BASIS OF HANDICAP IN PROGRAMS OR ACTIVITIES CONDUCTED BY NATIONAL COMMISSION ON LIBRARIES AND INFORMATION SCIENCE

Sec.

- 1706.101 Purpose.
- 1706.102 Application.
- 1706.103 Definitions.
- 1706.104–1706.109 [Reserved]
- 1706.110 Self-evaluation.
- 1706.111 Notice.
- 1706.112–1706.129 [Reserved]
- 1706.130 General prohibitions against discrimination.
- 1706.131–1706.139 [Reserved]
- 1706.140 Employment.
- 1706.141–1706.148 [Reserved]
- 1706.149 Program accessibility: Discrimination prohibited.
- 1706.150 Program accessibility: Existing facilities.
- 1706.151 Program accessibility: New construction and alterations.
- 1706.152–1706.159 [Reserved]
- 1706.160 Communications.
- 1706.161–1706.169 [Reserved]
- 1706.170 Compliance procedures.
- 1706.171–1706.999 [Reserved]

Authority: 29 U.S.C. 794.

2. Part 1706 is further amended by revising paragraph (c) in § 1706.170 to read as follows:

§ 1706.170 Compliance procedures.

(c) The Deputy Director shall be responsible for coordinating implementation of this section. Complaints may be sent to Deputy Director, National Commission on Libraries and Information Science, Suite 3122, GSA-ROB 3, Washington, D.C. 20024.

Toni Carbo Bearman,
Executive Director.

NATIONAL TRANSPORTATION SAFETY BOARD

49 CFR Part 807

FOR FURTHER INFORMATION CONTACT:
John M. Stuhldreher, General Counsel.

National Transportation Safety Board, Washington, D.C. 20594; (202) 382-6540, (TDD) (202) 724-7678.

List of Subjects in 49 CFR Part 807

Blind, Civil rights, Deaf, Disabled, Discrimination against handicapped, Equal employment opportunity, Federal buildings and facilities, Handicapped, Nondiscrimination, Physically handicapped.

Title 49 of the Code of Federal Regulations is amended as follows:

1. Part 807 is added as set forth at the end of this document.

PART 807—ENFORCEMENT OF NONDISCRIMINATION ON THE BASIS OF HANDICAP IN PROGRAMS OR ACTIVITIES CONDUCTED BY THE NATIONAL TRANSPORTATION SAFETY BOARD

- Sec.
- 807.101 Purpose.
 - 807.102 Application.
 - 807.103 Definitions.
 - 807.104-807.109 [Reserved]
 - 807.110 Self-evaluation.
 - 807.111 Notice.
 - 807.112-807.129 [Reserved]
 - 807.130 General prohibitions against discrimination.
 - 807.131-807.139 [Reserved]
 - 807.140 Employment.
 - 807.141-807.148 [Reserved]
 - 807.142-149 Program accessibility: Discrimination prohibited.
 - 807.150 Program accessibility: Existing facilities.
 - 807.151 Program accessibility: New construction and alterations.
 - 807.152-807.159 [Reserved]
 - 807.160 Communications.
 - 807.161-807.169 [Reserved]
 - 807.170 Compliance procedures.
 - 807.171-807.999 [Reserved]

Authority: 29 U.S.C. 794.

2. Part 807 is further amended by revising paragraph (c) in § 807.170 to read as follows:

§ 807.170 Compliance procedures.

(c) Director, Bureau of Administration shall be responsible for coordinating implementation of this section. Complaints may be sent to Director, Bureau of Administration, 800 Independence Ave., SW. Room 802, Washington, D.C. 20594.

Jim Burnett,
Chairman.

MARINE MAMMAL COMMISSION

50 CFR Part 550

FOR FURTHER INFORMATION CONTACT:
John R. Twiss, Jr., Executive Director,
Marine Mammal Commission, Room

307, 1625 I Street, NW., Washington, D.C. 20006; TDD (202) 653-6237, Voice (202) 724-7678.

List of Subjects in 50 CFR Part 550

Blind, Civil rights, Deaf, Disabled, Discrimination against handicapped, Equal employment opportunity, Federal buildings and facilities, Handicapped, Nondiscrimination, Physically handicapped.

