

It is therefore ordered, pursuant to section 19(b)(2) of the Act, that the proposed rule change is approved.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.

Dated: June 16, 1986.

Shirley E. Hollis,

Acting Secretary.

[FR Doc. 86-14114 Filed 6-20-86; 8:45 am]

BILLING CODE 8010-01-M

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

Advisory Circular 25.939-1; Evaluating Turbine Engine Operating Characteristics

AGENCY: Federal Aviation Administration, DOT.

ACTION: Notice of issuance of advisory circular.

SUMMARY: This notice announces the issuance of Advisory Circular (AC) 25.939-1, Evaluating Turbine Engine Operating Characteristics. The AC provides guidelines for the evaluation of turbine engine (turbojet, turboprop, and turboshaft) operating characteristics for subsonic transport category airplanes. These guidelines describe a method of demonstrating compliance with the applicable airworthiness requirements.

DATE: Advisory Circular 25.939-1 was issued by the Transport Airplane Certification Directorate in Seattle, Washington, on March 19, 1986.

How to obtain copies: A copy of AC 25.939-1 may be obtained by writing to the U.S. Department of Transportation, M-494.3, Subsequent Distribution Unit, Washington, DC 20590.

Issued in Seattle, Washington, on June 9, 1986.

Leroy A. Keith,

Manager, Aircraft Certification Division, Northwest Mountain Region.

[FR Doc. 86-14037 Filed 6-20-86; 8:45 am]

BILLING CODE 4910-13-M

Federal Highway Administration

Environmental Impact Statement; Douglas County, KS

AGENCY: Federal Highway Administration (FHWA), DOT

ACTION: Notice of intent.

SUMMARY: The FHWA is issuing this notice to advise the public that an Environmental Impact Statement will be prepared for a proposed highway project in Douglas County, Kansas.

FOR FURTHER INFORMATION CONTACT:

Robert K. Crow, District Engineer, FHWA, Rm. 240 444 S.E. Quincy, Topeka, Kansas 66683, Telephone: (913) 295-2558. R.E. Olson, Chief of Rural & Urban Development, Kansas Department of Transportation, State Office Building, Topeka, Kansas 66612, (913) 296-3861.

SUPPLEMENTARY INFORMATION: The FHWA, in cooperation with the Kansas Department of Transportation, City of Lawrence and Douglas County will prepare an Environmental Impact Statement for a proposed highway project known as the South Lawrence Arterial. If constructed the project would be primarily on new locations, and developed initially as a two lane road (ultimately as a four lane roadway). The corridor runs east-west near 31st Street in south Lawrence from K-10 to the Clinton Dam and north-south from Clinton Dam to the Kansas Turnpike; a distance of approximately 13 miles.

The project is intended to provide for projected traffic demands and to reduce existing congestion on the 23rd and Iowa St. arterials. Several alternatives will be considered including the no build. Also incorporated into the study will be various alignments within the corridor.

Three public information meetings have been held to keep the local citizens informed of the study. These meetings have provided early coordination with appropriate Federal, State, local agencies and private organizations who have expressed interest in this proposed project.

A public hearing will be held in Lawrence during the development of the Environmental Impact Statement. Public notice will be given of the time and place of the hearing and where the Draft Environmental Impact Statement will be available for review and comment.

Issued on: June 16, 1986.

Robert K. Crow,

District Engineer, Kansas Division, Federal Highway Administration, Topeka, Kansas.

[FR Doc. 86-14086 Filed 6-20-86; 8:45 am]

BILLING CODE 4910-22-M

INTERNATIONAL TRADE COMMISSION

[Investigation No. 337-TA-234]

Certain Upper Body Protector Apparatus for Use in Motorsports; Initial Determination Terminating Respondents on the Basis of Settlement Agreement

AGENCY: U.S. International Trade Commission.

ACTION: Notice is hereby given that the Commission has received an initial determination from the presiding officer in the above-captioned investigation terminating the following respondents on the basis of a settlement agreement: Torsten Hallman Racing, Inc. (Hallman & Stilmotor.)

SUPPLEMENTARY INFORMATION: This investigation is being conducted pursuant to section 337 of the Tariff Act of 1930 (19 U.S.C. 1337). Under the Commission's rules, the presiding officer's initial determination will become the determination of the Commission thirty (30) days after the date of its service upon the parties, unless the Commission orders review of the initial determination. The initial determination in this matter was served upon the parties on June 6, 1986.

Copies of the initial determination, the settlement agreement, and all other nonconfidential documents filed in connection with this investigation are available for inspection during official business hours (8:45 a.m. to 5:15 p.m.) in the Office of the Secretary, U.S. International Trade Commission, 701 E Street NW., Washington, DC 20436, telephone 202-523-0161. Hearing impaired individuals are advised that information on this matter can be obtained by contacting the Commission's TDD terminal on 202-724-0002.

Written comments: Interested persons may file written comments with the Commission concerning termination of the aforementioned respondents. The original and 14 copies of all such comments must be filed with the Secretary to the Commission, 701 E Street, NW., Washington, DC 20436, no later than 10 days after publication of this notice in the *Federal Register*. Any person desiring to submit a document (or portion thereof) to the Commission in confidence must request confidential treatment. Such requests should be directed to the Secretary to the Commission and must include a full statement of the reasons why confidential treatment should be granted. The Commission will either accept the submission in confidence or return it.

FOR FURTHER INFORMATION CONTACT: Ruby J. Dionne, Office of the Secretary, U.S. International Trade Commission, telephone 202-523-0176.

By Order of the Commission.

Issued: June 19, 1986.

Kenneth R. Mason,
Secretary.

[FR Doc. 86-14215 Filed 6-20-86; 8:45 am]

BILLING CODE 7020-02-M

Sunshine Act Meetings

Federal Register

Vol. 51, No. 120

Monday, June 23, 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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EQUAL EMPLOYMENT OPPORTUNITY COMMISSION

DATE AND TIME: Monday, June 30, 1986, 2:00 p.m. (eastern time).

PLACE: Clarence M. Mitchell, Jr., Conference Room No. 200-C on the 2nd Floor of the Columbia Plaza Office Building, 2401 "E" Street, NW., Washington, DC 20507.

STATUS: Part will be open to the public and part will be closed to the public.

MATTERS TO BE CONSIDERED:

Open

1. Announcement of Notation Vote(s)
2. A Report on Commission Operations (Optional)
3. Refinement of EEOC's Investigative Techniques Applicable to Uncooperative Respondents

Closed

1. Litigation Authorization; General Counsel Recommendations

Note.—Any matter not discussed or concluded may be carried over to a later meeting. (In addition to publishing notices on EEOC Commission meetings in the **Federal Register**, the Commission also provides a recorded announcement a full week in advance on future Commission sessions.

Please telephone (202) 634-6748 at all times for information on these meetings.

CONTACT PERSON FOR MORE

INFORMATION: Cynthia C. Matthews, Executive Officer at (202) 634-6748.

Dated: June 18, 1986.

Cynthia C. Matthews,

Executive Officer, Executive Secretariat.

[FR Doc. 86-14143 Filed 6-19-86; 10:16 am]

BILLING CODE 6750-06-M

2

SECURITIES AND EXCHANGE COMMISSION

"FEDERAL REGISTER" CITATION OF

PREVIOUS ANNOUNCEMENT: (51 FR 19811 June 2, 1986 and 51 FR 22165, June 18, 1986).

STATUS: Closed meeting.

PLACE: 450 Fifth Street, NW., Washington, DC.

DATE PREVIOUSLY ANNOUNCED: Friday, June 13, 1986.

CHANGE IN THE MEETING: Additional meeting/Time change.

The following item will be considered at an open meeting scheduled for Thursday, June 19, 1986, at 10:00 a.m.:

The Commission will consider the proposed testimony to be given by Chairman Shad on June 23, 1986 before the Subcommittee on Oversight and Investigations of the House Committee on Energy and Commerce concerning Financial Reporting and the Role of the Independent Auditor. For further information, please contact Robert Kueppers at (202) 272-2130.

The time of the open meeting previously scheduled for 10:00 a.m. on Thursday, June 26, 1986, has been changed to 2:30 p.m.

Commissioner Cox, as duty officer, determined that Commission business required the above changes and that no earlier notice thereof was possible.

At times changes in Commission priorities require alterations in the scheduling of meeting items. For further information and to ascertain what, if any, matters have been added, deleted or postponed, please contact: Patrick Daugherty at (202) 272-3077.

Shirley E. Hollis,

Acting Secretary.

June 19, 1986.

