

List of Subjects in 33 CFR Part 100

Marine safety, Navigation (water), Reporting and recordkeeping requirements, Waterways.

For the reasons discussed in the preamble, the Coast Guard proposes to amend 33 CFR part 100 as follows:

PART 100—SAFETY OF LIFE ON NAVIGABLE WATERS

1. The authority citation for part 100 continues to read as follows:

Authority: 33 U.S.C. 1233.

2. Add § 100.122 to read as follows:

§ 100.122 Fran Schnarr Open Water Championships, Huntington Bay, New York.

(a) *Regulated area.* All navigable waters of Huntington Bay, NY within 100 yards of any swimmer or safety craft on the race course bounded by the following points: Start/Finish at approximate location 40°54'26" N 073°24'29" W, East Turn at approximate location 40°54'45" N 073°23'37" W and a West Turn at approximate location 40°54'31" N 073°25'21" W.

(b) *Definitions.* The following definitions apply to this section: *Designated On-scene Patrol Personnel*, means any commissioned, warrant or petty officer of the U.S. Coast Guard operating Coast Guard vessels who have been authorized to act on the behalf of the Captain of the Port Long Island Sound.

(c) *Special local regulations.* (1) No person or vessel may approach or remain within 100 yards of any swimmer or safety craft within the regulated area during the enforcement period of this regulation unless they are officially participating in the Fran Schnarr Open Water Championships event or are otherwise authorized by the Captain of the Port Long Island Sound or by Designated On-scene Patrol Personnel.

(2) All persons and vessels must comply with the instructions from Coast Guard Captain of the Port or the Designated On-scene Patrol Personnel. The Designated On-scene Patrol Personnel may delay, modify, or cancel the swim event as conditions or circumstances require.

(3) Upon being hailed by a U.S. Coast Guard vessel by siren, radio, flashing light or other means, the operator of the vessel must proceed as directed.

(4) Persons and vessels desiring to enter the regulated area within 100 yards of a swimmer or safety craft may request permission to enter from the designated on scene patrol personnel by contacting them on VHF-16 or by a request to the Captain of the Port Long

Island Sound via phone at (203) 468-4401.

(d) *Enforcement Period.* This rule is enforced on a specified day each July to be determined on an annual basis. Notification of the specific date, times and enforcement of the special local regulation will be made via a Notice of Enforcement in the **Federal Register**, separate marine broadcasts and local notice to mariners.

Dated: February 11, 2010.

Daniel A. Ronan,

Captain, U.S. Coast Guard, Captain of the Port Long Island Sound.

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ARCHITECTURAL AND TRANSPORTATION BARRIERS COMPLIANCE BOARD**36 CFR Parts 1191, 1193, and 1194**

[Docket No. 2010-1]

RIN 3014-AA37

Americans With Disabilities Act (ADA) Accessibility Guidelines for Buildings and Facilities; Telecommunications Act Accessibility Guidelines; Electronic and Information Technology Accessibility Standards

AGENCY: Architectural and Transportation Barriers Compliance Board.

ACTION: Advance notice of proposed rulemaking.

SUMMARY: The Architectural and Transportation Barriers Compliance Board (Access Board) is issuing this Advance Notice of Proposed Rulemaking (ANPRM) to begin the process of updating its standards for electronic and information technology and its Telecommunications Act Accessibility Guidelines. At the same time, the Board is proposing to revise its Americans with Disabilities Act Accessibility Guidelines to address access to self-service machines used for ticketing, check-in or check-out, seat selection, boarding passes, or ordering food in restaurants and cafeterias. The Board has developed draft standards and guidelines for these purposes. The draft text (draft) is available on the Board's Web site (<http://www.access-board.gov/508.htm>). The Board invites the public to review and comment on all aspects of this draft, including the advantages and disadvantages of draft provisions, the organizational approach to presenting the standards and guidelines, alternative policies to those contained in the draft, and information

on benefits and costs. After reviewing the comments received in response to this advance notice and draft, the Board will issue a proposed rule followed by a final rule.