Title 50 of the Code of Federal Regulations is amended as follows:

1. Part 550 is added as set forth at the end of this document.

PART 550—ENFORCEMENT OF NONDISCRIMINATION ON THE BASIS OF HANDICAP IN PROGRAMS OR ACTIVITIES CONDUCTED BY MARINE MAMMAL COMMISSION

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 - 550.161-550.169 [Reserved]
 - 550.170 Compliance procedures.
 - 550.171-550.999 [Reserved]

Authority: 29 U.S.C. 794.

2. Part 550 is further amended by revising paragraph (c) in § 550.170 to read as follows:

§ 550.170 Compliance procedures.

(c) The General Counsel for the Commission shall be responsible for coordinating implementation of this section. Complaints may be sent to the General Counsel for the Commission, Marine Mammal Commission, Room 307, 1625-I Street, NW., Washington, D.C. 20006.

John R. Twiss, Jr.,
Executive Director.

PART —ENFORCEMENT OF NONDISCRIMINATION ON THE BASIS OF HANDICAP IN PROGRAMS OR ACTIVITIES CONDUCTED

By

Sec.

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- .170 Compliance procedures.
- .171- .999 [Reserved]

Authority: 29 U.S.C. 794.

§ .101 Purpose.

This part effectuates section 119 of the Rehabilitation, Comprehensive Services, and Developmental Disabilities Amendments of 1978, which amended section 504 of the Rehabilitation Act of 1973 to prohibit discrimination on the basis of handicap in programs or activities conducted by Executive agencies or the United States Postal Service.

§ .102 Application.

This part applies to all programs or activities conducted by the agency.

§ .103 Definitions.

For purposes of this part, the term—"Assistant Attorney General" means the Assistant Attorney General, Civil Rights Division, United States Department of Justice.

"Auxiliary aids" means services or devices that enable persons with impaired sensory, manual, or speaking skills to have an equal opportunity to participate in, and enjoy the benefits of, programs or activities conducted by the agency. For example, auxiliary aids useful for persons with impaired vision include readers, Brailled materials, audio recordings, telecommunications devices and other similar services and devices. Auxiliary aids useful for persons with impaired hearing include telephone handset amplifiers, telephones compatible with hearing aids, telecommunication devices for deaf persons (TDD's), interpreters, notetakers, written materials, and other similar services and devices.

"Complete complaint" means a written statement that contains the complainant's name and address and describes the agency's alleged

discriminatory action in sufficient detail to inform the agency of the nature and date of the alleged violation of section 504. It shall be signed by the complainant or by someone authorized to do so on his or her behalf. Complaints filed on behalf of classes or third parties shall describe or identify (by name, if possible) the alleged victims of discrimination.

"Facility" means all or any portion of buildings, structures, equipment, roads, walks, parking lots, rolling stock or other conveyances, or other real or personal property.

"Handicapped person" means any person who has a physical or mental impairment that substantially limits one or more major life activities, has a record of such an impairment, or is regarded as having such an impairment.

As used in this definition, the phrase: (1) "Physical or mental impairment" includes—

(i) Any physiological disorder or condition, cosmetic disfigurement, or anatomical loss affecting one or more of the following body systems: Neurological; musculoskeletal; special sense organs; respiratory, including speech organs; cardiovascular; reproductive; digestive; genitourinary; hemic and lymphatic; skin; and endocrine; or

(ii) Any mental or psychological disorder, such as mental retardation, organic brain syndrome, emotional or mental illness, and specific learning disabilities. The term "physical or mental impairment" includes, but is not limited to, such diseases and conditions as orthopedic, visual, speech, and hearing impairments, cerebral palsy, epilepsy, muscular dystrophy, multiple sclerosis, cancer, heart disease, diabetes, mental retardation, emotional illness, and drug addiction and alcoholism.

(2) "Major life activities" includes functions such as caring for one's self, performing manual tasks, walking, seeing, hearing, speaking, breathing, learning, and working.

(3) "Has a record of such an impairment" means has a history of, or has been misclassified as having, a mental or physical impairment that substantially limits one or more major life activities.

(4) "Is regarded as having an impairment" means—

(i) Has a physical or mental impairment that does not substantially limit major life activities but is treated by the agency as constituting such a limitation;

(ii) Has a physical or mental impairment that substantially limits major life activities only as a result of

the attitudes of others toward such impairment; or

(iii) Has none of the impairments defined in subparagraph (1) of this definition but is treated by the agency as having such an impairment.

