

September 15, 2007, is to be amended as follows:

\* \* \* \* \*

*Paragraph 6002 Class E Airspace Designated as Surface Areas.*

\* \* \* \* \*

**AAL AK E2 St. Mary's, AK [Revised]**

St. Mary's, St. Mary's Airport, AK  
(Lat. 62°03 38 N., long. 163°18 07 W.)

Within a 6.7-mile radius of the St. Mary's Airport, and within 4 miles either side of the 202°(T)/217°(M) bearing from the St. Mary's Airport extending from the 6.7-mile radius to 10 miles south of the St. Mary's Airport. This Class E airspace area is effective during the specific dates and times established in advance by a Notice to Airmen. The effective date and time will thereafter be continuously published in the Airport/Facility Directory.

\* \* \* \* \*

*Paragraph 6005 Class E Airspace Extending Upward from 700 Feet or More Above the Surface of the Earth.*

\* \* \* \* \*

**AAL AK E5 St. Mary's, AK [Revised]**

St. Mary's, St. Mary's Airport, AK  
(Lat. 62°03 38 N., long. 163°18 07 W.)

That airspace extending upward from 700 feet above the surface within a 8.7-mile radius of the St. Mary's Airport, and within 4 miles east and 8 miles west of the 202°(T), 217°(M) bearing from the St. Mary's Airport, extending from the 8.7-mile radius to 16 miles south of the St. Mary's Airport.

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Issued in Anchorage, AK, on February 8, 2008.

**Derril D. Bergt,**

*Acting Manager, Alaska Flight Services Information Area Group.*

[FR Doc. E8-2977 Filed 2-15-08; 8:45 am]

**BILLING CODE 4910-13-P**

## **EQUAL EMPLOYMENT OPPORTUNITY COMMISSION**

### **29 CFR Part 1615**

**RIN 3046-AA82**

#### **Enforcement of Nondiscrimination on the Basis of Disability in Programs or Activities Conducted by the Equal Employment Opportunity Commission and Accessibility of Commission Electronic and Information Technology**

**AGENCY:** Equal Employment Opportunity Commission.

**ACTION:** Notice of proposed rulemaking.

**SUMMARY:** The Equal Employment Opportunity Commission (EEOC or Commission) proposes to amend its regulation to establish that all complaints under section 508 of the Rehabilitation Act of 1973, as amended

(section 508), whether filed by members of the public or EEOC employees, will be processed under the procedures for section 504 public complaints. The Commission also proposes to update terminology which outlines how EEOC enforces section 504 of the Rehabilitation Act with respect to its own programs or activities. Finally, the Commission proposes to update or eliminate certain sections of this regulation that are no longer relevant.

**DATES:** Written comments on this proposed rulemaking must be submitted on or before April 21, 2008.

**ADDRESSES:** Written comments should be submitted to Stephen Llewellyn, Executive Officer, Executive Secretariat, Equal Employment Opportunity Commission, 10th Floor, 1801 L Street, NW., Washington, DC 20507. As a convenience to commentators, the Executive Secretariat will accept comments transmitted by facsimile ("FAX") machine. The telephone number of the FAX receiver is (202) 663-4114. (This is not a toll-free number.) Only comments of six or fewer pages will be accepted via FAX transmittal to ensure access to the equipment. Receipt of FAX transmittals will not be acknowledged, except that the sender may request confirmation of receipt by calling the Executive Secretariat staff at (202) 663-4070 (voice) or (202) 663-4074 (TTD). (These are not toll-free telephone numbers.) You may also submit comments and attachments electronically at <http://www.regulations.gov>, which is the Federal eRulemaking Portal. Follow the instructions online for submitting comments. Copies of comments submitted by the public will be available to review at the Commission's library, Room 6502, 1801 L Street, NW., Washington, DC 20507 between the hours of 9:30 a.m. and 5 p.m. or can be reviewed at <http://www.regulations.gov>.