[FR Doc. 86-14159 Filed 6-23-86; 11:32 am]

BILLING CODE 8010-01-M

Federal Register

Monday
June 23, 1986

Part II

Enforcement of Nondiscrimination on the Basis of Handicap in Federally Conducted Programs; Final Rules

National Capital Planning Commission
National Commission for Employment Policy
Nuclear Regulatory Commission
National Credit Union Administration
Commodity Futures Trading Commission
Tennessee Valley Authority
Department of State
United States Information Agency
Inter-American Foundation
Japan-United States Friendship Commission
Navajo & Hopi Indian Relocation Commission
Occupational Safety and Health Review
Commission
Pension Benefit Guaranty Corporation
Federal Mine Safety and Health Review
Commission
Advisory Council on Historic Preservation
Pennsylvania Avenue Development Corporation
Commission of Fine Arts
Committee for Purchase From the Blind and Other
Severely Handicapped
National Foundation on the Arts and the
Humanities, National Endowment for the Arts
Federal Maritime Commission Interstate Commerce
Commission

NATIONAL CAPITAL PLANNING COMMISSION

1 CFR PART 457

NATIONAL COMMISSION FOR EMPLOYMENT POLICY

1 CFR PART 500

NUCLEAR REGULATORY COMMISSION

10 CFR PART 4

NATIONAL CREDIT UNION ADMINISTRATION

12 CFR PART 794

COMMODITY FUTURES TRADING COMMISSION

17 CFR PART 149

TENNESSEE VALLEY AUTHORITY

18 CFR PART 1313

DEPARTMENT OF STATE

22 CFR PART 144

UNITED STATES INFORMATION AGENCY

22 CFR PART 530

INTER-AMERICAN FOUNDATION

22 CFR PART 1005

JAPAN-UNITED STATES FRIENDSHIP COMMISSION

22 CFR PART 1600

NAVAJO & HOPI INDIAN RELOCATION COMMISSION

25 CFR PART 720

OCCUPATIONAL SAFETY AND HEALTH REVIEW COMMISSION

29 CFR PART 2205

PENSION BENEFIT GUARANTY CORPORATION

29 CFR PART 2608

FEDERAL MINE SAFETY AND HEALTH REVIEW COMMISSION

29 CFR PART 2706

ADVISORY COUNCIL ON HISTORIC PRESERVATION

36 CFR PART 812

PENNSYLVANIA AVENUE DEVELOPMENT CORPORATION

36 CFR PART 909

COMMISSION OF FINE ARTS

45 CFR PART 2104

COMMITTEE FOR PURCHASE FROM THE BLIND AND OTHER SEVERELY HANDICAPPED

41 CFR PART 51-9

NATIONAL FOUNDATION ON THE ARTS AND THE HUMANITIES

National Endowment for the Arts

45 CFR PART 1153

FEDERAL MARITIME COMMISSION

46 CFR PART 507

INTERSTATE COMMERCE COMMISSION

49 CFR PART 1014

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

AGENCIES: National Capital Planning Commission; National Commission for Employment Policy; Nuclear Regulatory Commission; National Credit Union Administration; Commodity Futures Trading Commission; Tennessee Valley Authority; Department of State; United States Information Agency; Inter-American Foundation; Japan-United States Friendship Commission; Navajo & Hopi Indian Relocation Commission; Occupational Safety and Health Review Commission; Pension Benefit Guaranty Corporation; Federal Mine Safety and Health Review Commission; Advisory Council on Historic Preservation; Pennsylvania Avenue Development Corporation; Commission of Fine Arts; Committee for Purchase from the Blind and Other Severely Handicapped; National Endowment for the Arts; Federal Maritime Commission; Interstate Commerce 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: August 22, 1986.

ADDRESSEES: See individual agencies below. Copies of this regulation are available on tape for persons with visual impairments. They may be obtained from the Coordination and Review Section, Civil Rights Division, Department of Justice, Washington, DC, 20530; (202) 724-2222 (Voice) or 724-7678 (TDD).

FOR FURTHER INFORMATION CONTACT: See individual agencies below.

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"): National Capital Planning Commission, National Commission for Employment Policy, U.S. Nuclear Regulatory Commission, National Credit Union Administration, Commodity Futures Trading Commission, Tennessee Valley Authority, United States Department of State, U.S. Information Agency, Inter-American Foundation, Japan-United States Friendship Commission, Navajo & Hopi Indian Relocation Commission, Occupational Safety and Health Review Commission, Pension Benefit Guaranty Corporation, Federal Mine Safety and Health Review Commission, Advisory Council on Historic Preservation, Pennsylvania Avenue Development Corporation, Commission of Fine Arts, Committee for Purchase from the Arts, Federal Maritime Commission, Interstate Commerce 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 August 28, 1984, 21 agencies jointly published a Notice of Proposed Rulemaking (NPRM) in the *Federal Register*, 49 FR 34132. That NPRM was based on a prototype developed by the Department of Justice (DOJ) and revised by DOJ in response to the comments it received on its NPRM, published December 16, 1983, 48 FR 55996. Each agency individually received and analyzed comments. On the basis of their analysis, the agencies participating in this publication decided to adopt this final rule. Because the rule selected 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 shall be submitted to the appropriate authorizing committees of Congress and that such regulations may 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 August 22, 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.

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 regulations 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. 13901 (1978) (remarks of Rep. Jeffords); 124 Cong. Rec. E2668, E2670 (daily ed. May 17, 1978) *id.*; 124 Cong. Rec. 13897 (remarks of Rep. Brademas); *id.* at 38552 (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 § 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.* at 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 category 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.

One commenter objected to the omission of the phrase "or interest in such property" from the definition of "facility." As explained the preamble to the NPRM, 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. The term "facility" is used in §§ 149, 150, and 151.

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

"Historic preservation programs," "Historic properties," and "Substantial impairment." These terms are defined in order to aid in the interpretation of § 150 (a)(2) and (b)(2), which relate to accessibility of historic preservation programs. The definition of "historic properties" published in the Notice of Proposed Rulemaking has been altered to conform to the definition included in section 4.1.7 (1)(a) of the Uniform Federal Accessibility Standards (49 FR

31528, 31552). The revised definition expands coverage beyond properties listed or eligible for listing in the National Register of Historic Places to include properties designated as historic by State or local governments.

"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).

Paragraph (1) is an adaptation of existing definitions of "qualified handicapped person" for purposes of federally assisted preschool, elementary, and secondary education programs (see, e.g., 45 CFR 84.3(k)(2)). It provides that a handicapped person is qualified for preschool, elementary, or secondary education programs conducted by the agency, if he or she is a member of a class of persons otherwise entitled by statute, regulation, or agency policy to receive these services from the agency. In other words, a handicapped person is qualified if, considering all factors other than the handicapping condition, he or she is entitled to receive education services from the agency.

Paragraph (2) deviates from existing regulations for federally assisted programs because of intervening court decisions. It defines "qualified handicapped person" with regard to any program other than those covered by paragraph (1) under which a person is required to perform services or to achieve a level of accomplishment. In such programs a qualified handicapped person is one who can achieve the purpose of the program without modifications in the program that would result in a fundamental alteration in its nature. This definition is based on the Supreme Court's *Davis* decision.

In that case, 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." 44 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.

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 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.

For programs or activities that do not fall under either of the first two paragraphs, paragraph (3) adopts the existing definition of "qualified handicapped person" with respect to services (28 CFR 41.32(b)) in the coordination regulation for programs receiving Federal financial assistance. Under this definition, a qualified handicapped person is a handicapped person who meets the essential

eligibility requirements for participation in the program or activity.

Some commenters stated that the proposal would change the definition of "qualified handicapped person" for employment. A new paragraph (4) has been added to make clear that "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.

"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.

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 had 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.

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 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 requirement 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 presumptions 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 an irrebuttable presumption 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 or 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 or different aids, benefits, or services would be more effective, subparagraph (b)(2) provides that a qualified handicapped 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.

Paragraph (b)(6) prohibits the agency from discriminating against qualified handicapped persons on the basis of handicap in the granting of licenses or certification. A person is a "qualified handicapped person" with respect to licensing or certification, if he or she can meet the essential eligibility requirements for receiving the license or certification (see § 103).

In addition, the agency may not establish requirements for the programs or activities of licensees or certified entities that subject qualified handicapped persons to discrimination on the basis of handicap. For example, the agency must comply with this requirement when establishing safety standards for the operations of licensees. In that case the agency must ensure that standards that it promulgates do not discriminate against the employment of qualified handicapped persons in an impermissible manner.

Paragraph (b)(6) does not extend section 504 directly to the programs or activities of licensees or certified entities themselves. The programs or activities of Federal licensees or certified entities are not themselves federally conducted programs or activities nor are they programs or activities receiving Federal financial assistance merely by virtue of the Federal license or certificate. However, as noted above, section 504 may affect the content of the rules established by the agency for the operation of the program or activity of the licensee or certified entity, and thereby indirectly affect limited aspects of their operations.

Some commenters argued that the regulation should extend to the activities of licensees or certified entities, citing *Community Television of Southern California v. Gottfried*, 459 U.S. 498 (1983). In that case, the Court held that section 504 as applied to federally assisted programs did not require the Federal Communications Commission to prohibit discrimination on the basis of handicap by licensed broadcasters, but that "the policies

underlying the Communications Act" might authorize the Commission to issue a regulation governing such discrimination. The Court did not, however, indicate that section 504 itself could serve as the source of such regulatory authority.

The Court has held that "the use of the words 'public interest' in a regulatory statute is not a broad license to promote the general public welfare. Rather the words take meaning from the purposes of the regulatory legislation." *National Association for the Advancement of Colored People v. Federal Power Commission*, 425 U.S. 662, 669 (1976). Section 504 does not of itself extend an agency's regulatory authority to the activities of licensees or certified entities.

Some commenters objected to the omission of a paragraph from 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 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 a Federal statute or Executive order that is 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*, 662 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, Comp. 1979, 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.

Section 149 States the general nondiscrimination principle underlying the program accessibility requirements of sections 150 and 151.

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 to and 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), (a)(3)).