"Qualified handicapped person" means—

(1) With respect to any agency program or activity under which a person is required to perform services or to achieve a level of accomplishment, a handicapped person who meets the essential eligibility requirements and who can achieve the purpose of the program or activity without modifications in the program or activity that the agency can demonstrate would result in a fundamental alteration in its nature; or

(2) With respect to any other program or activity, a handicapped person who meets the essential eligibility requirements for participation in, or receipt of benefits from, that program or activity.

(3) "Qualified handicapped person" is defined for purposes of employment in 29 CFR 1613.702(f), which is made applicable to this part by § .140.

"Section 504" means section 504 of the Rehabilitation Act of 1973 (Pub. L. 93-112, 87 Stat. 394 (29 U.S.C. 794)), as amended by the Rehabilitation Act Amendments of 1974 (Pub. L. 93-516, 88 Stat. 1617), and the Rehabilitation, Comprehensive Services, and Developmental Disabilities Amendments of 1978 (Pub. L. 95-602, 92 Stat. 2955). As used in this part, section 504 applies only to programs or activities conducted by Executive agencies and not to federally assisted programs.

§§ .104- .109 [Reserved]

§ .110- Self-evaluation.

(a) The agency shall, by April 9, 1987, evaluate its current policies and practices, and the effects thereof, that do not or may not meet the requirements of this part, and, to the extent modification of any such policies and practices is required, the agency shall proceed to make the necessary modifications.

(b) The agency shall provide an opportunity to interested persons, including handicapped persons or organizations representing handicapped persons, to participate in the self-evaluation process by submitting comments (both oral and written).

(c) The agency shall, until three years following the completion of the self-evaluation, maintain on file and make available for public inspections:

(1) A description of areas examined and any problems identified, and

(2) A description of any modifications made.

§ .111 Notice.

The agency shall make available to employees, applicants, participants, beneficiaries, and other interested persons such information regarding the provisions of this part and its applicability to the programs or activities conducted by the agency, and make such information available to them in such manner as the head of the agency finds necessary to apprise such persons of the protections against discrimination assured them by section 504 and this regulation.

§§ .112- .129 [Reserved]

§ .130 General prohibitions against discrimination.

(a) No qualified handicapped person shall, on the basis of handicap, be excluded from participation in, be denied the benefits of, or otherwise be subjected to discrimination under any program or activity conducted by the agency.

(b)(1) The agency, in providing any aid, benefit, or service, may not, directly or through contractual, licensing, or other arrangements, on the basis of handicap—

(i) Deny a qualified handicapped person the opportunity to participate in or benefit from the aid, benefit, or service;

(ii) Afford a qualified handicapped person an opportunity to participate in or benefit from the aid, benefit, or service that is not equal to that afforded others;

(iii) Provide a qualified handicapped person with an aid, benefit, or service that is not as effective in affording equal opportunity to obtain the same result, to gain the same benefit, or to reach the same level of achievement as that provided to others;

(iv) Provide different or separate aid, benefits, or services to handicapped persons or to any class of handicapped persons than is provided to others unless such action is necessary to provide qualified handicapped persons with aid, benefits, or services that are as effective as those provided to others;

(v) Deny a qualified handicapped person the opportunity to participate as a member of planning or advisory boards; or

(vi) Otherwise limit a qualified handicapped person in the enjoyment of any right, privilege, advantage, or opportunity enjoyed by others receiving the aid, benefit, or service.

(2) The agency may not deny a qualified handicapped person the opportunity to participate in programs or activities that are not separate or different, despite the existence of permissibly separate or different programs or activities.

(3) The agency may not, directly or through contractual or other arrangements, utilize criteria or methods of administration the purpose or effect of which would—

(i) Subject qualified handicapped persons to discrimination on the basis of handicap; or

(ii) Defeat or substantially impair accomplishment of the objectives of a program or activity with respect to handicapped persons.

(4) The agency may not, in determining the site or location of a facility, make selections the purpose or effect of which would—

(i) Exclude handicapped persons from, deny them the benefits of, or otherwise subject them to discrimination under any program or activity conducted by the agency; or

(ii) Defeat or substantially impair the accomplishment of the objectives of a program or activity with respect to handicapped persons.

(5) The agency, in the selection of procurement contractors, may not use criteria that subject qualified handicapped persons to discrimination on the basis of handicap.

