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DOCKET NUMBER PR 4
PROPOSED RULE (54 FR 9966)

[7590-01]

NUCLEAR REGULATORY COMMISSION

10 CFR Part 4

Enforcement of Nondiscrimination on the Basis of
Handicap in Federally Assisted Programs; Correction

AGENCY: Nuclear Regulatory Commission.

ACTION: Proposed rule; correction.

SUMMARY: This document corrects a proposed rule appearing in the Federal Register on March 8, 1989 (54 FR 9966) which would amend regulations issued for the enforcement of Section 504 of the Rehabilitation Act of 1973, as amended, in Federally assisted programs or activities. This action is necessary to correct the address and hours of operation presented for the NRC Public Document Room. The information in the ADDRESSES section for the Nuclear Regulatory Commission on page 9968 should be corrected to read as set forth below.

DATE: Comments must be received by May 8, 1989.

ADDRESSES: Comments should be sent to: Secretary, U.S. Nuclear Regulatory Commission, Washington, DC 20555. Attention: Docketing and Service Branch. Comments received will be available for public inspection at the NRC Public Document Room 2120 L Street, NW., lower level of the Gelman Building, Washington, DC 20555 from 7:45 am to 4:15 pm except legal holidays.



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FOR FURTHER INFORMATION CONTACT: Mr. Edward E. Tucker, Manager, Civil Rights Program, Office of Small and Disadvantaged Business Utilization/Civil Rights, U.S. Nuclear Regulatory Commission, Washington, DC 20555. Telephone: (301) 492-7697 (voice) or (800) 638-8282 (TDD).

Dated at Bethesda, Maryland, this 10 th day of March 1989.

For the Nuclear Regulatory Commission.



Donnie H. Grimsley, Director
Division of Freedom of Information
and Publications Services
Office of Administration

DEPARTMENT OF AGRICULTURE

7 CFR PART 158

NUCLEAR REGULATORY COMMISSION

10 CFR PART 1000

DEPARTMENT OF ENERGY

10 CFR PART 1000

SMALL BUSINESS ADMINISTRATION

13 CFR PART 113

NATIONAL AERONAUTICS AND SPACE ADMINISTRATION

14 CFR PART 1251

DEPARTMENT OF STATE

22 CFR PART 142

INTERNATIONAL DEVELOPMENT COOPERATION AGENCY

Agency for International Development

22 CFR PART 217

DEPARTMENT OF EDUCATION

34 CFR PART 104

VETERANS ADMINISTRATION

38 CFR PART 18

ENVIRONMENTAL PROTECTION AGENCY

40 CFR PART 7

DEPARTMENT OF HEALTH AND HUMAN SERVICES

45 CFR PART 84

NATIONAL SCIENCE FOUNDATION

45 CFR PART 805

NATIONAL FOUNDATION ON THE ARTS AND THE HUMANITIES

National Endowment for the Arts

45 CFR PART 1151

National Endowment for the Humanities

45 CFR PART 1170

ACTION

45 CFR PART 1232

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

AGENCIES: ACTION, Departments of Agriculture, Education, Energy, Health and Human Services, and State,

Environmental Protection Agency, International Development Cooperation Agency, National Aeronautics and Space Administration, National Foundation on the Arts and the Humanities, National Endowment for the Arts and National Endowment for the Humanities, National Science Foundation, Nuclear Regulatory Commission, Small Business Administration, Veterans Administration.

ACTION: Notice of proposed rulemaking.

SUMMARY: This proposed regulation would amend the regulations issued by the agencies listed above for enforcement of section 504 of the Rehabilitation Act of 1973, as amended, in federally assisted programs or activities to include a cross-reference to the Uniform Federal Accessibility Standards (UFAS). Because some facilities subject to new construction or alteration requirements under section 504 are also subject to the Architectural Barriers Act, governmentwide reference to UFAS will diminish the possibility that recipients of Federal financial assistance would face conflicting enforcement standards. In addition, reference to UFAS by all Federal funding agencies will reduce potential conflicts when a building is subject to the section 504 regulations of more than one Federal agency.

DATE: Comments must be received by May 8, 1989.

ADDRESSES: See individual agencies below.

Copies of this notice are available on tape for persons with impaired vision. They may be obtained from the Coordination and Review Section, Civil Rights Division, Department of Justice, Washington, DC 20530; (202) 724-2222 (voice) or 724-7878 (TDD).