Paragraph (a)(2), which establishes a special limitation on the obligation to ensure program accessibility in historic preservation programs, is discussed below in connection with paragraph (b).

The "undue financial and administrative burdens" language found at § 150(a)(3) (and paragraph (d) of § 160, discussed below) 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 (APTA)*, *supra*.

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 assumed without deciding that section 504 reaches at least some conduct that has an unjustifiable disparate impact on handicapped people, but held that the reduction was not "the sort of disparate impact" discrimination that might be 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.* at 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.* at n.20) (citations omitted).

Alexander 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, 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.)

One comment included a lengthy analysis opposing the undue burdens defense. This comment was premised on the assumption that the proposed regulation was substantively inconsistent with the regulations for federally assisted programs. This assumption is incorrect. Judicial interpretations have established that neither section 504 nor the regulations for federally assisted programs establish an unlimited obligation to modify programs or activities to accommodate handicapped persons.

This comment also argued that *APTA* is no longer good law, in view of the Supreme Court's decision in *Consolidated Rail Corp. v. Darrone*, 104 S. Ct. 1248 (1984) (*Conrail*), in which the Court said that Congress intended, through the 1978 amendments to the statute, to codify the HEW regulation. Other commenters also argued that *Conrail* prohibits departures from the language of the federally assisted regulation. The *Conrail* decision addressed only the question of

employment coverage under the Statute and cannot be read to mean that Congress "codified" other parts of the regulation. Furthermore, the undue burdens defense is not inconsistent with the HEW regulation; in fact, the employment provisions of the HEW regulation—those addressed in *Conrail*—do include an "undue hardship" defense. This position is confirmed by the Supreme Court's decision in *Alexander*. There the Court referred to its previous recognition in *Conrail* of the regulation as "an important source of guidance on the meaning of § 504," *Alexander*, 105 S. Ct. at 722, n.24, and at the same time, as discussed above, emphasized that section 504 does not mandate extensive costs and administrative burdens.

The agency is adopting the proposed rule's procedural requirements for application of the "fundamental alteration" and "undue financial and administrative burdens" language. 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 should 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.

One 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 may be earmarked for specific purposes and are simply not available for use in making the agency's programs accessible to disabled persons.

Paragraph (b)(1) 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.

Section 150(b)(2) provides an additional limitation on the obligation to ensure program accessibility that is applicable only to historic preservation programs. In order to avoid possible conflict between the congressional mandates to preserve historic properties on the one hand and to eliminate discrimination against handicapped persons on the other, § 150(a)(2) provides that in historic preservation programs the agency is not required to take any action that would result in a substantial impairment of significant historic features of an historic property.

Nevertheless, because the primary benefit of an historic preservation program is uniquely the experience of the historic property itself, § 150(b)(2) requires the agency to give priority to methods of providing program accessibility that permit handicapped persons to have physical access to the historic property. This priority on physical access may also be viewed as a specific application of the general requirement that the agency administer programs in the most integrated setting appropriate to the needs of qualified handicapped persons (§ 130(d)). Only when providing physical access would result in a substantial impairment of significant historic features, a fundamental alteration in the nature of the program, or in undue financial and administrative burdens, may the agency adopt alternative methods for providing program accessibility that do not ensure physical access. Examples of some alternative methods are provided in § 150(b)(2).

The special limitation on program accessibility set forth in § 150(a)(2) is applicable only to programs that have

preservation of historic properties as a primary purpose (see *supra* definition of "historic preservation program," § 103). Narrow application of the special limitation is justified because of the inherent flexibility of the program accessibility requirement. Where historic preservation is not a primary purpose of the program the agency is not bound to a particular facility. It can relocate all or part of its program to an accessible facility, make home visits, or use other standard methods of achieving program accessibility without making structural alterations that might impair significant historic features of the historic property.

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.

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.

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 discussion of § 150(a)(3)). 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 proceedings 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.

One 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 capabilities. The procedures in this rule are less detailed and more suitable for adoption by agencies with limited enforcement capacities, but 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, 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)).

One commenter on the compliance procedures suggested that the agency should be required to refer a complaint to the appropriate agency when it does not have jurisdiction over it. The proposed rule merely required the agency to make reasonable efforts to do so. The agency has not adopted this suggestion because of several possible circumstances in which the agency might not be able to successfully refer a complaint. For example, the agency

might receive a complaint that no Federal agency would have jurisdiction over or that did not contain sufficient information to identify the appropriate agency.

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.

NATIONAL CAPITAL PLANNING COMMISSION

1 CFR Part 457

FOR FURTHER INFORMATION CONTACT:

Katherine Barns Soffer, General Counsel, 1325 G Street NW., Washington, DC, 20576 (202) 724-0170 or (202) 724-7678 (TDD).

List of Subjects in 1 CFR Part 457

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 457 is added as set forth at the end of this document.

PART 457—ENFORCEMENT OF NONDISCRIMINATION ON THE BASIS OF HANDICAP IN PROGRAMS OR ACTIVITIES CONDUCTED BY THE NATIONAL CAPITAL PLANNING COMMISSION

Sec.	
457.101	Purpose.
457.102	Application.
457.103	Definitions.

Sec.

- 457.104-457.109 [Reserved]
 457.110 Self-evaluation.
 457.111 Notice.
 457.112-457.129 [Reserved]
 457.130 General prohibitions against discrimination.
 457.131-457.139 [Reserved]
 457.140 Employment.
 457.141-457.148 [Reserved]
 457.149 Program accessibility: Discrimination prohibited.
 457.150 Program accessibility: Existing facilities.
 457.151 Program accessibility: New construction and alterations.
 457.152-457.159 [Reserved]
 457.160 Communications.
 457.161-457.169 [Reserved]
 457.170 Compliance procedures.
 457.171-812.999 [Reserved]

Authority: 29 U.S.C. 794.

2. Part 457 is further amended by revising paragraph (c) in § 457.170 to read as follows:

§ 457.170 Compliance procedures.

* * * * *

(c) The Executive Director shall be responsible for coordinating implementation of this section. Complaints may be sent to Equal Employment Opportunity Director, National Capital Planning Commission, 1325 G Street NW., Washington, DC 20576.

* * * * *

Katherine Barnes Soffer,
 General Counsel.

NATIONAL COMMISSION FOR EMPLOYMENT POLICY

1 CFR Part 500

FOR FURTHER INFORMATION CONTACT:

Michael Landini, National Commission for Employment Policy, Suite 300, 1522 K Street NW., Washington, DC 20005, (202) 724-1545, (202) 724-7678 (TDD).

List of Subjects in 1 CFR Part 500

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 500 is added as set forth at the end of this document.

PART 500—ENFORCEMENT OF NONDISCRIMINATION ON THE BASIS OF HANDICAP IN PROGRAMS OR ACTIVITIES CONDUCTED BY THE NATIONAL COMMISSION FOR EMPLOYMENT POLICY

Sec.

- 500.101 Purpose.
 500.102 Application.
 500.103 Definitions.
 500.104-500.109 [Reserved]
 500.110 Self-evaluation.
 500.111 Notice.
 500.112-500.129 [Reserved]
 500.130 General prohibitions against discrimination.
 500.131-500.139 [Reserved]
 500.140 Employment.
 500.141-500.148 [Reserved]
 500.149 Program accessibility: Discrimination prohibited.
 500.150 Program accessibility: Existing facilities.
 500.151 Program accessibility: New construction and alterations.
 500.152-500.159 [Reserved]
 500.160 Communications.
 500.161-500.169 [Reserved]
 500.170 Compliance procedures.
 500.171-50.999 [Reserved]

Authority: 29 U.S.C. 794.

2. Part 500 is further amended by revising paragraph (c) in § 500.170 to read as follows:

§ 500.170 Compliance procedures.

* * * * *

(c) The Director shall be responsible for coordinating implementation of this section. Complaints may be sent to Director, National Commission for Employment Policy, Suite 300, 1522 K Street NW., Washington, DC 20005.

* * * * *

Carol J. Romero,

Acting Director, National Commission for Employment Policy.

NUCLEAR REGULATORY COMMISSION

10 CFR Part 4

FOR FURTHER INFORMATION CONTACT:

Mr. Edward E. Tucker, Office of Small and Disadvantaged Business Utilization/Civil Rights, U.S. Nuclear Regulatory Commission, Washington, DC 20555, (301) 492-7697, (202) 724-7678 (TDD).

List of Subjects in 10 CFR Part 4

Administrative practice and procedure, Blind, Civil rights, Deaf, Disabled, Discrimination against handicapped, Equal employment opportunity, Federal aid program, Federal buildings and facilities, Handicapped, Nondiscrimination,

Physically handicapped, Reporting and recordkeeping requirements.

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

PART 4—NONDISCRIMINATION IN FEDERALLY ASSISTED COMMISSION PROGRAMS

1. The authority citation for Part 4 is revised to read as follows:

Authority: Sec. 161, 68 Stat. 948, as amended (42 U.S.C. 2201); sec. 274, 73 Stat. 688, as amended (42 U.S.C. 2021); sec. 201, 88 Stat. 1242, as amended (42 U.S.C. 5841); sec. 207, Pub. L. 95-604, 92 Stat. 3033.

