

current association with Amistad nor are there any tribes with close geographic ties to the area. Since any actions the park proposes in this rule are not expected to have any effects on these 17 tribes, no consultation has occurred.

Clarity of Rule

Executive Order 12866 requires each agency to write regulations that are easy to understand. We invite your comments on how to make this rule easier to understand, including answers to questions such as the following: (1) Are the requirements in the rule clearly stated? (2) Does the rule contain technical language or jargon that interferes with its clarity? (3) Does the format of the rule (grouping and order of sections, use of headings, paragraphing, *etc.*) aid or reduce its clarity? (4) Would the rule be easier to read if it were divided into more (but shorter) sections? (A "section" appears in bold type and is preceded by the symbol "§" and a numbered heading; for example § 7.79 Amistad Recreation Area.) (5) Is the description of the rule in the "Supplementary Information" section of the preamble helpful in understanding the proposed rule? What else could we do to make the rule easier to understand?

Send a copy of any comments that concern how we could make this rule easier to understand to: Office of Regulatory Affairs, Department of the Interior, Room 7229, 1849 C Street, NW, Washington, DC 20240. You may also email the comments to this address: Exsec@ios.doi.gov.

Drafting Information: The primary authors of this regulation are: Mark Morgan, Management Assistant, and Rick Slade, Chief of Interpretation, Amistad NRA; Sarah Bransom, Environmental Quality Division; and Kym Hall, NPS Washington, DC.

Public Participation

If you wish to comment, you may submit your comments by any one of several methods. You may mail comments to Amistad National Recreation Area, HCR 3 Box 5J, Del Rio TX 78840. You may also comment via the Internet to amis@den.nps.gov. Please also include "PWC Rule" in the subject line and your name and return address in the body of your Internet message. Finally, you may hand deliver comments to Amistad National Recreation Park, 4121 Highway 90 West, Del Rio, Texas.

Our practice is to make comments, including names and addresses of respondents, available for public review during regular business hours.

Individual respondents may request that we withhold their home address from the rulemaking record, which we will honor to the extent allowable by law. If you wish us to withhold your name and/or address, you must state this prominently at the beginning of your comment. However, we will not consider anonymous comments. We will make all submissions from organizations or businesses, and from individuals identifying themselves as representatives or officials or organizations or businesses, available for public inspection in their entirety.

List of Subjects in 36 CFR Part 7

District of Columbia, National Parks, Reporting and recordkeeping requirements.

In consideration of the foregoing, the National Park Service proposes to amend 36 CFR part 7 as follows:

PART 7—SPECIAL REGULATIONS, AREAS OF THE NATIONAL PARK SYSTEM

1. The authority for Part 7 continues to read as follows:

Authority: 16 U.S.C. 1, 3, 9a, 460(q), 462(k); Sec. 7.96 also issued under D.C. Code 8-137(1981) and D.C. Code 40-721 (1981).

2. Add new paragraph (d) to § 7.79 to read as follows:

§ 7.79 Amistad Recreation Area.

* * * * *

(d) *Personal Watercraft (PWC).*

(1) PWCs are allowed within Amistad National Recreation Area with the following exceptions:

(i) The following areas are closed to PWC use:

(A) Hidden Cave Cove (where marked by buoys), located on the Rio Grande.

(B) Painted Canyon (where marked by buoys), located on the Rio Grande.

(C) Seminole Canyon, starting 0.5 miles from the mouth of the Rio Grande.

(D) Government coves at Diablo East and Rough Canyon to include the water and shoreline to the top of the ridge/property line.

(E) All terrestrial cave and karst features.

(F) The Lower Rio Grande area below Amistad Dam.

(G) The water area extending 1000 feet out from the concrete portion of Amistad Dam.

(ii) PWC are prohibited from landing on any island posted as closed.

(2) The Superintendent may temporarily limit, restrict or terminate access to the areas designated for PWC use after taking into consideration public health and safety, natural and cultural resource protection, and other management activities and objectives.

Dated: October 14, 2003.

Paul Hoffman,

Acting Assistant Secretary, Fish and Wildlife and Parks.

[FR Doc. 03-26577 Filed 10-21-03; 8:45 am]

BILLING CODE 4310-70-P

NATIONAL ARCHIVES AND RECORDS ADMINISTRATION

36 CFR Part 1208

RIN 3095-AB09

Nondiscrimination in Federally Assisted Programs—Implementation of Section 504 of the Rehabilitation Act of 1973

AGENCY: National Archives and Records Administration (NARA).