(c) The exclusion of nonhandicapped persons from the benefits of a program limited by Federal statute or Executive order to handicapped persons or the exclusion of a specific class of handicapped persons from a program limited by Federal statute or Executive order to a different class of handicapped persons is not prohibited by this part.

(d) The agency shall administer programs and activities in the most integrated setting appropriate to the needs of qualified handicapped persons.

§§ .131- .139 [Reserved]

§ .140 Employment.

No qualified handicapped person shall, on the basis of handicap, be subjected to discrimination in employment under any program or activity conducted by the agency. The definitions, requirements, and procedures of section 501 of the Rehabilitation Act of 1973 (29 U.S.C. 791), as established by the Equal Employment Opportunity Commission in 29 CFR Part 1613, shall apply to employment in federally conducted programs or activities.

§§ .141- .148 [Reserved]

§ .149 Program accessibility: Discrimination prohibited.

Except as otherwise provided in § .150, no qualified handicapped person shall, because the agency's facilities are inaccessible to or unusable by handicapped persons, be denied the benefits of, be excluded from participation in, or otherwise be subjected to discrimination under any program or activity conducted by the agency.

§ .150 Program accessibility: Existing facilities.

(a) *General.* The agency shall operate each program or activity so that the program or activity, when viewed in its entirety, is readily accessible to and usable by handicapped persons. This paragraph does not—

(1) Necessarily require the agency to make each of its existing facilities accessible to and usable by handicapped persons; or

(2) Require the agency to take any action that it can demonstrate would result in a fundamental alteration in the nature of a program or activity or in undue financial and administrative burdens. In those circumstances where agency personnel believe that the proposed action would fundamentally alter the program or activity or would result in undue financial and administrative burdens, the agency has the burden of proving that compliance with § .150(a) would result in such alteration or burdens. The decision that compliance would result in such alteration or burdens must be made by the agency head or his or her designee after considering all agency resources available for use in the funding and operation of the conducted program or activity, and must be accompanied by a written statement of the reasons for reaching that conclusion. If an action would result in such an alteration or such burdens, the agency shall take any other action that would not result in such an alteration or such burdens but would nevertheless ensure that handicapped persons receive the benefits and services of the program or activity.

(b) *Methods.* The agency may comply with the requirements of this section through such means as redesign of equipment, reassignment of services to accessible buildings, assignment of aides to beneficiaries, home visits, delivery of services at alternate accessible sites, alteration of existing facilities and construction of new facilities, use of accessible rolling stock, or any other methods that result in

making its programs or activities readily accessible to and usable by handicapped persons. The agency is not required to make structural changes in existing facilities where other methods are effective in achieving compliance with this section. The agency, in making alterations to existing buildings, shall meet accessibility requirements to the extent compelled by the Architectural Barriers Act of 1968, as amended (42 U.S.C. 4151-4157), and any regulations implementing it. In choosing among available methods for meeting the requirements of this section, the agency shall give priority to those methods that offer programs and activities to qualified handicapped persons in the most integrated setting appropriate.

(c) *Time period for compliance.* The agency shall comply with the obligations established under this section by April 7, 1986, except that where structural changes in facilities are undertaken, such changes shall be made by April 7, 1989, but in any event as expeditiously as possible.

(d) *Transition plan.* In the event that structural changes to facilities will be undertaken to achieve program accessibility, the agency shall develop, by October 7, 1986, a transition plan setting forth the steps necessary to complete such changes. The agency shall provide an opportunity to interested persons, including handicapped persons or organizations representing handicapped persons, to participate in the development of the transition plan by submitting comments (both oral and written). A copy of the transition plan shall be made available for public inspection. The plan shall, at a minimum—

(1) Identify physical obstacles in the agency's facilities that limit the accessibility of its programs or activities to handicapped persons;

(2) Describe in detail the methods that will be used to make the facilities accessible;

(3) Specify the schedule for taking the steps necessary to achieve compliance with this section and, if the time period of the transition plan is longer than one year, identify steps that will be taken during each year of the transition period; and

(4) Indicate the official responsible for implementation of the plan.

§ .151 Program accessibility: New construction and alterations.

Each building or part of a building that is constructed or altered by, on behalf of, or for the use of the agency shall be designed, constructed, or altered so as to be readily accessible to

and usable by handicapped persons. The definitions, requirements, and standards of the Architectural Barriers Act (42 U.S.C. 4151-4157), as established in 41 CFR 101-19.600 to 101-19.607, apply to buildings covered by this section.