Subpart A also issued under secs. 602-605, Pub. L. 88-352, 78 Stat. 252, 253 (42 U.S.C. 2000d-1-2000d-4); sec. 401, 88 Stat. 1254 (42 U.S.C. 5891). Subpart B also issued under sec. 504, Pub. L. 93-112, 87 Stat. 394 (29 U.S.C. 706); sec. 119, Pub. L. 95-602, 92 Stat. 2904 (29 U.S.C. 794); sec. 122, Pub. L. 95-602, 92 Stat. 2984 (29 U.S.C. 706(e)). Subpart E also issued under 29 U.S.C. 794.

2. Subpart E is added to 10 CFR Part 4 to read as set forth at the end of this document.

Subpart E—Enforcement of Nondiscrimination on the Basis of Handicap in Programs or Activities Conducted by the U.S. Nuclear Regulatory Commission

Sec.

- 4.501 (—101) Purpose.
 4.502 (—102) Application.
 4.504 (—103) Definitions.
 4.504 (—104) to 4.509 (—109) [Reserved]
 4.510 (—110) Self-evaluation.
 4.511 (—111) Notice.
 4.512 (—112) to 4.529 (—129) [Reserved].
 4.530 (—130) General prohibitions against discrimination.
 4.531 (—131) to 4.539 (—139) [Reserved]
 4.540 (—140) Employment.
 4.541 (—141) to 4.548 (—148) [Reserved]
 4.549 (—149) Program accessibility: Discrimination prohibited.
 4.550 (—150) Program accessibility: Existing facilities.
 4.551 (—151) Program accessibility: New construction and alterations.
 4.552 (—152) to 4.559 (—159) [Reserved]
 4.560 (—160) Communications.
 4.561 (—161) to 4.569 (—169) [Reserved]
 4.570 (—170) Compliance procedures.
 4.571 (—171) to 4.999 (—999) [Reserved]

3. In § 4.570, paragraph (c) is revised to read as follows:

§ 4.570 Compliance procedures.

* * * * *

(c) The Civil Rights Program Manager, Office of Small and Disadvantaged Business Utilization/Civil Rights, shall be responsible for coordinating implementation of this section. Complaints may be sent to Nuclear

Regulatory Commission, Washington, DC 20555.

Victor Stello, Jr.,
Executive Director for Operations.

NATIONAL CREDIT UNION ADMINISTRATION

12 CFR Part 794

FOR FURTHER INFORMATION CONTACT:

Mr. Benny R. Henson, 1776 G Street, NW., Washington, DC 20456, (202) 357-1055, (202) 357-1050 (TDD).

List of Subjects in 12 CFR Part 794

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 794 is added as set forth at the end of this document.

PART 794—ENFORCEMENT OF NONDISCRIMINATION ON THE BASIS OF HANDICAP IN PROGRAMS OR ACTIVITIES CONDUCTED BY THE NATIONAL CREDIT UNION ADMINISTRATION

- Sec.
- 794.101 Purpose.
 - 794.102 Application.
 - 794.103 Definitions.
 - 794.104-794.109 [Reserved]
 - 794.110 Self-evaluation.
 - 794.111 Notice.
 - 794.112-794.129 [Reserved]
 - 794.130 General prohibitions against discrimination.
 - 794.131-794.139 [Reserved]
 - 794.140 Employment.
 - 794.141-794.148 [Reserved]
 - 794.149 Program accessibility: Discrimination prohibited.
 - 794.150 Program accessibility: Existing facilities.
 - 794.151 Program accessibility: New construction and alterations.
 - 794.152-794.159 [Reserved]
 - 794.160 Communications.
 - 794.161-794.169 [Reserved]
 - 794.170 Compliance procedures.
 - 794.171-794.999 [Reserved]

Authority: 29 U.S.C. 794.

2. Part 794 is further amended by revising paragraph (c) in § 794.170 to read as follows:

§ 794.170 Compliance procedures.

(c) The Director, Administrative Office, shall be responsible for coordinating implementation of this section. Complaints may be sent to

NCUA, 1776 G Street NW., Room 7261, Washington, DC 20456.

Rosemary Brady,
Secretary of the Board.

COMMODITY FUTURES TRADING COMMISSION

17 CFR Part 149

FOR FURTHER INFORMATION CONTACT:

Frank H. Alston, III, Equal Employment Opportunity Officer, Commodity Futures Trading Commission, 2033 K Street NW., Room 202, Washington, DC 20581, (202) 254-3275 (Voice) or (202) 724-7678 (TDD).

List of Subjects in 17 CFR Part 149

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

Title 17 of the Code of Federal Regulations is amended as follows:

1. Part 149 is added as set forth at the end of this document.

PART 149—ENFORCEMENT OF NONDISCRIMINATION ON THE BASIS OF HANDICAP IN PROGRAMS OR ACTIVITIES CONDUCTED BY THE COMMODITY FUTURES TRADING COMMISSION

- Sec.
- 149.101 Purpose.
 - 149.102 Application.
 - 149.103 Definitions.
 - 149.104-149.109 [Reserved]
 - 149.110 Self-evaluation.
 - 149.111 Notice.
 - 149.112-149.129 [Reserved]
 - 149.130 General prohibitions against discrimination.
 - 149.131-149.139 [Reserved]
 - 149.140 Employment.
 - 149.141-149.148 [Reserved]
 - 149.149 Program accessibility: Discrimination prohibited.
 - 149.150 Program accessibility: Existing facilities.
 - 149.151 Program accessibility: New construction and alterations.
 - 149.152-149.159 [Reserved]
 - 149.160 Communications.
 - 149.161-149.169 [Reserved]
 - 149.170 Compliance procedures.
 - 149.171-149.999 [Reserved]

Authority: 29 U.S.C. 794.

2. Part 149 is further amended by revising paragraph (c) in § 149.170 to read as follows:

§ 149.170 Compliance procedures.

(c) The Executive Director of the Commission shall be responsible for coordinating implementation of this section. Complaints may be sent to the Equal Employment Opportunity Officer, Commodity Futures Trading Commission, 2033 K Street NW., Room 202, Washington, DC 20581.

Jean Webb,
Secretary of the Commission.

TENNESSEE VALLEY AUTHORITY

18 CFR Part 1313

FOR FURTHER INFORMATION CONTACT:

William L. Osteen, Jr., Associate General Counsel, Tennessee Valley Authority, E11 B37, 400 West Summit Hill Drive, Knoxville, Tennessee 37902, (615) 632-4142 (Voice), (615) 632-3461 (TDD).

List of Subjects in 18 CFR Part 1313

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

Title 18 of the Code of Federal Regulations is amended as follows:

1. Part 1313 is added as set forth at the end of this document.

PART 1313—ENFORCEMENT OF NONDISCRIMINATION ON THE BASIS OF HANDICAP IN PROGRAMS OR ACTIVITIES CONDUCTED BY THE TENNESSEE VALLEY AUTHORITY

- Sec.
- 1313.101 Purpose.
 - 1313.102 Application.
 - 1313.103 Definitions.
 - 1313.104-1313.109 [Reserved]
 - 1313.110 Self-evaluation.
 - 1313.111 Notice.
 - 1313.112-1313.129 [Reserved]
 - 1313.140 Employment.
 - 1313.141-1313.148 [Reserved]
 - 1313.149 Program accessibility: Discrimination prohibited.
 - 1313.150 Program accessibility: Existing facilities.
 - 1313.151 Program accessibility: New construction and alterations.
 - 1313.152-1313.159 [Reserved]
 - 1313.160 Communications.
 - 1313.161-1313.169 [Reserved]
 - 1313.170 Compliance procedures.
 - 1313.171-1313.999 [Reserved]

Authority: 29 U.S.C. 794; 16 U.S.C. 831-831dd.

2. Part 1313 is further amended by revising paragraph (c) in § 1313.170 to read as follows:

§ 1313.170 Compliance procedures.

(c) The Supervisor, Contracting and Community Assistance, shall be responsible for coordinating implementation of this section. Complaints may be sent to Supervisor, Contracting and Community Assistance, Tennessee Valley Authority, E5 B30, 400 West Summit Hill Drive, Knoxville, Tennessee 37902.

William F. Willis,
General Manager.

DEPARTMENT OF STATE**22 CFR Part 144****FOR FURTHER INFORMATION CONTACT:**

Paul M. Coran, Attorney Adviser, Office of the Assistant Legal Adviser for Management, Department of State, Room 4427A N.S., Washington, DC 20520, (202) 647-4446 (Voice) or (202) 647-8996 (TDD).

List of Subjects in 22 CFR Part 144

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 144 is added as set forth at the end of this document.

PART 144—ENFORCEMENT OF NONDISCRIMINATION ON THE BASIS OF HANDICAP IN PROGRAMS OR ACTIVITIES CONDUCTED BY THE UNITED STATES DEPARTMENT OF STATE

Sec.

- 144.101 Purpose.
- 144.102 Application.
- 144.103 Definitions.
- 144.104-144.109 [Reserved]
- 144.110 Self-evaluation.
- 144.111 Notice.
- 144.112-144.129 [Reserved]
- 144.130 General prohibitions against discrimination.
- 144.131-144.139 [Reserved]
- 144.140 Employment.
- 144.141-144.148 [Reserved]
- 144.149 Program accessibility: Discrimination prohibited.
- 144.150 Program accessibility: Existing facilities.
- 144.151 Program accessibility: New construction and alterations.
- 144.152-144.159 [Reserved]
- 144.160 Communications.
- 144.161-144.169 [Reserved]
- 144.170 Compliance procedures.
- 144.171-144.999 [Reserved]

Authority: 29 U.S.C. 794.