DATES: Comments should be received by June 21, 2010. The Board will hold a public hearing to provide an additional opportunity for comment. The hearing will take place on March 25, 2010 from 9 a.m. to noon in conjunction with the 25th Annual International Technology & Persons With Disabilities Conference. It will be held at the Manchester Grand Hyatt Hotel, Elizabeth Ballroom, One Market Place, San Diego, CA 92101. To pre-register to testify please contact Kathy Johnson at (202) 272-0041 or Johnson@access-board.gov.

ADDRESSES: You may submit comments, identified by docket number 2010-1 or RIN number 3014-AA37, by any of the following methods:

- *Federal eRulemaking Portal:* <http://www.regulations.gov>. Follow the instructions for submitting comments.

- *E-mail:* ictrule@access-board.gov. Include docket number 2010-1 or RIN number 3014-AA37 in the subject line of the message.

- *Fax:* 202-272-0081.

- *Mail or Hand Delivery/Courier:* Office of Technical and Information Services, Access Board, 1331 F Street, NW., Suite 1000, Washington, DC 20004-1111.

All comments received will be posted without change to <http://www.regulations.gov>, including any personal information provided.

FOR FURTHER INFORMATION CONTACT: Tim Creagan, Office of Technical and Information Services, Access Board, 1331 F Street, NW., Suite 1000, Washington, DC 20004-1111. Telephone number: 202-272-0016 (voice); 202-272-0082 (TTY). Electronic mail address: creagan@access-board.gov.

SUPPLEMENTARY INFORMATION:**Background**

On February 8, 1996, the Telecommunications Act of 1996 was enacted. Section 255 of the Act requires manufacturers to ensure that telecommunications equipment or customer premises equipment are designed, developed, and fabricated to be accessible to and usable by individuals with disabilities when it is readily achievable to do so; readily achievable means easily accomplishable, without much difficulty or expense. The Access Board was given the responsibility for developing accessibility guidelines for telecommunications equipment and

customer premises equipment in conjunction with the Federal Communications Commission (FCC). The Board was also instructed to review and update the guidelines periodically. The Board published the guidelines on February 3, 1998. 63 FR 5608 (February 3, 1998); 36 CFR part 1193. The guidelines were based on recommendations from a Telecommunications Access Advisory Committee that the Board had created.

On August 7, 1998, the Workforce Investment Act of 1998, which includes the Rehabilitation Act Amendments of 1998, was signed into law. Section 508 of the Rehabilitation Act Amendments requires that when Federal departments or agencies develop, procure, maintain, or use electronic and information technology, they must ensure that the technology is accessible to people with disabilities, unless an undue burden would be imposed on the department or agency. Section 508 required the Access Board to publish standards setting forth a definition of electronic and information technology and functional performance criteria for such technology. The Board was also required to periodically review and, as appropriate, amend the standards to reflect technological advances or changes in electronic and information technology. The Board published the standards on December 21, 2000. 65 FR 80500 (December 21, 2000); 36 CFR part 1194. The standards were based on recommendations from an Electronic and Information Technology Access Advisory Committee that the Board had created to assist it in developing the standards.

Since the Board issued the Telecommunications Act Accessibility Guidelines (guidelines) and the Electronic and Information Technology Accessibility Standards (standards), technology has changed. Additionally, several organizations have asked the Board to update its standards so they are harmonized with efforts taking place around the globe. The telecommunications provisions in the standards are based on and are consistent with the telecommunications provisions in the guidelines. Therefore, the Board has decided to update and revise the standards and the guidelines together to address changes in technology and to make both documents more consistent. Through this update, the Board is addressing new technology and seeks to harmonize, to the extent possible, its criteria with other standards and guidelines in order to improve accessibility and facilitate compliance.