**FOR FURTHER INFORMATION CONTACT:** Carol R. Miaskoff or Kerry Leibig, Office of Legal Counsel, U.S. Equal Employment Opportunity Commission at (202) 663-4638. (This is not a toll-free-telephone number.)

**SUPPLEMENTARY INFORMATION:** Section 508 of the Rehabilitation Act provides that each federal agency must ensure that the electronic and information technology it develops, procures, maintains, or uses is accessible to individuals with disabilities who are federal employees or applicants, or members of the public seeking information or services from the agency. Section 508 authorizes individuals to file administrative complaints and civil actions limited to the alleged failure to

procure accessible technology. In addition to amending part 1615 to address the requirements of Section 508, this notice proposes to update terminology and eliminate certain sections of part 1615 that are no longer relevant.

#### **Summary of Updates in Proposed Regulation**

In 1992, Congress amended the Rehabilitation Act to replace the term "handicap" with the term "disability." Public Law 102-569, 106 Stat. 4344. Accordingly, the Commission proposes to replace the term "handicap" with the term "disability" throughout part 1615. The Commission similarly proposes, again throughout part 1615, to replace the phrase "individual with handicaps" with "individual with a disability" and the phrase "individuals with handicaps" with "individuals with disabilities." Finally, the Commission proposes to replace the term "nonhandicapped persons" in 1615.130(c) with the term "individuals without disabilities."

Throughout this part, the Commission proposes to replace the term "Chairman" with the term "Chair" and the terms "EEO Director" and "Director, Equal Employment Opportunity Staff" with the term "Director of OEO."

The Commission proposes to revise the definition at 1615.103 of "qualified individual with handicaps," as it relates to employment. The revised definition will cross-reference 29 CFR 1630.2(m), which defines "qualified individual with a disability" under the Americans with Disabilities Act (ADA), and will delete the previous reference. It is necessary to refer to 29 CFR 1630.2(m) in the regulations implementing section 504 because the Rehabilitation Act was amended in 1992 to apply the nondiscrimination standards of Titles I and V of the ADA, as amended, to section 504 complaints alleging non-affirmative action employment discrimination. See 29 U.S.C. 794(d). The appropriate definition of "qualified individual with a disability" with respect to employment is therefore now found at 29 CFR 1630.2(m).

The Commission proposes to eliminate the entire text of 1615.110. Section 1615.110 requires that the EEOC complete, by June 26, 1990, a self-evaluation of policies and practices, and the effects thereof, that do not or may not meet the requirements of the regulation. It further requires that a description of areas examined, problems identified, and modifications made to be kept on file for at least three years. Because these requirements were met and the given time periods have long

since passed, this section of the regulation is deleted.

The Commission proposes to revise section 1615.140, which sets forth section 504's prohibition against employment discrimination, to cross-reference the Commission's ADA regulations at 29 CFR part 1630, and to delete the reference to part 1613, which is no longer in force.

The Commission proposes to delete paragraphs (c) and (d) from section 1615.150. These paragraphs provide time frames by which the Commission must make existing facilities accessible, as defined in 1615.150(a) and (b). These paragraphs further require the Commission to develop, by December 1989, a transition plan if structural changes to facilities are needed to achieve program accessibility. As these requirements have long since been met and the latest of the given time frames (June 26, 1992) has long passed, these sections of the regulation are deleted.

The Commission further proposes to update 1615.170(b), which sets forth the procedures for processing complaints alleging violations of section 504 with respect to employment, to cross-reference 29 CFR part 1614 rather than 29 CFR part 1613. Part 1614 replaced part 1613, which is no longer in force, and sets forth procedures for processing federal sector employment discrimination complaints arising under the EEO statutes enforced by the EEOC.

Finally, the Commission proposes to revise 1615.170(j) and 1615.170(k) to clarify the procedures for processing an appeal and to extend the time frame for doing so.

#### Summary of Section 508 Procedures in Proposed Regulation

Several sections of the regulation will be amended to set forth the procedures for filing a complaint under section 508 against the EEOC.