ACTION: Proposed rule.

SUMMARY: NARA is proposing to modify its regulations on nondiscrimination on the basis of disability to make it clear that the rules apply to recipients of NARA's National Historical Publications and Records Commission (NHPRC) grants, not just programs and activities conducted by NARA. We also propose to add detailed rules on nondiscrimination in employment practices that grant recipients must follow when they hire staff for the programs and projects. This proposed rule also updates compliance procedures, which apply to NARA and NHPRC grant recipients. Last, we are replacing the term "handicap" with "disability" throughout the entire regulation. This part applies to NARA and NHPRC grant recipients.

DATES: Comments are due by December 22, 2003.

ADDRESSES: Comments must be sent to Regulation Comments Desk (NPOL), Room 4100, Policy and Communications Staff, National Archives and Records Administration, 8601 Adelphi Road, College Park, MD 20740-6001. They may be faxed to (301) 837-0319. Electronic comments may be submitted through Regulations.gov. You may also comment via e-mail to comments@nara.gov. See the **SUPPLEMENTARY INFORMATION** for details.

FOR FURTHER INFORMATION CONTACT: Kim Richardson at telephone number 301-837-2902.

SUPPLEMENTARY INFORMATION: NARA's National Historical Publications and Records Commission (NHPRC) awards approximately 100 grants per year. Our program includes grants to:

- Publish historical editions of the records of the Founding Era;

- Address electronic records challenges and opportunities;
- Work with the State Historical Records Advisory Boards;
- Publish historically significant records relating to the history of the United States;
- Preserve and provide access to records; provide educational programs; and,
- Provide subvention assistance for the costs of manufacturing and distributing documentary volumes produced by projects that have been supported or formally endorsed by the NHPRC.

Every NHPRC grantee must sign Standard Form 424B, "Assurances-Non-Construction Programs," which includes agreeing to comply with all Federal statutes relating to nondiscrimination, of which Section 504 of the Rehabilitation Act of 1973 is a part. However, because our existing regulations on nondiscrimination on the basis of disability do not directly address NHPRC grants recipients, only NARA, we are proposing to make it clear that these regulations apply also to NHPRC grant recipients.

We identified the need to revise part 1208 to directly address NHPRC grantees after conducting a regulatory review of our regulations. During the regulatory review, we identified that other agencies have common rules on nondiscrimination on the basis of disability which directly address grant recipients.

We also propose to add detailed rules on nondiscrimination on the basis of disability in employment practices that grant recipients follow when they hire staff for the programs and projects. We propose to add these employment nondiscrimination rules to:

- Conform to the Government-wide common rules for grant programs; and
- Be in compliance with Section 504 of the Rehabilitation Act of 1973, which prohibits employment discrimination against individuals with disabilities.

This proposed rule also updates compliance procedures, which apply to NARA and grant recipients. Previously, complaints were sent to the Assistant Archivist for Management and Administration. Now, we propose that complaints be sent to the Director, Equal Employment Opportunity and Diversity Programs.

This proposed rule updates an obsolete reference. Existing NARA regulations cite 29 CFR 1613.702(f) for the definition of "qualified handicap person". However, this citation is obsolete, and we are updating the citation to 28 CFR 41.32.

Last, we are replacing the term "handicap" with "disability" throughout the entire regulation because it is in keeping with the terminology used in guidances and directives issued by the Equal Employment Opportunity Commission, which are applicable throughout the Federal sector.

Please submit e-mail comments within the body of your email message or attach comments avoiding the use of any form of encryption. Please also include "Attn: 3095-AB17" and your name and return address in your Internet message. If you do not receive a confirmation that we have received your email message, contact the Regulation Comment Desk at (301) 837-2902.

This proposed rule is not a significant regulatory action for the purposes of Executive Order 12866 and has not been reviewed by the Office of Management and Budget. As required by the Regulatory Flexibility Act, I certify that this rule will not have a significant impact on a substantial number of small entities. This regulation does not have any federalism implications.

List of Subjects in 36 CFR Part 1208

Individuals with disabilities, Equal employment opportunity.

For the reasons set forth in the preamble, NARA proposes to amend part 1208 of title 36, Code of Federal Regulations, chapter XII, as follows:

PART 1208—ENFORCEMENT OF NONDISCRIMINATION ON THE BASIS OF DISABILITY IN PROGRAMS OR ACTIVITIES CONDUCTED BY THE NATIONAL ARCHIVES AND RECORDS ADMINISTRATION

1. The heading of part 1208 is revised to read as set forth above.
2. The authority citation for part 1208 continues to read as follows:

Authority: 29 U.S.C. 794.