FOR FURTHER INFORMATION CONTACT: See individual agencies below.

SUPPLEMENTARY INFORMATION: Section 504 of the Rehabilitation Act of 1973, as amended (29 U.S.C. 794), provides in part that

No otherwise qualified individual with handicaps 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 * * *.

The above listed agencies' existing section 504 regulations for federally assisted programs or activities require that new construction be designed and built to be accessible and that alterations of facilities be made in an accessible manner. Except as otherwise noted in the additional supplementary

information, the regulations state that new construction or alteration accomplished in accordance with the "American National Standard Specifications for Making Buildings and Facilities Accessible to, and Usable by, the Physically Handicapped" published by the American National Standards Institute, Inc. (ANSI A117.1-1961 (R1971) (ANSI)) meets the requirements of section 504. Three agencies (the Department of Agriculture, the Environmental Protection Agency, and the Small Business Administration) reference the 1980 edition, ANSI A117.1-1980. The proposed revision set forth in this document will reference UFAS in place of the current standard.

On August 7, 1984, UFAS was issued by the four agencies establishing standards under the Architectural Barriers Act (49 FR 31528 (see discussion *infra*)). The Department of Justice (DOJ), as the agency responsible under Executive Order 12250 for coordinating the enforcement of section 504, has recommended that agencies amend their section 504 regulations for federally assisted programs or activities to establish that, with respect to new construction and alterations, compliance with UFAS shall be deemed to be compliance with section 504. Because some facilities subject to new construction or alteration requirements under section 504 are also subject to the Architectural Barriers Act, governmentwide reference to UFAS will diminish the possibility that recipients of Federal financial assistance would face conflicting enforcement standards. In addition, reference to UFAS by all Federal funding agencies will reduce potential conflicts when a building is subject to the section 504 regulations of more than one Federal agency.

Background of Accessibility Standards

The Architectural Barriers Act of 1968, 42 U.S.C. 4151-4157, requires certain Federal and federally funded buildings to be designed, constructed, and altered in accordance with accessibility standards. It also designates four agencies (the General Services Administration, the Departments of Defense, and Housing and Urban Development, and the U.S. Postal Service) to prescribe the accessibility standards. Section 502 of the Rehabilitation Act of 1973 established the Architectural and Transportation Barriers Compliance Board (ATBCB). In 1978 the Rehabilitation Act was amended to require the ATBCB, *inter alia*, to issue minimum guidelines and requirements for the standards to be issued by the four standard-setting

DS/D

agencies. The minimum guidelines were published on August 4, 1982 (47 FR 33862), and are codified at 36 CFR Part 1190.¹

On August 7, 1984, the four standard-setting agencies issued UFAS as an effort to minimize the differences among their Barriers Act standards, and among those standards and accessibility standards used by the private sector. The General Services Administration (GSA) and Department of Housing and Urban Development (HUD) have incorporated UFAS into their Barriers Act regulations (see 41 CFR Subpart 101-19.6 (GSA) and 24 CFR Part 40 (HUD)). In order to ensure uniformity, UFAS was designed to be consistent with the scoping and technical provisions of the ATBCB's minimum guidelines and requirements, as well as with the technical provisions of ANSI A117.1-1980. ANSI is a private, national organization that publishes recommended standards on a wide variety of subjects. The original ANSI A117.1 was adopted in 1961 and reaffirmed in 1971. The current edition, issued in 1986, is ANSI A117.1-1986. The 1961, 1980, and 1986 ANSI standards are frequently used in private practice and by State and local governments.

This proposed amendment would amend the agencies' section 504 regulations to refer to UFAS.

The agencies have determined that they will not require the use of UFAS, or any other standard, as the sole means by which recipients can achieve compliance with the requirement that new construction and alterations be accessible. To do so would unnecessarily restrict recipients' ability to design for particular circumstances. In addition, it might create conflicts with State or local accessibility requirements that may also apply to recipients' buildings and that are intended to achieve ready access and use. It is expected that in some instances recipients will be able to satisfy the section 504 new construction and alteration requirements by following applicable State or local codes, and vice versa.