The statutory language in section 508 directs agencies to use the same complaint processing procedures as they use for section 504 complaints. The Commission will use its section 504 complaint procedures set forth in 29 CFR 1615.170(d)–(m) to process all section 508 complaints it receives whether from its applicants and employees, or from members of the public.

The Commission will not use the federal sector equal employment opportunity administrative complaint procedures, 29 CFR part 1614, for section 508 complaints, even if they are filed by a Commission applicant or employee. The part 1614 process is reserved for complaints alleging employment discrimination. An

allegation charging discrimination in access to electronic and information technology in violation of section 508 is outside the scope of part 1614.<sup>1</sup>

If a section 501 complaint filed against the Commission in the part 1614 process is found to include a separate section 508 claim, the Commission's Office of Equal Opportunity (OEO) will process the section 501 claim through the part 1614 process and it will process the section 508 claim pursuant to the procedures set forth in 29 CFR 1615.170(d)–(m).

Section 508 authorizes administrative complaints and lawsuits on or after June 21, 2001, but only with respect to federal agency procurements made on or after June 21, 2001, in violation of section 508. It does not authorize administrative complaints or lawsuits to be filed with respect to electronic and information technology that is "developed, maintained or used" by a federal agency. The proposed amendment to 1615.170 reflects this fact by describing the compliance procedures to be used for complaints alleging violations of the agency's responsibility to procure electronic and information technology under section 508.<sup>2</sup>

For a discussion of section 508 enforcement methods, interested parties are advised to consult the Department of Justice's *Section 508 of the Rehabilitation Act: Accessibility for People with Disabilities in the Information Age (Results of 2001 Survey)* at Section III.A, which discusses administrative complaints and lawsuits under section 508. See <http://www.usdoj.gov/crt/508/report2/complaints.htm>. Interested parties may also wish to consult the overview of section 508 provided by the Architectural and Transportation Barriers Compliance Board (Access Board) available at <http://www.access-board.gov/sec508/summary.htm>.<sup>3</sup>

<sup>1</sup> However, if the employee alleges that the denial of access to electronic or information technology is a violation of the Commission's duty to provide a reasonable accommodation under section 501 of the Rehabilitation Act, the Commission will use the part 1614 process.

<sup>2</sup> We note, however, that the Commission, like all federal agencies, has additional longstanding obligations that are enforceable under sections 501 and 504 of the Rehabilitation Act. Some of these obligations may be triggered when electronic and information technology is "developed, maintained, or used" by federal agencies and is not accessible. If individuals file complaints alleging that electronic or information technology acquired or developed prior to June 21, 2001, is inaccessible to people with disabilities, the Commission will review the allegations to determine if they more properly allege violations of sections 501 or 504 and process them accordingly.

<sup>3</sup> The Access Board issues standards for electronic and information technology covered by section 508.

#### Regulatory Procedures

##### *Executive Order 12866*

In promulgating this notice of proposed rulemaking, the Commission has adhered to the regulatory philosophy and applicable principles of regulation set forth in section 1 of Executive Order 12866, Regulatory Planning and Review. As indicated in the Semi-Annual Regulatory Agenda for Fall 2007, this regulation is not a significant regulation within the meaning of the Executive Order.

##### *Regulatory Flexibility Act*

The Commission certifies under 5 U.S.C. 605(b), enacted by the Regulatory Flexibility Act (Pub. L. 96–354), that this rule will not have a significant economic impact on a substantial number of small entities, because it applies exclusively to a federal agency and individuals accessing the services of a federal agency. For this reason, a regulatory flexibility analysis is not required.

##### *Unfunded Mandates Reform Act of 1995*

This proposed rule will not result in the expenditure by State, local, or tribal governments, in the aggregate, or by the private sector, of \$100 million or more in any one year, and it will not significantly or uniquely affect small governments. Therefore, no actions were deemed necessary under the provisions of the Unfunded Mandates Reform Act of 1995.