2. Part 144 is further amended by revising paragraph (c) in § 144.170 to read as follows:

§ 144.170 Compliance procedures.

(c) The Deputy Assistant Secretary for Equal Employment Opportunity and Civil Rights shall be responsible for coordinating implementation of this section. Complaints may be sent to Deputy Assistant Secretary for Equal Employment Opportunity and Civil Rights, Department of State, 2201 C Street, NW., Room 3214, Washington, DC 20520.

Dated: May 15, 1986.

Kenneth Hunter,

Acting Associate Director for Personnel,
Handicap Program Coordinator, Department
of State.

UNITED STATES INFORMATION AGENCY

22 CFR Part 530**FOR FURTHER INFORMATION CONTACT:**

Helen Murphy, Handicap Program Manager, U.S. Information Agency, 301 4th Street SW., Washington, DC 20547, Telephone: Voice/TTY: (202) 485-7157.

List of Subjects in 22 CFR Part 530

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 530 is added as set forth at the end of this document.

PART 530—ENFORCEMENT OF NONDISCRIMINATION ON THE BASIS OF HANDICAP IN PROGRAMS OR ACTIVITIES CONDUCTED BY THE UNITED STATES INFORMATION AGENCY

Sec.

- 530.101 Purpose.
- 530.102 Application.
- 530.103 Definitions.
- 530.104-530.109 [Reserved]
- 530.110 Self-evaluation.
- 530.111 Notice.
- 530.112-530.129 [Reserved]
- 530.130 General prohibitions against discrimination.
- 530.131-530.139 [Reserved]
- 530.140 Employment.
- 530.141-530.148 [Reserved]
- 530.149 Program accessibility: Discrimination prohibited.

Sec.

- 530.150 Program accessibility: Existing facilities.
- 530.151 Program accessibility: New construction and alterations.
- 530.152-530.159 [Reserved]
- 530.160 Communications.
- 530.161-530.169 [Reserved]
- 530.170 Compliance procedures.
- 530.171-530.999 [Reserved]

Authority: 29 U.S.C. 794.

2. Part 530 is further amended by revising paragraph (c) in § 530.170 to read as follows:

§ 530.170 Compliance procedures.

(c) The Director, Office of Equal Employment Opportunity and Civil Rights, shall be responsible for coordinating implementation of this section. Complaints may be sent to Director, Office of Equal Employment Opportunity and Civil Rights, United States Information Agency, 301 4th Street NW., Washington, DC 20547.

Woodward Kingman,

Associate Director, Bureau of Management.

INTER-AMERICAN FOUNDATION**22 CFR Part 1005****FOR FURTHER INFORMATION CONTACT:**

Adolfo A. Franco Associate General Counsel, Inter-American Foundation, 151 Wilson Blvd., Rosslyn, VA 22209, Telephone: (703) 841-3894, TDD: (202) 724-7678.

List of Subjects in 22 CFR Part 1005

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 1005 is added as set forth at the end of this document.

PART 1005—ENFORCEMENT OF NONDISCRIMINATION ON THE BASIS OF HANDICAP IN PROGRAMS OR ACTIVITIES CONDUCTED BY THE INTER-AMERICAN FOUNDATION

Sec.

- 1005.101 Purpose.
- 1005.102 Application.
- 1005.103 Definitions.
- 1005.104-1005.109 [Reserved]
- 1005.110 Self-evaluation.
- 1005.111 Notice.
- 1005.112-1005.129 [Reserved]
- 1005.130 General prohibitions against discrimination.

- Sec.
1005.131-1005.139 [Reserved]
1005.140 Employment.
1005.141-1005.148 [Reserved]
1005.149 Program accessibility:
Discrimination prohibited.
1005.150 Program accessibility: Existing
facilities.
1005.151 Program accessibility: New
construction and alterations.
1005.152-1005.159 [Reserved]
1005.160 Communications.
1005.161-1005.169 [Reserved]
1005.170 Compliance procedures.
1005.171-1005.999 [Reserved]

Authority: 29 U.S.C. 794.

2. Part 1005 is further amended by
revising paragraph (c) in § 1005.170 to
read as follows:

§ 1005.170 Compliance procedures.

(c) The General Counsel, Inter-
American Foundation, shall be
responsible for coordinating
implementation of this section.
Complaints may be sent to General
Counsel, Inter-American Foundation,
1515 Wilson Boulevard, Rosslyn,
Virginia 22209.

Charles M. Berk,
General Counsel.

JAPAN-UNITED STATES FRIENDSHIP COMMISSION

22 CFR Part 1600

FOR FURTHER INFORMATION CONTACT:
Roberta Stewart, 1200 Pennsylvania
Avenue NW., Suite 3416, Washington,
DC 20004. Telephone: (202) 275-7712
(TDD) (202) 724-6768.

List of Subjects in 22 CFR Part 1600

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 1600 is added as set forth at the
end of this document.

PART 1600—ENFORCEMENT OF NONDISCRIMINATION ON THE BASIS OF HANDICAP IN PROGRAMS OR ACTIVITIES CONDUCTED BY THE JAPAN-UNITED STATES FRIENDSHIP COMMISSION

- Sec.
1600.101 Purpose.
1600.102 Application.
1600.103 Definitions.
1600.104-1600.109 [Reserved]

- Sec.
1600.110 Self-evaluation.
1600.111 Notice.
1600.112-1600.129 [Reserved]
1600.130 General prohibitions against
discrimination.
1600.131-1600.139 [Reserved]
1600.140 Employment.
1600.141-1600.148 [Reserved]
1600.149 Program accessibility:
Discrimination prohibited.
1600.150 Program accessibility: Existing
facilities.
1600.151 Program accessibility: New
construction and alterations.
1600.152-1600.159 [Reserved]
1600.160 Communications.
1600.161-1600.169 [Reserved]
1600.170 Compliance procedures.
1600.171-1600.999 [Reserved]

Authority: 29 U.S.C. 794.

2. Part 1600 is further amended by
revising paragraph (c) in § 1600.170 to
read as follows:

§ 1600.170 Compliance procedures.

(c) The Executive Director, Japan-U.S.
Friendship Commission, shall be
responsible for coordinating
implementation of this section.
Complaints may be sent to Executive
Director, Japan-U.S. Friendship
Commission, 1200 Pennsylvania Avenue,
NW., Washington, DC 20004.

Lindley S. Sloan,
Executive Director.

NAVAJO AND HOPI INDIAN RELOCATION COMMISSION

25 CFR Part 720

FOR FURTHER INFORMATION CONTACT:
Paul Tessler, CFR Liaison Officer,
Navajo and Hopi Indian Relocation
Commission, P.O. Box KK, Flagstaff,
Arizona, 86002. Telephone (602) 779-
2721 (Voice) or (202) 724-6768 (TDD).

SUPPLEMENTARY INFORMATION: Because
the majority of agencies participating in
this joint publication do not conduct
housing programs, the jointly published
regulation does not include a provision
specifically applicable to such programs.
The Navajo and Hopi Indian Relocation
Commission does, however, conduct a
housing program and therefore its
regulation must include guidance on
how its requirements affect such
programs. When the Commission
participated in the publication of the
proposed rule, it therefore also proposed
amending §§ 720.150 and 720.151 of the
proposed rule by adding new
paragraphs (e) and (b), respectively,
requiring that any home provided by the
agency must be readily accessible to

and usable by any handicapped person
who is a member of the household for
which the home is being acquired or
constructed. No comments were
received on this proposal and it is
included in this final rule without
change.

List of Subjects in 25 CFR Part 720

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

Title 25 of the Code of Federal
Regulations is amended as follows:

1. Part 720 is added as set forth at the
end of this document.

PART 720—ENFORCEMENT OF NONDISCRIMINATION ON THE BASIS OF HANDICAP IN PROGRAMS OR ACTIVITIES CONDUCTED BY THE NAVAJO AND HOPI INDIAN RELOCATION COMMISSION

- Sec.
720.101 Purpose.
720.102 Application.
720.103 Definitions.
720.104-720.109 [Reserved]
720.110 Self-evaluation.
720.111 Notice.
720.112-720.129 [Reserved]
720.130 General prohibitions against
discrimination.
720.131-720.139 [Reserved]
720.140 Employment.
720.141-720.148 [Reserved]
720.149 Program accessibility:
Discrimination prohibited.
720.150 Program accessibility: Existing
facilities.
720.151 Program accessibility: New
construction and alterations.
720.152-720.159 [Reserved]
720.160 Communications.
720.161-720.169 [Reserved]
720.170 Compliance procedures.
720.171-720.999 [Reserved]

Authority: 29 U.S.C. 794.

2. Part 720 is further amended by
revising paragraph (c) in § 720.170 to
read as follows:

§ 720.170 Compliance procedures.

(c) The Assistant Director for
Relocation Operations shall be
responsible for coordinating
implementation of this section.
Complaints may be mailed to Assistant
Director for Relocation Operations,
Navajo and Hopi Indian Relocation
Commission, P.O. Box KK, Flagstaff,
Arizona 86002.

3. In § 720.150, paragraph (e) is added to read as follows:

§ 720.150 Program accessibility: Existing facilities.