3. Remove reserved §§ 1208.104 through 1208.109, 1208.112 through 1208.129, 1208.131 through 1208.139, 1208.141 through 1208.148, 1208.152 through 1208.159, 1208.161 through 1208.169, and 1208.171 through 1208.999.

4. In part 1208 remove the words "basis of handicap" wherever they appear and add in their place the words "basis of disability":

5. In part 1208 remove the words "individual with handicaps" wherever they appear and add in their place the words "individual with disabilities".

6. In part 1208 remove the words "individuals with handicaps" wherever they appear and add in their place the words "individuals with disabilities".

§ 1208.130 [Amended]

7. Amend § 1208.130 (c) by removing the words "nonhandicapped persons" and adding in their place, the words "persons without disabilities".

8. Sections 1208.101 through 1208.103 are designated as Subpart A—General.

9. Revise § 1208.102 to read as follows:

§ 1208.102 Application.

(a) NARA. Sections 1208.101 through 1208.160 and § 1208.184 of this regulation apply to all programs or activities conducted by NARA, except for programs or activities conducted outside the United States that involve individuals with disabilities in the United States.

(b) *Grant recipients.* Sections 1208.130 through 1208.184 in this regulation apply to grant recipients. (The term "agency", used in §§ 1208.130 through 1208.184, also includes grant recipients.)

10. Amend § 1208.103 by revising subparagraph (4) under the definition of "qualified individual with a disability" to read as follows:

§ 1208.103 Definitions.

* * * * *

Qualified individual with a disability

* * *

(4) *Qualified person with a disability* as that term is defined for purposes of employment in 28 CFR 41.32, which is made applicable to this regulation by § 1208.140.

* * * * *

11. Sections 1208.110 and 1208.111 are designated as Subpart B—Agency Responsibilities.

12. Sections 1208.130 and 1208.140 are designated as Subpart C—General Nondiscrimination Rules (Applicable to the Agency and National Historical Publications and Records Commission [NHPRC] Grant Recipients).

13. Revise § 1208.140 to read as follows:

§ 1208.140 Employment.

No qualified individual with a disability shall, on the basis of the disability, 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) shall apply to employment in agency programs and activities.

14. Sections 1208.149 through 1208.160 are designated as Subpart D—Program Accessibility (Applicable to the Agency and NHPRC Grant Recipients).

15. Section 1208.170 is redesignated as § 1208.184.

16. Add Subpart E to read as follows:

Subpart E—Employment Practices for Grant Recipients

Sec.

1208.170 General prohibitions against employment discrimination.

1208.171 Reasonable accommodation.

1208.172 Employment criteria.

1208.173 Preemployment inquiries.

§ 1208.170 General prohibitions against employment discrimination.

(a) No qualified individual with a disability shall, on the basis of a disability, be subjected to discrimination in employment under any program or activity that receives or benefits from NHPRC grants.

(b) A recipient must make all decisions concerning employment under any program or activity to which this part applies in a manner which ensures that discrimination on the basis of a disability does not occur and may not limit, segregate, or classify applicants or employees in any way that adversely affects their opportunities or status because of a disability.

(c) The prohibition against discrimination in employment applies to the following activities:

(1) Recruitment, advertising, and the processing of applications for employment;

(2) Hiring, upgrading, promotion, award of tenure, demotion, transfer, layoff, termination, right of return from layoff, and rehiring;

(3) Rates of pay or any other form of compensation and changes in compensation;

(4) Job assignments, job classifications, organizational structures, position descriptions, lines of progression, and seniority lists;

(5) Leaves of absence, sick leave, or any other leave;

(6) Fringe benefits available by virtue of employment, whether or not administered by the recipient;

(7) Selection and financial support for training, including apprenticeship, professional meetings, conferences, and other related activities, and selection for leaves of absence to pursue training;

(8) Employer sponsored activities, including social or recreational programs; and

(9) Any other term, condition, or privilege of employment.

(d) A recipient may not participate in a contractual or other relationship that has the effect of subjecting qualified applicants or employees with disabilities to discrimination prohibited by this subpart. The relationships referred to in this paragraph include relationships with employment and

referral agencies, with labor unions, with organizations providing or administering fringe benefits to employees of the recipient, and with organizations providing training and apprenticeship programs.

§ 1208.171 Reasonable accommodation.