##### *Paperwork Reduction Act*

This regulation contains no information collection requirements subject to review by the Office of Management and Budget under the Paperwork Reduction Act (44 U.S.C. chapter 35).

#### List of Subjects in 29 CFR Part 1615

Administrative practice and procedure, Civil rights, Equal employment opportunity, Federal buildings and facilities, Individuals with disabilities.

For the reasons set forth in the preamble, the EEOC proposes to amend 29 CFR part 1615 as follows:

These standards set forth a definition of electronic and information technology and the technical and functional performance criteria necessary for such technology to comply with section 508. See 36 CFR part 1194.

**PART 1615—ENFORCEMENT OF NONDISCRIMINATION ON THE BASIS OF DISABILITY IN PROGRAMS OR ACTIVITIES CONDUCTED BY THE EQUAL EMPLOYMENT OPPORTUNITY COMMISSION AND IN ACCESSIBILITY OF COMMISSION ELECTRONIC AND INFORMATION TECHNOLOGY**

1. Revise the authority citation for 29 CFR Part 1615 to read as follows:

**Authority:** 29 U.S.C. 794 and 29 U.S.C. 794d(f)(2).

2. The heading of part 1615 is revised to read as set forth above.

3. Amend part 1615 to remove the term “handicap” wherever it appears and add, in its place, the term “disability.”

4. Amend part 1615 to remove the phrase “individual with a handicap” wherever it appears and add, in its place, the phrase “individual with a disability.”

5. Amend part 1615 to remove the phrase “individuals with handicaps” wherever it appears and add, in its place, the phrase “individuals with disabilities.”

6. Amend part 1615 to remove the term “nonhandicapped persons” wherever it appears and add, in its place, the term “individuals without disabilities.”

7. Amend part 1615 to remove the term “Chairman” wherever it appears and add, in its place, the term “Chair.”

8. Amend part 1615 to remove the term “EEO Director” wherever it appears and add, in its place, the term “Director of OEO.”

9. Section 1615.101 is amended by redesignating the current paragraph as paragraph (a) and adding a new paragraph (b) to read as follows:

**§ 1615.101 Purpose.**

(b) The purpose of this part is also to effectuate section 508 of the Rehabilitation Act, which requires that when Federal departments and agencies develop, procure, maintain, or use electronic and information technology, they shall ensure accessibility by individuals with disabilities who are Federal employees or applicants, or members of the public.

10. Section 1615.102 is revised to read as follows:

**§ 1615.102 Application.**

This part applies to all programs or activities conducted by the Commission and to its development, procurement, maintenance, and use of electronic and information technology.

11. Section 1615.103 is amended as follows:

A. The definition of “Complete complaint” is revised.

B. A definition of “Electronic and information technology” is added.

C. The definition heading “Individual with handicaps” is removed and “Individual with a disability” is added in its place.

D. The definition “Qualified individual with a handicap” is removed and a definition of “Qualified individual with a disability” is added in its place.

E. A definition of “Section 508” is added.

The revisions and additions read as follows:

**§ 1615.103 Definitions.**

\* \* \* \* \*

*Complete complaint* means a written statement that contains the complainant’s name and address and describes the Commission’s actions in sufficient detail to inform the Commission of the nature and date of the alleged violation of section 504 or section 508. 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.

*Electronic and Information Technology.* Includes information technology and any equipment or interconnected system or subsystem of equipment that is used in the creation, conversion, or duplication of data or information. The term electronic and information technology includes, but is not limited to, telecommunications products (such as telephones), information kiosks and transaction machines, World Wide Web sites, multimedia, and office equipment such as copiers and fax machines. The term does not include any equipment that contains embedded information technology that is used as an integral part of the product, but the principal function of which is not the acquisition, storage, manipulation, management, movement, control, display, switching, interchange, transmission, or reception of data or information. For example, HVAC (heating, ventilation, and air conditioning) equipment such as thermostats or temperature control devices, and medical equipment where information technology is integral to its operation, are not information technology.