(e) *Housing.* The agency shall ensure that any dwelling purchased for a relocatee household is readily accessible to and usable by any handicapped person who is a member of that household.

4. Section 720.151 is amended by designating the existing text as paragraph (a) and adding a new paragraph (b) to read as follows:

§ 720.151 Program accessibility: New construction and alterations

(b) The agency shall ensure that any dwelling that is constructed for a relocatee household is designed and constructed so as to be readily accessible to and usable by any handicapped person who is a member of that household.

Ralph Watkins,
Chairman.

OCCUPATIONAL SAFETY AND HEALTH REVIEW COMMISSION

29 CFR Part 2205

FOR FURTHER INFORMATION CONTACT: Jim Streeter, Special Counsel, OSHRC, 1825 K Street NW., Washington, DC 20006 (202) 634-7920, (TDD) messages: (202) 724-7678.

List of Subjects in 29 CFR Part 2205

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

Title 29 of the Code of Federal Regulations is amended as follows:

PART 2205—ENFORCEMENT OF NONDISCRIMINATION ON THE BASIS OF HANDICAP IN PROGRAMS OR ACTIVITIES CONDUCTED BY THE OCCUPATIONAL SAFETY AND HEALTH REVIEW COMMISSION

Sec.
2205.101 Purpose.
2205.102 Application.
2205.103 Definitions.
2205.104–2205.109 [Reserved]
2205.110 Self-evaluation.
2205.111 Notice.
2205.112–2205.129 [Reserved]

Sec.
2205.130 General prohibitions against discrimination.

2205.131–2205.139 [Reserved]

2205.140 Employment.

2205.141–2205.148 [Reserved]

2205.149 Program accessibility:

Discrimination prohibited.

2205.150 Program accessibility: Existing facilities.

2205.151 Program accessibility: New construction and alterations.

2205.152–2205.159 [Reserved]

2205.160 Communications.

2205.161–2205.169 [Reserved]

2205.170 Compliance procedures.

2205.171–2205.999 [Reserved]

Authority: 29 U.S.C. 794.

2. Part 2205 is further amended by revising paragraph (c) in § 2205.170 to read as follows:

§ 2205.170 Compliance procedures.

(c) The Executive Director shall be responsible for coordinating implementation of this section. Complaints may be sent to Executive Director, Occupational Safety and Health Review Commission, 1825 K Street NW., Washington, DC 20006

Paul M. Lyons,
Executive Director.
May 23, 1986.

PENSION BENEFIT GUARANTY CORPORATION

29 CFR Part 2608

FOR FURTHER INFORMATION CONTACT: Philip Hertz, Legal Department, Pension Benefit Guaranty Corporation (Code 22500), 2020 K Street, NW., Washington, DC 20006, (202) 956-5021, Persons with hearing impairments can obtain further information by calling our telecommunication devices for the deaf (TTY) at (202) 956-5069.

List of Subjects in 29 CFR Part 2608

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

Title 29 of the Code of Federal Regulations is amended as follows:
1. Part 2608 is added as set forth at the end of this document.

PART 2608—ENFORCEMENT OF NONDISCRIMINATION ON THE BASIS OF HANDICAP IN PROGRAMS OR ACTIVITIES CONDUCTED BY THE PENSION BENEFIT GUARANTY CORPORATION

Sec.
2608.101 Purpose.
2608.102 Application.
2608.103 Definitions.
2608.104–2608.109 [Reserved]
2608.110 Self-evaluation.
2608.111 Notice.
2608.112–2608.129 [Reserved]
2608.130 General prohibitions against discrimination.
2608.131–2608.139 [Reserved]
2608.140 Employment.
2608.141–2608.148 [Reserved]
2608.149 Program accessibility: Discrimination prohibited.
2608.150 Program accessibility: Existing facilities.
2608.151 Program accessibility: New construction and alterations.
2608.152–2608.159 [Reserved]
2608.160 Communications.
2608.161–2608.169 [Reserved]
2608.170 Compliance procedures.
2608.171–2608-999 [Reserved]

Authority: 29 U.S.C. 794.

2. Part 2608 is further amended by revising paragraph (c) in § 2608.170 to read as follows:

§ 2608.170 Compliance procedures.

(c) The Equal Opportunity Manager shall be responsible for coordinating implementation of this section. Complaints may be sent to Pension Benefit Guaranty Corporation, 2020 K Street NW., Room 3700-A, Washington, DC 20006.

Kathleen Utgoff,
Executive Director, Pension Benefit Guaranty Corporation.

FEDERAL MINE SAFETY AND HEALTH REVIEW COMMISSION

29 CFR Part 2706

FOR FURTHER INFORMATION CONTACT: L. Joseph Ferrara, Acting General Counsel, (202) 653-5610 or TDD (202) 724-7678, Federal Mine Safety and Health Review Commission, Suite 600, 1730 K St., NW., Washington, DC 20006.

SUPPLEMENTARY INFORMATION: The Federal Mine Safety and Health Review Commission did not participate in the joint publication on August 28, 1984. Instead, it separately published a Notice of Proposed Rulemaking on September 27, 1984, 49 FR 38222. The proposed rule, however, was the same as that

published jointly by the other 21 agencies, and the Commission has decided to adopt the same final rule as the agencies participating in this publication. It is, therefore, joining those agencies in jointly publishing this final rule.

The Federal Mine Safety and Health Review Commission conducts all adjudicative proceedings and hearings required by the Federal Mine Safety and Health Act of 1977, as amended (30 U.S.C. 801-825). When determining where hearings will be held, the Commission must consider both the convenience of the public or parties to a proceeding, and the extent to which delay or expense can be minimized. (30 U.S.C. 823(a) and the regulation promulgated thereunder, 29 CFR 2700.51.) This usually means that hearings are conducted in relatively rural areas at sites near the mining operation involved. With respect to hearings held at such locations, we will, of course, attempt to locate accessible facilities. Often, however, it is impossible to locate accessible facilities near the mining operation. In these instances, the Commission will include in the announcement of any hearing a notice that persons desiring to attend should inform the agency in advance of any accessibility features they may require. This announcement will be sent to parties who will attend the hearing, their representatives, and witnesses. Because the Commission's hearings are open to the public, the Commission will also notify the general public in the area where the hearing will be held, using the available media outlets in the rural area. If the Commission receives a request for an accessible hearing site in response to this announcement, the Commission will move the hearing to an accessible hearing site, even though this site is farther from the mining operation.

The notice will also ask handicapped persons to inform the agency of any auxiliary aids, such as sign language interpreters, that may be necessary. Thus, the Commission will, subject only to the limitations of § 2706.150(a)(3) and § 2706.160(d), ensure access for any handicapped person that gives reasonable advance notice or that we know will attend the hearing as a party, party's representative, or a witness.

List of Subjects in 29 CFR Part 2706

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

Title 29 of the Code of Federal Regulations is amended as follows:

1. Part 2706 is added as set forth at the end of this document.

PART 2706—ENFORCEMENT OF NONDISCRIMINATION ON THE BASIS OF HANDICAP IN PROGRAMS OR ACTIVITIES CONDUCTED BY THE FEDERAL MINE SAFETY AND HEALTH REVIEW COMMISSION

Sec.

- 2706.101 Purpose.
- 2706.102 Application.
- 2706.103 Definitions.
- 2706.104-2706.109 [Reserved]
- 2706.110 Self-evaluation.
- 2706.111 Notice.
- 2706.112-2706.129 [Reserved]
- 2706.130 General prohibitions against discrimination.
- 2706.131-2706.139 [Reserved]
- 2706.140 Employment.
- 2706.141-2706.148 [Reserved]
- 2706.149 Program accessibility: Discrimination prohibited.
- 2706.150 Program accessibility: Existing facilities.
- 2706.151 Program accessibility: New construction and alterations.
- 2706.152-2706.159 [Reserved]
- 2706.160 Communications.
- 2706.161-2706.169 [Reserved]
- 2706.170 Compliance procedures.
- 2706.171-2706.999 [Reserved]

Authority: 29 U.S.C. 794.

2. Part 2706 is further amended by revising paragraph (c) in § 2706.170 to read as follows:

§ 2706.170 Compliance procedures.

(c) The General Counsel shall be responsible for coordinating implementation of this section. Complaints may be sent to General Counsel, Federal Mine Safety and Health Review Commission, 1730 K Street NW., Suite 600, Washington, DC 20001.

Ford B. Ford,
Chairman.

ADVISORY COUNCIL ON HISTORIC PRESERVATION

36 CFR Part 812

FOR FURTHER INFORMATION CONTACT:
Charlotte R. Bell, Associate General Counsel, Advisory Council on Historic Preservation, 1100 Pennsylvania Avenue, NW., #809, Washington, DC 20004. Telephone number (202) 786-0503. TDD Telephone number (202) 724-7678.

List of Subjects in 1 CFR Part 812

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 812 is added as set forth at the end of this document.

PART 812—ENFORCEMENT OF NONDISCRIMINATION ON THE BASIS OF HANDICAP IN PROGRAMS OR ACTIVITIES CONDUCTED BY THE ADVISORY COUNCIL ON HISTORIC PRESERVATION

Sec.