Effect of Amendment

Except as otherwise noted in the additional supplementary information for individual agencies, the agencies' current section 504 rules require that

new facilities be designed and constructed to be readily accessible to and usable by persons with handicaps and that alterations be accessible to the maximum extent feasible. The amendment would not affect the current requirement but would merely provide that compliance with UFAS with respect to buildings (as opposed to "facilities," a broader term that encompasses buildings as well as other types of property) shall be deemed compliance with these requirements with respect to those buildings. Thus, for example, an alteration is accessible "to the maximum extent feasible" if it is done in accordance with UFAS. It should be noted that UFAS contains special requirements for alterations where meeting the general standards would be impracticable or infeasible (see, e.g., UFAS sections 4.1.6(1)(b), 4.1.6(3), 4.1.6(4), and 4.1.7).

The amendment also includes language providing that departures from particular UFAS technical and scoping requirements are permitted so long as the alternative methods used will provide substantially equivalent or greater access to and utilization of the building. Allowing these departures from UFAS will provide recipients with necessary flexibility to design for special circumstances and will facilitate the application of new technologies that are not specified in UFAS. As explained under "Background of Accessibility Standards," the agencies anticipate that compliance with some provisions of applicable State and local accessibility requirements will provide "substantially equivalent" access. In some circumstances, recipients may choose to use methods specified in model building codes or other State or local codes that are not necessarily applicable to their buildings but that achieve substantially equivalent access.

The amendment requires that the alternative methods provide "substantially" equivalent or greater access, in order to clarify that the alternative access need not be precisely equivalent to that afforded by UFAS. Application of the "substantially equivalent access" language will depend on the nature, location, and intended use of a particular building. Generally, alternative methods will satisfy the requirement if in material respects the access is substantially equivalent to that which would be provided by UFAS in such respects as safety, convenience, and independence of movement. For example, it would be permissible to depart from the technical requirement of UFAS section 4.10.9 that the inside dimensions of an elevator car be at least

68 inches or 80 inches (depending on the location of the door) on the door opening side, by 54 inches, if the clear floor area and the configuration of the car permits wheelchair users to enter the car, make a 360° turn, maneuver within reach of controls, and exit from the car. This departure is permissible because it results in access that is safe, convenient, and independent, and therefore substantially equivalent to that provided by UFAS.

With respect to UFAS scoping requirements, it would be permissible in some circumstances to depart from the UFAS new construction requirement of one accessible principal entrance at each grade floor level of a building (see UFAS section 4.1.2(8)), if safe, convenient, and independent access is provided to each level of the new facility by a wheelchair user from an accessible principal entrance. This departure would not be permissible if it required an individual with handicaps to travel an extremely long distance to reach the spaces served by the inaccessible entrances or otherwise provided access that was substantially less convenient than that which would be provided by UFAS.

It would not be permissible for a recipient to depart from UFAS' requirement that, in new construction of a long-term care facility, at least 50% of all patient bedrooms be accessible (see UFAS section 4.1.4(9)(b)), by using large accessible wards that make it possible for 50% of all beds in the facility to be accessible to individuals with handicaps. The result is that the population of individuals with handicaps in the facility will be concentrated in large wards, while able-bodied persons will be concentrated in smaller, more private rooms. Because convenience for persons with handicaps is therefore compromised to such a great extent, the degree of accessibility provided to persons with handicaps is not substantially equivalent to that intended to be afforded by UFAS.

It should be noted that the amendment does not require that existing buildings leased by recipients meet the standards for new construction and alterations. Rather, it continues the current Federal practice under section 504 of treating newly leased buildings as subject to the program accessibility standard for existing facilities.

Buildings under design on the effective date of this amendment will be governed by the amendment if the date that bids were invited falls after the effective date. This interpretation is consistent with GSA's Architectural

¹ The ATBCB Office of Technical Services is available to provide technical assistance to recipients upon request relating to the elimination of architectural barriers. Its address is: U.S. ATBCB, Office of Technical Services, 1111 18th Street, NW., Suite 500, Washington, DC 20036. The telephone number is (202) 653-7834 (voice/TDD). This is not a toll free number.

Barriers Act regulation incorporating UFAS, at 41 CFR Subpart 101-19.8.