\* \* \* \* \*

*Qualified individual with a disability* means:

(1) With respect to any Commission program or activity (except

employment), an individual with a disability who, with or without modifications or aids required by this part, meets the essential eligibility requirements for participation in, or receipt of benefits from, that program or activity.

(2) With respect to employment, a qualified individual with a disability as defined in 29 CFR 1630.2(m), which is made applicable to this part by 1615.140.

\* \* \* \* \*

*Section 508* means section 508 of the Rehabilitation Act of 1973, Public Law 93–112, Title V, section 508, as added Public Law 99–506, Title VI, section 603(a), Oct. 21, 1986, 100 Stat. 1830, and amended Public Law 100–630, Title II, section 206(f), Nov. 7, 1988, 102 Stat. 3312; Public Law 102–569, Title V, section 509(a), Oct. 29, 1992, 106 Stat. 4430; Public Law 105–220, Title IV, section 408(b), Aug. 7, 1998, 112 Stat. 1203.

**§ 1615.110 [Removed and Reserved]**

12. Section 1615.110 is removed and reserved.

13. Section 1615.135 is added to read as follows:

**§ 1615.135 Electronic and information technology requirements.**

(a) Development, procurement, maintenance, or use of electronic and information technology.—When developing, procuring, maintaining, or using electronic and information technology, the Commission shall ensure, unless an undue burden would be imposed on it, that the electronic and information technology allows, regardless of the type of medium of the technology—

(1) Individuals with disabilities who are Commission employees to have access to and use of information and data that is comparable to the access to and use of the information and data by Commission employees who are not individuals with disabilities; and

(2) Individuals with disabilities who are members of the public seeking information or services from the Commission to have access to and use of information and data that is comparable to the access to and use of the information and data by such members of the public who are not individuals with disabilities.

(b) Alternative means of access when undue burden is imposed.—When development, procurement, maintenance, or use of electronic and information technology that meets the standards published by the Access Board at 36 CFR part 1194 would impose an undue burden, the

Commission shall provide individuals with disabilities covered by this section with the information and data involved by an alternative means of access that allows the individual to use the information and data.

14. Section 1615.140 is revised to read as follows:

**§ 1615.140 Employment.**

No qualified individual with a disability shall, on the basis of disability, be subjected to discrimination in employment under any program or activity conducted by the Commission. The definitions, requirements, and procedures of section 501 of the Rehabilitation Act of 1973 (29 U.S.C. 791), as established by this Commission in 29 CFR part 1614, shall apply to employment in federally conducted programs or activities. As noted in 29 CFR 1614.203(b), the standards used to determine whether section 501 of the Rehabilitation Act has been violated in a complaint alleging non-affirmative action employment discrimination under part 1614 shall be the standards applied under Title I and Title V (sections 501 through 504 and 510) of the Americans with Disabilities Act of 1990, as amended (42 U.S.C. 12101, 12111, 12201) as such sections relate to employment. These standards are set forth in the Commission's ADA regulations at 29 CFR part 1630. If a section 501 complaint is filed against the Commission in the part 1614 process and it is found to include a separate section 508 claim, the part 1614 process will be used to process the section 501 claim. The section 508 claim will be processed separately in accordance with the procedures set forth at § 1615.170.

**§ 1615.150 [Amended]**

15. Section 1615.150(c) and (d) are removed.

16. Section 1615.170 is amended as follows:

- A. Revise paragraphs (a), (b), and (c).
- B. Revise the first sentences of paragraphs (d)(1) and (d)(2).
- C. Revise the third and fourth sentences of paragraph (i).
- D. Revise paragraph (j).
- E. Revise the first sentence of paragraph (k).
- F. Add a new paragraph (n).

The revisions and additions read as follows:

**§ 1615.170 Compliance procedures.**

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

in violation of section 504. This section also applies to all complaints alleging a violation of the agency's responsibility to procure electronic and information technology under section 508 whether filed by members of the public or EEOC employees or applicants.