- 812.101 Purpose.
- 812.102 Application.
- 812.103 Definitions.
- 812.104-812.109 [Reserved]
- 812.110 Self-evaluation.
- 812.111 Notice.
- 812.112-812.129 [Reserved]
- 812.130 General prohibitions against discrimination.
- 812.131-812.139 [Reserved]
- 812.140 Employment.
- 812.141-812.148 [Reserved]
- 812.149 Program accessibility: Discrimination prohibited.
- 812.150 Program accessibility: Existing facilities.
- 812.151 Program accessibility: New construction and alterations.
- 812.152-812.159 [Reserved]
- 812.160 Communications.
- 812.161-812.169 [Reserved]
- 812.170 Compliance procedures.
- 812.171-812.999 [Reserved]

Authority: 29 U.S.C. 794.

2. Part 812 is further amended by revising paragraph (c) in § 812.170 to read as follows:

§ 812.170 Compliance procedures.

(c) The General Counsel shall be responsible for coordinating implementation of this section. Complaints may be sent to the General Counsel, Advisory Council on Historic Preservation, 1100 Pennsylvania Avenue, NW., Washington, DC 20004.

John M. Fowler,
Acting Executive Director.

PENNSYLVANIA AVENUE DEVELOPMENT CORPORATION

36 CFR Part 909

FOR FURTHER INFORMATION CONTACT:
James A. Alexander, Pennsylvania

Avenue Development Corporation, 1331 Pennsylvania Avenue, NW., Suite 1220 North, Washington, DC 20004-1703, Telephone: (202) 724-9088 or (202) 724-7678 (TDD).

List of Subjects in 36 CFR Part 909

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 909 is added as set forth at the end of this document.

PART 909—ENFORCEMENT OF NONDISCRIMINATION ON THE BASIS OF HANDICAP IN PROGRAMS OR ACTIVITIES CONDUCTED BY THE PENNSYLVANIA AVENUE DEVELOPMENT CORPORATION

- Sec.
- 909.101 Purpose.
 - 909.102 Application.
 - 909.103 Definitions.
 - 909.104-909.109 [Reserved]
 - 909.110 Self-evaluation.
 - 909.111 Notice.
 - 909.112-909.129 [Reserved]
 - 909.130 General prohibitions against discrimination.
 - 909.131-909.139 [Reserved]
 - 909.140 Employment.
 - 909.141-909.148 [Reserved]
 - 909.149 Program accessibility: Discrimination prohibited.
 - 909.150 Program accessibility: Existing facilities.
 - 909.151 Program accessibility: New construction and alterations.
 - 909.152-909.159 [Reserved]
 - 909.160 Communications.
 - 909.161-909.169 [Reserved]
 - 909.170 Compliance procedures.
 - 909.171-909.999 [Reserved]

Authority: 29 U.S.C. 794.

2. Part 909 is further amended by revising paragraph (c) in § 909.170 to read as follows:

§ 909.170 Compliance procedures.

(c) The Executive Director shall be responsible for coordinating implementation of this section. Complaints may be sent to the General Counsel, Pennsylvania Avenue Development Corporation, 1331

Pennsylvania Avenue, NW., Suite 1220 North, Washington, DC 20004-1730.

M.J. Brodie,
Executive Director.

COMMITTEE FOR PURCHASE FROM THE BLIND AND OTHER SEVERELY HANDICAPPED

41 CFR Part 51-9

FOR FURTHER INFORMATION CONTACT:

C.W. Fletcher, Executive Director, Committee for Purchase from the Blind and Other Severely Handicapped, Suite 1107, 1755 Jefferson Davis Highway, Arlington, Virginia 22202-3509, Telephone: (703) 557-1145, TDD (202) 724-7678.

SUPPLEMENTARY INFORMATION: Pursuant to the Javits-Wagner-O'Day Act, 41 U.S.C. 47(c) (1982), the Committee for Purchase from the Blind and Other Severely Handicapped (Committee) has designated two central nonprofit agencies, National Industries for the Blind, and National Industries for the Severely Handicapped, Inc., to facilitate the distribution of orders of the Government for commodities and services to be procured pursuant to the Act. The National Federation of the Blind has submitted a comment requesting clarification of whether the central nonprofit agencies are federally conducted or federally assisted programs.

The central nonprofit agencies assist the Committee in carrying out its program. They are charged with making recommendations to the Committee regarding workshop qualifications, price changes based on market conditions, and additions to the Procurement List and with distributing equitably the orders of the Government among their participating workshops, 41 CFR 51-3.2 (1984). Thus, section 504 for federally conducted programs prohibits the Committee from allowing the central nonprofit agencies to discriminate in representing their participating workshops to the Committee or in distributing the orders of the Government on behalf of the Committee among their participating workshops, but does not reach the activities of the workshops. The central nonprofit agencies themselves are neither recipients of Federal financial assistance nor federally conducted activities by virtue of their relationship with the Committee. The central nonprofit agencies may be subject to

section 503 of the Rehabilitation Act of 1973, as amended, to the extent that the central nonprofit agencies enter into a procurement contract with Federal agencies, 41 CFR 51-3.2(i).

List of Subjects in 41 CFR Part 51-9

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

Title 41 of the Code of Federal Regulations is amended as follows:

1. Part 51-9 is added as set forth at the end of this document.

PART 51-9—ENFORCEMENT OF NONDISCRIMINATION ON THE BASIS OF HANDICAP IN PROGRAMS OR ACTIVITIES CONDUCTED BY THE COMMITTEE FOR PURCHASE FROM THE BLIND AND OTHER SEVERELY HANDICAPPED

- Sec.
- 51-9.101 Purpose.
 - 51-9.102 Application.
 - 51-9.103 Definitions.
 - 51-9.104-51-9.109 [Reserved]
 - 51-9.110 Self-evaluation.
 - 51-9.111 Notice.
 - 51-9.112-51-9.129 [Reserved]
 - 51-9.130 General prohibitions against discrimination.
 - 51-9.131-51-9.139 [Reserved]
 - 51-9.140 Employment.
 - 51-9.141-51-9.148 [Reserved]
 - 51-9.149 Program accessibility: Discrimination prohibited.
 - 51-9.150 Program accessibility: Existing facilities.
 - 51-9.151 Program accessibility: New construction and alterations.
 - 51-9.152-51-9.159 [Reserved]
 - 51-9.160 Communications.
 - 51-9.161-51-9.169 [Reserved]
 - 51-9.170 Compliance procedures.
 - 51-9.171-51-9.999 [Reserved]

Authority: 29 U.S.C. 794.

2. Part 51-9 is further amended by revising paragraph (c) in § 51-9.170 to read as follows:

§ 51-9.170 Compliance procedures.

(c) The Executive Director shall be responsible for coordinating the implementation of this section. Complaints may be sent to the Executive Director, Committee for Purchase from the Blind and Other Severely Handicapped, Suite 1107, 1755

Jefferson Davis Highway, Arlington,
Virginia 22202-3509.

C.W. Fletcher,
Executive Director.

NATIONAL FOUNDATION ON THE ARTS AND THE HUMANITIES

45 CFR Part 1153

FOR FURTHER INFORMATION CONTACT:

Paula Terry, Office of Special
Constituencies, National Endowment for
the Arts, 1100 Pennsylvania Avenue
NW., Washington, DC 20506, (202) 682-
5532, TTY Number: (202) 682-5496.

SUPPLEMENTARY INFORMATION:

Section 1153.130 General Prohibitions Against Discrimination.

Paragraph (b): The following is an
additional, NEA-specific example of
permissible use of an irrebuttable
presumption.

It would be permissible, therefore, to
exclude without an individual
evaluation all persons who are totally
blind from eligibility to serve on a panel
that screens slides of artwork; however,
deaf individuals would be eligible to
serve on the same panel.

No comments were received on this
example.

List of Subjects in 45 CFR Part 1153

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 1153 is added as set forth at the
end of this document.

PART 1153—ENFORCEMENT OF NONDISCRIMINATION ON THE BASIS OF HANDICAP IN PROGRAMS OR ACTIVITIES CONDUCTED BY THE NATIONAL ENDOWMENT FOR THE ARTS

Sec.

- 1153.101 Purpose.
- 1153.102 Application.
- 1153.103 Definitions.
- 1153.104-1153.109 [Reserved]
- 1153.110 Self-evaluation.
- 1153.111 Notice.
- 1153.112-1153.129 [Reserved]
- 1153.130 General prohibitions against
discrimination.
- 1153.131-1153.139 [Reserved]
- 1153.140 Employment.
- 1153.141-1153.148 [Reserved]
- 1153.149 Program accessibility:
Discrimination prohibited.

Sec.

- 1153.150 Program accessibility: Existing
facilities.
- 1153.151 Program accessibility: New
construction and alterations.
- 1153.152-1153.159 [Reserved]
- 1153.160 Communications.
- 1153.161-1153.169 [Reserved]
- 1153.170 Compliance procedures.
- 1153.171-1153.999 [Reserved]

Authority: 29 U.S.C. 794.

2. Part 1153 is further amended by
revising paragraph (c) in § 1153.170 to
read as follows:

§ 1153.170 Compliance procedures.

(c) The Director, Office for Civil
Rights, shall be responsible for
coordinating implementation of this
section. Complaints may be sent to the
Office of General Counsel, National
Endowment for the Arts, 1100
Pennsylvania Avenue NW., Washington,
DC 20506.

F.S.M. Hodson,

Chairman, National Endowment for the Arts.