In addition, the Board is proposing to amend the Americans with Disabilities Act Guidelines (ADAAG) to address access to self-service machines used for ticketing, check-in or check-out, seat selection, boarding passes, or ordering food in restaurants and cafeterias. In 2006, the National Council on Disability released a report, NCD Position Paper on Access to Airline Self-Service Kiosk Systems, which recommended that accessibility provisions from ADAAG or the section 508 standards be incorporated into an updated Air Carrier Access Act regulation for accessible design applicable to both proprietary and common-use self-service kiosk systems (<http://www.ncd.gov/newsroom/publications/2006/kiosk.htm>). In May 2008 the Department of Transportation amended its Air Carrier Access Act rules to apply to foreign carriers but decided to defer action on kiosks and noted that the Access Board has work under way that could affect kiosks. 73 FR 27614 (May 13, 2008).

There have also been numerous settlement agreements and structured negotiations reached with various public accommodations on tactile point of sale devices (<http://lflegal.com/category/settlements/point-of-sale-settlements/>). With the proliferation of point of sale machines, kiosks, and other self-service machines, the Board has decided that in addition to updating the standards for electronic and information technology and the guidelines for telecommunications products, it should revise the Americans with Disabilities Act Accessibility Guidelines to address access to this new technology to ensure its accessibility for people with disabilities. The Board proposes to extend coverage to self-service machines used for ticketing, check-in or check-out, seat selection, boarding passes, or ordering food in restaurants and cafeterias. This would include point of sale devices used to check-in or check-out products at retail establishments such as those addressed in the settlement agreements and structured negotiations as well as other self-service machines.

To begin the process of updating the standards and guidelines, the Board formed the Telecommunications and Electronic and Information Technology Advisory Committee (TEITAC or Committee), to review the existing standards and guidelines and to recommend changes. The Committee met regularly from September 2006 to April 2008, and held numerous teleconferences in between meetings. The Committee's 41 members comprised a broad cross-section of

stakeholders, including representatives from industry, disability groups, standard-setting bodies in the U.S. and abroad, and government agencies. In their deliberations, Committee members addressed a range of issues, including new or convergent technologies, market forces, and international harmonization. Recognizing the importance of standardization across markets worldwide, the Committee coordinated its work with standard-setting bodies in the U.S. and abroad, such as the World Wide Web Consortium, and the Committee included representatives from the European Union, Canada, Australia, and Japan.

On April 3, 2008 the Committee presented its report to the Board. The Committee's report recommends detailed revisions to the Board's section 508 standards and Telecommunications Act accessibility guidelines. The Committee's report is available on the Board's website at <http://www.access-board.gov/sec508/refresh/report>.

The Board staff has been working with an ad hoc committee of Board members and staff from several Federal agencies to develop this notice and draft. The final version of the draft will ultimately replace the section 508 standards, the Telecommunications Act accessibility guidelines, and make amendments to the Americans with Disabilities Act Accessibility Guidelines. In addition to agencies that are represented on the Board, staff from the Federal Communications Commission, Social Security Administration, Internal Revenue Service, and the Department of Homeland Security have been involved in the ad hoc committee's work.

The draft is available on the Board's website at www.access-board.gov/508.htm. At a later date, the Board will publish a notice of proposed rulemaking to update the standards and guidelines based on the input received in response to this advance notice and draft. The proposed rule will provide another opportunity for public comment. The Board will also prepare a regulatory assessment to accompany the proposed rule. To assist the Board in developing the regulatory assessment, the Board invites comments on the quantitative and qualitative benefits and costs associated with the changes proposed in the draft; the Board also asks commenters to provide information on the benefits and costs of alternative policies which they propose. The Board will finalize the standards and guidelines based on the comments received in response to the proposed rule.

Regulatory Approach

The TEITAC sought to balance the need for detailed criteria with an approach that accommodates the dynamic and ever-evolving nature of the technologies covered. Many people, from product designers and engineers to procurers and end users, have called for clear delineation of what makes a product accessible for compliance purposes. However, the Committee determined that product-specific criteria will not keep pace with innovative trends and market forces which enhance the capabilities of products and blur their categorization. Convergent technologies, for example, support the growing demand for all-in-one products, such as mobile devices that offer voice and text communication, web browsing, and media players.