The proposed revision includes language modifying the effect of UFAS section 4.1.6(1)(g), which provides an exception to UFAS 4.1.6. *Accessible buildings: Alterations.* Section 4.1.6(1)(g) of UFAS states that "mechanical rooms and other spaces which normally are not frequented by the public or employees of the building or facility or which by nature of their use are not required by the Architectural Barriers Act to be accessible are excepted from the requirements of 4.1.6." Particularly after the development of specific UFAS provisions for housing alterations and additions, UFAS section 4.1.6(1)(g) could be read to exempt alterations to privately owned residential housing, which is not covered by the Architectural Barriers Act unless leased by the Federal Government for subsidized housing programs. This exception, however, is not appropriate under section 504, which protects beneficiaries of housing provided as part of a federally assisted program. Consequently, the proposed amendment provides that, for purposes of this section, section 4.1.6(1)(g) of UFAS shall be interpreted to exempt from the requirements of UFAS only mechanical rooms and other spaces that, because of their intended use, will not require accessibility to the public or beneficiaries, or result in the employment or residence therein of persons with handicaps.

The proposed revision also provides that whether or not the recipient opts to follow UFAS in satisfaction of the ready access requirement, the recipient is not required to make building alterations that have little likelihood of being accomplished without removing or altering a load-bearing structural member. This provision does not relieve recipients of their obligation under the current regulation to ensure program accessibility.

Several agencies' section 504 regulations for federally assisted programs are contained in parts entitled "Nondiscrimination on the basis of handicap in programs and activities receiving or benefiting from Federal financial assistance." This document deletes the phrase "or benefiting from" from those titles. The phrase is being deleted pursuant to *Department of Transportation v. Paralyzed Veterans of America*, 477 U.S. 597 (1986), which held that air transportation services provided by airlines were not part of the covered program or activity because the airlines were not the intended recipient of the Federal financial assistance to airports,

even if the airlines benefited from that assistance. The recent passage of the Civil Rights Restoration Act of 1987, Pub. L. 100-259, does not overrule or alter this result. S. Rep. No. 64, 100th Cong., 1st Sess. 29 (1987).

This document has been reviewed by DOJ. It is an adaptation of a prototype prepared by DOJ under Executive Order 12250 of November 2, 1980. The ATBCB has been consulted in the development of this document in accordance with 28 CFR 41.7.

The proposed common rule is not a major rule for the purposes of Executive Order 12291 of February 17, 1981. As required by the Regulatory Flexibility Act, it is hereby certified that this proposed rule will not have a significant impact on small business entities.

Adoption of the Common Rule

The adoption of the common rule by the agencies in this document appears below.

DEPARTMENT OF AGRICULTURE

7 CFR Part 15b

ADDRESSES: Comments should be sent to: The Associate Director, Equal Opportunity, Office of Advocacy and Enterprise, U.S. Department of Agriculture, Washington, DC 20250.

Comments received will be available for public inspection in the Office of Advocacy and Enterprise, Equal Opportunity, Room 1226, South Bldg., 14th and Independence Ave., SW., Washington, DC 20250 from 8:30 a.m. to 5:00 p.m. Monday through Friday except legal holidays.

FOR FURTHER INFORMATION CONTACT: James A. Westbrook, Special Assistant, Equal Opportunity, Office of Advocacy and Enterprise, U.S. Department of Agriculture, Washington, DC 20250, (202) 447-5681, TTY 382-1130.

ADDITIONAL SUPPLEMENTARY INFORMATION: This notice also revises the definition of "historic properties" in § 15b.3(q) in order to conform it to UFAS section 4.1.7(1)(a). Historic properties under the current definition are limited to those listed or eligible for listing in the National Register of Historic Places. The special historic preservation section of UFAS applies additionally to buildings and facilities designated as historic under State and local law.

List of Subjects in 7 CFR Part 15b

Blind, Buildings, Civil rights, Employment, Equal employment opportunity, Grant programs, Handicapped, Historic preservation, Loan programs.

For the reasons stated in the preamble, Part 15b of title 7 of the Code of Federal Regulations is proposed to be amended as follows:

PART 15b—NONDISCRIMINATION ON THE BASIS OF HANDICAP IN PROGRAMS AND ACTIVITIES RECEIVING FEDERAL FINANCIAL ASSISTANCE

1. The title for Part 15b is revised to read as set forth above.

2. The authority citation for Part 15b is revised to read as follows:

Authority: 29 U.S.C. 794.

2. In § 15b.3, "Definitions," paragraph (q) is revised to read as follows:

§ 15b.3 Definitions.

(q) For purposes of § 15b.18(d), "Historic properties" means those buildings or facilities that are eligible for listing in the National Register of Historic Places, or such properties designated as historic under a statute of the appropriate State or local government body.