(a) A recipient must make reasonable accommodation to the known physical or mental limitations of an otherwise qualified applicant or employee with a disability unless the recipient can demonstrate, based on the individual assessment of the applicant or employee, that the accommodation would impose an undue hardship on the operation of its program.

(b) Reasonable accommodation may include making facilities used by employees readily accessible to and usable by persons with disabilities, job restructuring, part-time or modified work schedules, acquisition or modification of equipment or devices (e.g., telecommunication or other telephone devices), the provisions of readers or qualified interpreters, and other similar actions.

(c) Whether an accommodation would impose an undue hardship on the operation of a recipient's program depends upon a case-by-case analysis weighing factors that include:

(1) The overall size of the recipient's program with respect to number of employees, number and type of facilities, and size of budget;

(2) The type of the recipient's operation, including the composition and structure of the recipient's workforce; and

(3) The nature and cost of the accommodation needed.

(d) A recipient may not deny any employment opportunity to a qualified employee or applicant with a disability if the basis for the denial is the need to make reasonable accommodation to the physical or mental limitations of the employee or applicant.

§ 1208.172 Employment criteria.

A recipient may not use employment tests or criteria that discriminate against persons with disabilities and must ensure that employment tests are adapted for use by persons with disabilities that impair sensory, manual, or speaking skills.

§ 1208.173 Preemployment inquiries.

(a) Except as provided in paragraphs (b) and (c) of this section, a recipient may not conduct a preemployment medical examination or make a preemployment inquiry as to whether an applicant is a person with a disability or as to the nature or severity

of a disability. A recipient may, however, make preemployment inquiry into an applicant's ability to perform job-related functions.

(b) When a recipient is taking remedial action to correct the effects of past discrimination, when a recipient is taking voluntary action to overcome the effects of conditions that resulted in limited participation in its Federally assisted program or activity, or when a recipient is taking affirmative action pursuant to section 504 of the Act, the recipient may invite applicants for employment to indicate whether and to what extent they are disabled, provided that:

(1) The recipient states clearly on any written questionnaire used for this purpose or makes clear orally if no written questionnaire is used that the information requested is intended for use solely in connection with its remedial action obligations or its voluntary efforts;

(2) The recipient states clearly that the information is being requested on a voluntary basis, that it will be kept confidential as provided in paragraph (d) of this section, that refusal to provide it will not subject the applicant or employee to any adverse treatment, and that it will be used only in accordance with this part.

(c) Nothing in this section shall prohibit a recipient from conditioning an offer of employment on the results of a medical examination conducted prior to the employee's entrance on duty, provided that:

(1) All entering employees are subjected to such an examination regardless of handicap, and

(2) The results of such an examination are used only in accordance with the requirements of this subpart.

(d) The applicant's medical record shall be collected and maintained on separate forms and kept confidential, except that the following persons may be informed:

(1) Supervisors and managers regarding restrictions on the work of persons with disabilities and necessary accommodations;

(2) First aid and safety personnel if the condition might require emergency treatment; and

(3) Government officials investigating compliance with the Act upon request for relevant information.

17. Designate newly redesignated § 1208.184 as Subpart F—Compliance Procedures.

18. Amend the newly redesignated § 1208.184 by revising paragraphs (a), (b), (c) and (h) to read as follows:

§ 1208.184 Compliance procedures.

(a) Except as provided in paragraph (b) of this section, this section applies to all allegations of discrimination on the basis of disability in programs and activities conducted by the agency, including those programs and activities funded by NHPRC grants.

(b) The agency must process complaints alleging violations of section 504 with respect to employment according to the procedures established by the Equal Employment Opportunity Commission pursuant to section 501 of the Rehabilitation Act of 1973 (29 U.S.C. 791). The agency will refer complaints alleging employment discrimination by NHPRC grant recipients, in violation of section 504 of the Rehabilitation Act, to the appropriate Government entity, pursuant to paragraph (e) of this section.

(c) The Director, Equal Employment Opportunity and Diversity Programs (NEEO), is responsible for coordinating implementation of this section. Complaints may be sent to the Director, NEEO (address: National Archives and Records Administration (NEEO), 8601 Adelphi Road, College Park, MD 20740-6001).

* * * * *

(h) The complainant has the right to file an appeal; however, appeals must be filed within 90 days of receipt from the agency of the letter required by § 1208.184 (g). The agency may extend this time for good cause. Appeals may be sent to the Archivist of the United States for reconsideration (address: National Archives and Records Administration (N), 8601 Adelphi Road, College Park, MD 20740-6001).

* * * * *

Dated: October 16, 2003.

John W. Carlin,

Archivist of the United States.