§§ .152- .159 [Reserved]

§ .160 Communications.

(a) The agency shall take appropriate steps to ensure effective communication with applicants, participants, personnel of other Federal entities, and members of the public.

(1) The agency shall furnish appropriate auxiliary aids where necessary to afford a handicapped person an equal opportunity to participate in, and enjoy the benefits of, a program or activity conducted by the agency.

(i) In determining what type of auxiliary aid is necessary, the agency shall give primary consideration to the requests of the handicapped person.

(ii) The agency need not provide individually prescribed devices, readers for personal use or study, or other devices of a personal nature.

(2) Where the agency communicates with applicants and beneficiaries by telephone, telecommunication devices for deaf persons (TDD's) or equally effective telecommunication systems shall be used.

(b) The agency shall ensure that interested persons, including persons with impaired vision or hearing, can obtain information as to the existence and location of accessible services, activities, and facilities.

(c) The agency shall provide signage at a primary entrance to each of its inaccessible facilities, directing users to a location at which they can obtain information about accessible facilities. The international symbol for accessibility shall be used at each primary entrance of an accessible facility.

(d) This section does not require the agency to take any action that it can demonstrate would result in a fundamental alteration in the nature of a program or activity or in undue financial and administrative burdens. In those circumstances where agency personnel

believe that the proposed action would fundamentally alter the program or activity or would result in undue financial and administrative burdens, the agency has the burden of proving that compliance with § .160 would result in such alteration or burdens. The decision that compliance would result in such alteration or burdens must be made by the agency head or his or her designee after considering all agency resources available for use in the funding and operation of the conducted program or activity, and must be accompanied by a written statement of the reasons for reaching that conclusion. If an action required to comply with this section would result in such an alteration or such burdens, the agency shall take any other action that would not result in such an alteration or such burdens but would nevertheless ensure that, to the maximum extent possible, handicapped persons receive the benefits and services of the program or activity.

§§ .161- .169 [Reserved]

§ .170 Compliance Procedures.

(a) Except as provided in paragraph (b) of this section, this section applies to all allegations of discrimination on the basis of handicap in programs or activities conducted by the agency.

(b) The agency shall process complaints alleging violations of section 504 with respect to employment according to the procedures established by the Equal Employment Opportunity Commission in 29 CFR Part 1613 pursuant to section 501 of the Rehabilitation Act of 1973 (29 U.S.C. 791).

(c) The head of the agency shall designate an official to be responsible for coordinating implementation of this section.

(d) The agency shall accept and investigate all complete complaints for which it has jurisdiction. All complete complaints must be filed within 180 days of the alleged act of discrimination. The agency may extend this time period for good cause.

(e) If the agency receives a complaint over which it does not have jurisdiction, it shall promptly notify the complainant and shall make reasonable efforts to

refer the complaint to the appropriate government entity.

(f) The agency shall notify the Architectural and Transportation Barriers Compliance Board upon receipt of any complaint alleging that a building or facility that is subject to the Architectural Barriers Act of 1968, as amended (42 U.S.C. 4151-4157), or section 502 of the Rehabilitation Act of 1973, as amended (29 U.S.C. 792), is not readily accessible to and usable by handicapped persons.

(g) Within 180 days of the receipt of a complete complaint for which it has jurisdiction, the agency shall notify the complainant of the results of the investigation in a letter containing—

(1) Findings of fact and conclusions of law;

(2) A description of a remedy for each violation found;

(3) A notice of the right to appeal.

(h) Appeals of the findings of fact and conclusions of law or remedies must be filed by the complainant within 90 days of receipt from the agency of the letter required by § .170(g). The agency may extend this time for good cause.

(i) Timely appeals shall be accepted and processed by the head of the agency.

(j) The head of the agency shall notify the complainant of the results of the appeal within 60 days of the receipt of the request. If the head of the agency determines that additional information is needed from the complainant, he or she shall have 60 days from the date of receipt of the additional information to make his or her determination on the appeal.

(k) The time limits cited in paragraphs (g) and (j) of this section may be extended with the permission of the Assistant Attorney General.

(l) The agency may delegate its authority for conducting complaint investigations to other Federal agencies, except that the authority for making the final determination may not be delegated to another agency.

§§ .171- .999 [Reserved]

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