§ 15b.19 (Amended)

4. In § 15b.19, "New construction," paragraph (c) is revised to read as set forth at the end of this document.

William C. Payne, Jr.,
Deputy Associate Director.

NUCLEAR REGULATORY COMMISSION

10 CFR Part 4

ADDRESSES: Comments should be sent to: Secretary, U.S. Nuclear Regulatory Commission, Washington, DC 20555. Attention: Docketing & Service Branch. Comments received will be available for public inspection at The NRC Public Document Room, 1717 H Street, NW., Washington, DC 20555 from 7:30 a.m. to 4:15 p.m. Monday through Friday except legal holidays.

FOR FURTHER INFORMATION CONTACT: Mr. Edward E. Tucker, Manager, Civil Rights Program, Office of Small and Disadvantaged Business Utilization/Civil Rights, U.S. Nuclear Regulatory Commission, Washington, DC 20555. Telephone: (301) 492-7697 (voice) or (800) 638-8282 (TDD).

List of Subjects in 10 CFR Part 4

Administrative practice and procedure, Blind, Buildings, Civil rights, Employment, Equal employment opportunity, Federal aid programs,

Grant programs, Handicapped, Loan programs, Reporting and recordkeeping requirements, Sex discrimination.

For the reasons stated in the preamble, Part 4 of title 10 of the Code of Federal Regulations is proposed to be 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, 86 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. 2984 (29 U.S.C. 794); sec. 122, Pub. L. 95-602, 92 Stat. 2984 (29 U.S.C. 706(6)). Subpart C also issued under Title III of Pub. L. 94-135, 89 Stat. 728, as amended (42 U.S.C. 6101). Subpart E also issued under 29 U.S.C. 794.

§ 4.128 [Amended]

2. In § 4.128, "New construction," paragraph (a) is amended by adding the heading "Design, construction, and alteration," to the beginning of the paragraph.

3. Section 4.128 is further amended by revising paragraph (b) to read as set forth at the end of this document.

Victor Stello, Jr.

Executive Director for Operations.

DEPARTMENT OF ENERGY

10 CFR Part 1040

ADDRESSES: Comments should be sent to: Marion A. Bowden, 1000 Independence Avenue, SW., Rm. 4B-112, Washington, DC 20585.

Comments received will be available for public inspection at 1000 Independence Avenue, SW., Rm. 4B-112, Washington, DC 20585 from 8 a.m. to 5 p.m. Monday through Friday except legal holidays.

FOR FURTHER INFORMATION CONTACT: Marion A. Bowden, 1000 Independence Avenue, SW., Washington, DC 20585, (202) 453-2218 (voice) or 252-8777 (TDD).

List of Subjects in 10 CFR Part 1040

Aged, Blind, Buildings, Civil rights, Employment, Equal employment opportunity, Grant programs, Handicapped, Loan programs, Sex discrimination.

For the reasons stated in the preamble, Part 1040 of title 10 of the Code of Federal Regulations is proposed to be amended as follows:

PART 1040—NONDISCRIMINATION IN FEDERALLY-ASSISTED PROGRAMS

1. The authority citation for Part 1040 is revised to read as follows:

Authority: 20 U.S.C. 1861-1868; 29 U.S.C. 794, 794a, 794b, 42 U.S.C. 2000d to 2000d-4, 3801-3831, 5891, 8101-8107, 8870, 7101 et seq.

§ 1040.73 [Amended]

2. In § 1040.73, "New construction," paragraph (c) is revised to read as set forth at the end of this document.

July 1, 1988.

Marion A. Bowden,

Director, Office of Equal Opportunity.

SMALL BUSINESS ADMINISTRATION

13 CFR Part 113

ADDRESSES: Comments should be sent to: J. Arnold Feldman, Chief, Office of Civil Rights Compliance, 1441 L Street NW., Suite 501, Washington, DC 20418.

Comments received will be available for public inspection at 1441 L Street NW., Suite 501, Washington, DC, from 8:30 a.m. to 5 p.m. Monday through Friday except legal holidays.

FOR FURTHER INFORMATION CONTACT:

J. Arnold Feldman, Chief, Office of Civil Rights Compliance, Small Business Administration, 1441 L Street NW., Suite 501, Washington, DC 20418, (202) 653-6054 (Voice), (202) 653-6579 (TDD). These are not toll-free numbers.