(b) The Commission shall process complaints alleging violations of section 504 with respect to employment according to the procedures established by EEOC in 29 CFR part 1614 pursuant to section 501 of the Rehabilitation Act of 1973 (29 U.S.C. 791). With regard to employee claims concerning agency procurements made in violation of section 508, the procedures set out in paragraphs (d) through (m) of this section shall be used.

(c) Responsibility for implementation and operation of this section shall be vested in the Director, Office of Equal Opportunity (Director of OEO).

(d) \* \* \* (1) \* \* \* Any person who believes that he or she has been subjected to discrimination prohibited by this part or that the agency's procurement of electronic and information technology has violated section 508, or authorized representative of such person, may file a complaint with the Director of OEO. \* \* \*

(2) \* \* \* Complaints shall be filed with the Director of OEO within one hundred and eighty calendar days of the alleged acts of discrimination. \* \* \*

(i) \* \* \* An appeal shall be deemed filed on the date it is postmarked, or, in the absence of a postmark, on the date it is received by the Chair at EEOC headquarters. It should be clearly marked "Appeal of Section 504 decision" or "Appeal of Section 508 decision" and should contain specific objections explaining why the person believes the initial decision was factually or legally wrong. \* \* \*

(j) Timely appeals shall be decided by the Chair of the Commission unless the Commission determines that an appeal raises a policy issue which should be addressed by the full Commission.

(1) The Chair will draft a decision within 30 days of receipt of an appeal and circulate it to the Commission.

(2) If a Commissioner believes an appeal raises a policy issue that should be addressed by the full Commission, he or she shall so inform the Chair by notice in writing within ten calendar days of the circulation of the draft decision on appeal.

(3) If the Chair does not receive such written notice, the decision on appeal shall be issued.

(4) If the Chair receives written notice as described in subparagraph (2), the

Commission shall resolve the appeal through a vote.

(k) The Commission shall notify the complainant of the results of the appeal within ninety calendar days of the receipt of the appeal from the complainant. \* \* \*

\* \* \* \* \*

(n) *Civil actions.* The remedies, procedures, and rights set forth in sections 505(a)(2) and 505(b) of the Rehabilitation Act, 29 U.S.C. 794a(a)(2) and 794a(b) shall be the remedies, procedures, and rights available to any individual with a disability filing a complaint under this section.

Dated: February 7, 2008.

**Naomi C. Earp,**

*Chair.*

[FR Doc. E8-2863 Filed 2-15-08; 8:45 am]

BILLING CODE 6570-01-P

**DEPARTMENT OF VETERANS AFFAIRS**

**38 CFR Part 17**

**RIN 2900-AM22**

**Civilian Health and Medical Program of the Department of Veterans Affairs (CHAMPVA): Expansion of Benefit Coverage for Prostheses and Enuretic (Bed-wetting) Devices; Miscellaneous Provisions**

**AGENCY:** Department of Veterans Affairs.

**ACTION:** Proposed rule.

**SUMMARY:** This document proposes to amend the Department of Veterans Affairs (VA) regulations for the Civilian Health and Medical Program of the Department of Veterans Affairs (CHAMPVA) to expand the benefits available by covering, in addition to currently-covered prostheses, any non-dental prostheses determined medically necessary for treatment of certain medical conditions. It also proposes to no longer exclude coverage of enuretic (bed-wetting) devices. In addition, this document proposes to make changes in delegations of authority, technical changes, and nonsubstantive changes for purposes of clarity in VA's regulations governing CHAMPVA.

**DATES:** Comments must be received on or before April 21, 2008.

**ADDRESSES:** Written comments may be submitted through <http://www.Regulations.gov>; by mail or hand delivery to the Director, Regulations Management (OOREG), Department of Veterans Affairs, 810 Vermont Ave., NW., Room 1068, Washington, DC 20420; or by fax to (202) 273-9026.