COMMISSION OF FINE ARTS

45 CFR Part 2104

FOR FURTHER INFORMATION CONTACT:

Charles H. Atherton, Secretary,
Commission of Fine Arts, 708 Jackson
Place, NW., Washington, DC 20006, (202)
566-1066 (Voice), (202) 724-7678 (TDD).

List of Subjects in 45 CFR Part 2104

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 2104 is added as set forth at the
end of this document.

PART 2104—ENFORCEMENT OF NONDISCRIMINATION ON THE BASIS OF HANDICAP IN PROGRAMS OR ACTIVITIES CONDUCTED BY THE COMMISSION OF FINE ARTS

Sec.

- 2104.101 Purpose.
- 2104.102 Application.
- 2104.103 Definitions.
- 2104.104-2104.109 [Reserved]
- 2104.110 Self-evaluation.
- 2104.111 Notice.
- 2104.112-2104.129 [Reserved]
- 2104.130 General prohibitions against
discrimination.
- 2104.131-2104.139 [Reserved]
- 2104.140 Employment.

Sec.

- 2104.141-2104.148 [Reserved]
- 2104.149 Program accessibility:
Discrimination prohibited.
- 2104.150 Program accessibility: Existing
facilities.
- 2104.151 Program accessibility: New
construction and alterations.
- 2104.152-2104.159 [Reserved]
- 2104.160 Communications.
- 2104.161-2104.169 [Reserved]
- 2104.170 Compliance procedures.
- 2104.171-2104.999 [Reserved]

Authority: 29 U.S.C. 794.

2. Part 2104 is further amended by
revising paragraph (c) in § 2104.170 to
read as follows:

§ 2104.170 Compliance procedures.

(c) The Secretary, Commission of Fine
Arts, shall be responsible for
coordinating implementation of this
section. Complaints may be sent to
Secretary, Commission of Fine Arts, 708
Jackson Place NW., Washington, DC
20006.

Charles H. Atherton,

Secretary, Commission of Fine Arts.

FEDERAL MARITIME COMMISSION

46 CFR Part 507

FOR FURTHER INFORMATION CONTACT:

William Jarrel Smith, Jr., Director, Office
of Administration, Federal Maritime
Commission, 1100 L Street NW.,
Washington, DC 20573, (202) 523-5866
(Voice) or (202) 343-3679 (TDD).

List of Subjects in 46 CFR Part 507

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

Title 46 of the Code of Federal
Regulations is amended as follows:

1. Part 507 is added as set forth at the
end of this document.

PART 507—ENFORCEMENT OF NONDISCRIMINATION ON THE BASIS OF HANDICAP IN PROGRAMS OR ACTIVITIES CONDUCTED BY THE FEDERAL MARITIME COMMISSION

Sec.

- 507.101 Purpose.
- 507.102 Application.
- 507.103 Definitions.
- 507.104-507.109 [Reserved]
- 507.110 Self-evaluation.
- 507.111 Notice.
- 507.112-507.129 [Reserved]

- Sec.
507.130 General prohibitions against discrimination.
507.131-507.139 [Reserved]
507.140 Employment.
507.141-507.148 [Reserved]
507.149 Program accessibility:
Discrimination prohibited.
507.150 Program accessibility: Existing facilities.
507.151 Program accessibility: New construction and alterations.
507.152-507.159 [Reserved]
507.160 Communications.
507.161-507.169 [Reserved]
507.170 Compliance procedures.
507.171-507.999 [Reserved]

Authority: 29 U.S.C. 794.

2. Part 507 is further amended by revising paragraph (c) in § 507.170 to read as follows:

§ 507.170 Compliance procedures.

(c) The Director of Administration shall be responsible for coordinating implementation of this section. Complaints may be sent to Director, Office of Administration, Federal Maritime Commission, 1100 L Street NW., Room 12211, Washington, DC 20573.

William Jarrel Smith, Jr.,
Director, Office of Administration.

INTERSTATE COMMERCE COMMISSION

49 CFR PART 1014

FOR FURTHER INFORMATION CONTACT: Gideon Ferebee, EEO Manager, Office of Human Relations, Interstate Commerce Commission, Room 3147, Washington, DC 20423, Voice: (202) 275-7503, TDD: (202) 275-1844.

SUPPLEMENTARY INFORMATION: As an independent Federal regulatory agency, the Commission is not an "Executive agency" under 5 U.S.C. 105 and therefore we conclude that it is not directly subject to section 504. The Commission's participation in the implementing regulation therefore is voluntary.

List of Subjects in 49 CFR Part 1014

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 1014 is added as set forth at the end of this document.

PART 1014—ENFORCEMENT OF NONDISCRIMINATION ON THE BASIS OF HANDICAP IN PROGRAMS OR ACTIVITIES CONDUCTED BY THE INTERSTATE COMMERCE COMMISSION

- Sec.
1014.101 Purpose.
1014.102 Application.
1014.103 Definitions.
1014.104-1014.109 [Reserved]
1014.110 Self-evaluation.
1014.111 Notice.
1014.112-1014.129 [Reserved]
1014.130 General prohibitions against discrimination.
1014.131-1014.139 [Reserved]
1014.140 Employment.
1014.141-1014.148 [Reserved]
1014.149 Program accessibility:
Discrimination prohibited.
1014.150 Program accessibility: Existing facilities.
1014.151 Program accessibility: New construction and alterations.
1014.152-1014.159 [Reserved]
1014.160 Communications.
1014.161-1014.169 [Reserved]
1014.170 Compliance procedures.
1014.171-1014.999 [Reserved]

Authority: 29 U.S.C. 794.

2. Part 1014 is further amended by revising paragraph (c) in § 1014.170 to read as follows:

§ 1014.170 Compliance procedures.

(c) The Equal Opportunity Officer shall be responsible for coordinating implementation of this section. Complaints may be sent to Director, Office of Human Relations, Interstate Commerce Commission, Room 3147, Washington, DC 20423.

James H. Bayne,
Secretary.

PART 1014—ENFORCEMENT OF NONDISCRIMINATION ON THE BASIS OF HANDICAP IN PROGRAMS OR ACTIVITIES CONDUCTED BY

- Sec.
101 Purpose.
102 Application.
103 Definitions.
104-109 [Reserved]
110 Self-evaluation.
111 Notice.
112-129 [Reserved]
130 General prohibitions against discrimination.
131-139 [Reserved]
140 Employment.
141-148 [Reserved]
149 Program accessibility: Discrimination prohibited.

- Sec.
150 Program accessibility: Existing facilities.
151 Program accessibility: New construction and alterations.
152-159 [Reserved]
160 Communications.
161-169 [Reserved]
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 Definition.

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.

"Historic preservation programs" means programs conducted by the agency that have preservation of historic properties as a primary purpose.

"Historic properties" means those properties that are listed or eligible for

listing in the National Register of Historic Places or properties designated as historic under a statute of the appropriate State or local government body.

"Qualified handicapped person" means—

(1) With respect to preschool, elementary, or secondary education services provided by the agency, a handicapped person who is a member of a class of persons otherwise entitled by statute, regulation, or agency policy to receive education services from the agency.

(2) With respect to any other 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;

(3) 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; and

(4) "Qualified handicapped person" is defined for purposes of employment in 29 CFR 1613.702(f), which is made applicable to this part by § 110.140.

"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.

"Substantial impairment" means a significant loss of the integrity of finished materials, design quality, or special character resulting from a permanent alteration.

§§ 104.109 [Reserved]

§§ 110 Self-evaluation.

(a) The agency shall, by August 24, 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 inspection:

- (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 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.

(6) The agency may not administer a licensing or certification program in a manner that subjects qualified handicapped persons to discrimination on the basis of handicap, nor may the agency establish requirements for the programs or activities of licensees or certified entities that subject qualified handicapped persons to discrimination on the basis of handicap. However, the programs or activities of entities that are licensed or certified by the agency are not, themselves, covered by this part.

(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;

(2) In the case of historic preservation programs, require the agency to take any action that would result in a substantial impairment of significant historic features of an historic property; or

(3) 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.*—(1) *General.* The agency may comply with the requirements of this section through such means as redesign of equipment, reassignment of the 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.

(2) *Historic preservation programs.* In meeting the requirements of § 150(a) in historic preservation programs, the agency shall give priority to methods that provide physical access to handicapped persons. In cases where a physical alteration to an historic property is not required because of § 150(a)(2) or (a)(3), alternative methods of achieving program accessibility include—

(i) Using audio-visual materials and devices to depict those portions of an historic property that cannot otherwise be made accessible;

(ii) Assigning persons to guide handicapped persons into or through portions of historic properties that cannot otherwise be made accessible; or

(iii) Adopting other innovative methods.

(c) *Time period for compliance.* The agency shall comply with the obligations established under this section by October 21, 1986, except that where structural changes in facilities are undertaken, such changes shall be made by August 22, 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 February 23, 1987 months after the effective date, 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 person (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; and

(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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BILLING CODES 7520-01-M, 4510-30-M, 7590-01-M,
7535-01-M, 6351-01-M, 8120-01-M, 4710-08-M, 8230-01-M,
7025-01-M, 7560-01-M, 7600-01-M, 7708-01-M, 6735-01-M,
4310-10-M, 7630-01-M, 6330-01-M, 6820-33-M,
7537-01-M, 6730-01-M, 7035-01-M