ADDITIONAL SUPPLEMENTARY

INFORMATION: The Small Business Administration currently requires compliance with a particular standard (the 1980 edition of the ANSI). Under this amendment, compliance with a particular standard is no longer mandated. Rather, recipients are encouraged to follow UFAS for new construction and alterations subject to the regulation.

List of Subjects in 13 CFR Part 113

Blind, Buildings, Civil rights, Discrimination based on race, Color, Religion, Sex, Marital status, Age, Handicap or national origin, Employment, Equal employment opportunity, Grant programs, Handicapped, Loan programs.

For the reasons stated in the preamble, Part 113 of title 13 of the Code of Federal Regulations is proposed to be amended as follows:

PART 113—NONDISCRIMINATION IN FINANCIAL ASSISTANCE PROGRAMS OF SBA—EFFECTUATION OF POLICIES OF FEDERAL GOVERNMENT AND SBA ADMINISTRATOR

1. The authority citation for Part 113 is revised to read as follows:

Authority: Secs. 5, 308, 72 Stat. 385, 694, as amended; 15 U.S.C. 633, 634, 687, 1861; 20 U.S.C. 1861-1888; 29 U.S.C. 794.

§ 113.3-3 [Amended]

1. In 113.3-3, "Structural accommodations for handicapped clients," paragraph (a) is amended by adding the heading "Existing facilities," at the beginning of the paragraph.

2. Section 113.3-3 is further amended by adding the heading "Design, construction, and alteration," at the beginning of paragraph (b) and by adding a new sentence after the heading to read as follows: "New facilities shall be designed and constructed to be readily accessible to and usable by persons with handicaps."

3. Section 113.3-3 is further amended by revising paragraph (c) to read as set forth at the end of this document.

James Abdnor,

Administrator.

NATIONAL AERONAUTICS AND SPACE ADMINISTRATION

14 CFR Part 1251

ADDRESS: Ms. Lynda Sampson, Handicapped and Aged Employment Program Manager, National Aeronautics and Space Administration, Room 8111, Code UL 400 Maryland Avenue SW., Washington, DC 20546.

Comments received will be available for public inspection at the above address from 10:00 a.m. to 3:00 p.m., Monday through Friday, except legal holidays.

FOR FURTHER INFORMATION CONTACT:

Ms. Lynda Sampson, (202) 453-2177 (voice) or (202) 426-1436 (TDD).

List of Subjects in 14 CFR Part 1251

Blind, Buildings, Civil rights, Employment, Equal employment opportunity, Grant programs, Handicapped, Loan programs.

For the reasons stated in the preamble, Part 1251 of title 14 of the Code of Federal Regulations is proposed to be amended as follows:

PART 1251—NONDISCRIMINATION ON BASIS OF HANDICAP

1. The authority citation for Part 1251 is revised to read as follows:

Authority: 29 U.S.C. 794.

§ 1251.302 [Amended]

2. In § 1251.302, "New construction," paragraph (c) is revised to read as set forth at the end of this document.

James C. Fletcher,
Administrator.

DEPARTMENT OF STATE**22 CFR Part 142**

ADDRESSES: Comments should be sent to: William O. Wallace, Attorney-Adviser, Office of Equal Employment Opportunity and Civil Rights, Department of State, Room 4218, Washington, DC 20520.

Comments received will be available for public inspection at Room 4218, Department of State, Washington, DC 20520 from 8:15 a.m. to 4:45 p.m., Monday through Friday, except legal holidays.

FOR FURTHER INFORMATION CONTACT: William O. Wallace, Attorney-Adviser, Office of Equal Employment Opportunity and Civil Rights, Department of State, Room 4218, Washington, DC 20520, (202) 647-9258 (voice or TDD).

ADDITIONAL SUPPLEMENTARY INFORMATION: The Department of State's existing section 504 requirement for alterations, contained at 22 CFR 142.17(b), mandates compliance with the standards set forth in 41 CFR subpart 101-19.6 (*i.e.*, UFAS). Under this amendment, compliance with UFAS is no longer mandated, but is merely encouraged. This notice also amends paragraph (a), which incorrectly implies that all federally funded construction since 1968 is subject to the Architectural Barriers Act. In fact, only certain federally funded construction triggers Architectural Barriers Act coverage.