[FR Doc. 03-26614 Filed 10-21-03; 8:45 am]

BILLING CODE 7515-01-P

FEDERAL COMMUNICATIONS COMMISSION
47 CFR Part 73

[DA 03-3039; MB Docket No. 03-219 RM-10797]

Radio Broadcasting Services; Clemmons and Statesville, NC

AGENCY: Federal Communications Commission.

ACTION: Proposed rule.

SUMMARY: This document requests comments on a petition for rulemaking filed by Mercury Broadcasting Company, Inc., licensee of Station

WFMX (FM), Statesville, North Carolina, proposing the substitution of Channel 289C1 for Channel 289C at Statesville, and reallocation of Channel 289C1 from Statesville to Clemmons, North Carolina, as the community's first local transmission service, and the modification of the license for Station WFMX (FM) to reflect the changes. Channel 289C1 can be reallocated at Clemmons at a site 32 kilometers (19.9 miles) north of the community at coordinates 36-17-30 NL and 80-15-30 WL.

DATES: Comments or counterproposals must be filed on or before December 1, 2003, and reply comments on or before December 16, 2003.

ADDRESSES: Federal Communications Commission, 445 Twelfth Street, SW., Washington, DC 20554. In addition to filing comments with the FCC, interested parties should serve the petitioner's counsel, as follows: Harry C. Martin, Esq., Fletcher, Heald & Hildreth, 1300 North 17th Street, 11th Floor, Arlington, VA 22209-3801

FOR FURTHER INFORMATION CONTACT: Victoria McCauley, Media Bureau, (202) 418-2180.

SUPPLEMENTARY INFORMATION: This is a synopsis of the Commission's Notice of Proposed Rule Making, MB Docket No. 03-219 adopted October 8, 2003, and released October 10, 2003. The full text of this Commission decision is available for inspection and copying during normal business hours in the FCC's Reference Information Center at Portals II, CY-A257, 445 Twelfth Street, SW., Washington, DC. This document may also be purchased from the Commission's duplicating contractors, Qualex International, Portals II, 445 12th Street, SW., Room CY-B402, Washington, DC 20554, telephone (202) 863-2893, or via e-mail qualexint@aol.com

Provisions of the Regulatory Flexibility Act of 1980 do not apply to this proceeding.

Members of the public should note that from the time a Notice of Proposed Rule Making is issued until the matter is no longer subject to Commission consideration or court review, all *ex parte* contacts are prohibited in Commission proceedings, such as this one, which involve channel allotments. See 47 CFR 1.1204(b) for rules governing permissible *ex parte* contacts.

For information regarding proper filing procedures for comments, see 47 CFR 1.415 and 1.420.

List of Subjects in 47 CFR Part 73

Radio, Radio broadcasting.

For the reasons discussed in the preamble, the Federal Communications Commission proposes to amend 47 CFR Part 73 as follows:

PART 73—RADIO BROADCAST SERVICES

1. The authority citation for Part 73 continues to read as follows:

Authority: 47 U.S.C. 154, 303, 334 and 336.

§ 73.202 [Amended]

2. Section 73.202(b), the Table of FM Allotments under North Carolina, is amended by adding Clemmons, Channel 289C1 and by removing Channel 289C at Statesville.

Federal Communications Commission.

John A. Karousos,

Assistant Chief, Audio Division, Media Bureau.

[FR Doc. 03-26682 Filed 10-21-03; 8:45 am]

BILLING CODE 6712-01-P

DEPARTMENT OF THE INTERIOR
Fish and Wildlife Service
50 CFR Part 17

RIN 1018 -AJ23

Endangered and Threatened Wildlife and Plants; Removal of Federal Protection Status from Two Manatee Protection Areas in Florida

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Proposed rule.

SUMMARY: We, the Fish and Wildlife Service (Service), propose to withdraw two areas in Florida from those designated as federally established manatee protection areas. We are proposing this action under the Endangered Species Act of 1973, as amended (ESA), and the Marine Mammal Protection Act of 1972, as amended (MMPA). The areas we propose to withdraw from designation are manatee refuges, in which watercraft operators are required to operate at slow speeds throughout the year. Specifically, the sites are the Pansy Bayou Manatee Refuge in Sarasota County and the Cocoa Beach Manatee Refuge in Brevard County. Manatee protection would not be diminished under this proposal because the sites will remain protected under State law.

DATES: We will consider comments on the proposed rule if received by November 21, 2003. See additional information on the public comment process in the "Public Comments Solicited" section.