List of Subjects in 22 CFR Part 142

Blind, Buildings, Civil rights, Employment, Equal employment opportunity, Grant programs, Handicapped, Loan programs.

For the reasons stated in the preamble, Part 142 of title 22 of the Code of Federal Regulations is proposed to be amended as follows:

PART 142—NONDISCRIMINATION ON THE BASIS OF HANDICAP IN PROGRAMS AND ACTIVITIES RECEIVING FEDERAL FINANCIAL ASSISTANCE

1. The title for Part 142 is revised to read as set forth above.

2. The authority citation for Part 142 is revised to read as follows:

Authority: 29 U.S.C. 794.

3. In § 142.17, paragraphs (a) and (b) are revised to read as follows:

§ 142.17 New construction.

(a) *Design and construction.* Each facility or part of a facility constructed by, on behalf of or for the use of a recipient shall be designed, constructed, and operated in a manner so that the facility or part of the facility is accessible to and usable by persons with handicaps, if the construction was commenced after the effective date of this part.

(b) *Alteration.* Each facility or part of a facility which is altered by, on behalf of, or for the use of a recipient after the effective date of this part in a manner that affects or could affect the usability of the facility or part of the facility shall, to the maximum extent feasible, be altered so that the altered portion of the facility is readily accessible to and usable by persons with handicaps.

3. Section 142.17 is further amended by revising paragraph (c) to read as set forth at the end of this document.

Kenneth Hunter,

Associate Director for Personnel, Department of State.

INTERNATIONAL DEVELOPMENT COOPERATION AGENCY**Agency for International Development****22 CFR Part 217**

ADDRESSES: Comments should be sent to: Dennis G. Diamond, Acting Director, Office of Equal Opportunity Programs, Agency for International Development, Washington, DC 20523.

Comments received will be available for public inspection at Room 1224 SA-1, 2401 "E" Street NW., Washington, DC from 8:45 a.m. to 5:30 p.m. Monday through Friday except legal holidays.

FOR FURTHER INFORMATION CONTACT: Leticia Peoples, 663-1340 (Voice) or 663-1337 (TDD).

List of Subjects in 22 CFR Part 217

Blind, Buildings, Civil rights, Employment, Equal employment opportunity, Grant programs, Handicapped, Loan programs.

For the reasons stated in the preamble, Part 217 of title 22 of the Code of Federal Regulations is proposed to be amended as follows:

PART 217—NONDISCRIMINATION ON THE BASIS OF HANDICAP IN PROGRAMS AND ACTIVITIES RECEIVING FEDERAL FINANCIAL ASSISTANCE

1. The title for Part 217 is revised to read as set forth above.

2. The authority citation for Part 217 is revised to read as follows:

Authority: 29 U.S.C. 794.

§ 217.23 [Amended]

3. In § 217.23, "New construction," paragraph (c) is revised to read as set forth at the end of this document.

Dennis Diamond,
Acting Director.

DEPARTMENT OF EDUCATION**34 CFR Part 104**

ADDRESSES: Comments should be sent to: LeGree S. Daniels, Assistant Secretary for Civil Rights, Room 5000, Mary E. Switzer Building, 330 C Street SW., Washington, DC 20202-1100.

Comments received will be available for public inspection at Office for Civil Rights Law Library, Room 5022, Mary E. Switzer Building, 330 C Street SW., Washington, DC 20202-1100 from 9 a.m. to 5 p.m. Monday through Friday except legal holidays.

FOR FURTHER INFORMATION CONTACT: Frederick T. Cioffi, Acting Director, Policy and Enforcement Service, Room 5046A, Mary E. Switzer Building, 330 C Street SW., Washington, DC 20202-1100, 732-1635 (Voice) or 566-2673 (TDD).

List of Subjects in 34 CFR Part 104

Blind, Buildings, Civil rights, Education, Educational facilities, Employment, Equal educational opportunity, Equal employment opportunity, Grant programs, Handicapped, Loan programs, School construction.

For the reasons stated in the preamble, Part 104 of title 34 of the Code of Federal Regulations is proposed to be amended as follows:

PART 104—NONDISCRIMINATION ON THE BASIS OF HANDICAP IN PROGRAMS AND ACTIVITIES RECEIVING FEDERAL FINANCIAL ASSISTANCE

1. The title for Part 104 is revised to read as set forth above.