The Committee's report recommended a revised set of performance criteria that specify access capabilities for products generally. The Committee organized its recommendations to serve as a framework for updated technical specifications to address hardware, user interfaces and electronic content, audio-visual players, displays, and content, real-time voice communication, and authoring tools. Unlike the current standards, the committee's recommendations are organized primarily by the features or capabilities of a product, instead of discrete product types. The recommendations contain advisory and background information on the performance and technical provisions, including references to related standards, and update defined terms and provisions covering documentation, support, and maintenance. The report also advises the Board on considerations for future updates, supplementary guidance materials and tools, compliance testing, and further research.

Question 1: The Board developed the draft using the organizational approach recommended by the Committee in which the provisions are organized primarily by the features or capabilities of a product, instead of discrete product types. The Board seeks comments on the usability and effectiveness of this approach, as well as alternative organizational approaches.

Question 2: The Board seeks input on what implementation time frames would be reasonable, specifically whether some provisions should have differing implementation dates.

Structure of the Draft

The draft contains revisions to the current standards and guidelines which the Board is considering. The revisions

are largely based on the recommendations of the TEITAC report. Some provisions reflect changes to the TEITAC recommendations made by the Board, as noted in the detailed summary which follows. The draft also contains revisions that would amend provisions in the Americans with Disabilities Act Accessibility Guidelines (ADAAG) by applying requirements of the standards to self-service machines. The draft standards and guidelines share a common set of functional performance criteria (Chapter 2) and technical design criteria (Chapters 3–10), but have separate introductory chapters (Chapter 1) which outline scoping, application, and definitions. Chapter 1 labeled, "508 Chapter 1: Application and Administration" addresses products covered by Section 508 of the Rehabilitation Act and its provisions are preceded by the letter "E"; the other chapter 1 is labeled, "255 Chapter 1: Application and Administration" and addresses telecommunications equipment and customer premises equipment covered by the Telecommunications Act of 1996 and its provisions are preceded by the letter "C".

Question 3: To improve usability, the Board titled each provision and located advisory notes next to the associated requirements. Are there any other format changes that will make the draft easier to use?

The draft is substantially reorganized from the current standards and guidelines. Following the recommendations in the TEITAC report, the draft provisions have been organized in terms of functionality, rather than product categories. For example, the Board separated conversation functionality, including both voice and text (Chapter 9) from audio output functionality, such as alert indicators (Chapter 8).

Question 4: The Board seeks feedback on the overall organization of the draft, especially how aspects of technology are addressed by the chapter organization. For example, should software (Chapter 4) and electronic documents (Chapter 5) be combined? Or, should all requirements for audio output, including conversation functionality and status indicator sounds (Chapter 8), be combined with text messaging capability (Chapter 9) into one chapter?

Major Changes From Current Requirements

The draft addresses some issues which were not covered in the current standards or guidelines but were the subject of supplementary technical guidance. The draft does not seek to

change the approach to these issues but instead makes them explicit. For example, the relationship between the functional performance criteria and the technical provisions is unchanged. However the draft text seeks to clarify (in Chapter 1) that a product may be deemed accessible if it meets all the technical provisions, even if the functional performance criteria are not completely met.

The draft does not seek to substantively change the majority of requirements in the current standards or guidelines, consistent with the TEITAC report. However, some material is changed in the draft. For example, the draft contains significant revisions to the general exceptions. All substantive changes are explained in the Summary of Provisions below. One of the most significant changes being considered by the Board involves the application of the guidelines and standards to electronic content. The Board is proposing to cover electronic content of certain official communications by Federal agencies. Another significant change concerns coverage of self-service machines under the Americans with Disabilities Act.

Summary of Provisions

This section provides an overview of the draft and highlights substantive revisions and updates from the TEITAC report, unless otherwise noted. The draft includes some non-substantive editorial changes to the TEITAC recommendations made by the Board that are not detailed in this discussion. In addition to the specific questions below corresponding to individual provisions, the Board seeks general comments on these provisions, including the extent to which they are necessary, their advantages and disadvantages, their quantitative and qualitative benefits and costs, and alternative policies. The Board also invites the public to identify any gaps in the draft guidelines and standards, and approaches to addressing such gaps.

508 Chapter 1: Application and Administration

The draft contains provisions for information and communication technology for Federal departments and agencies, including the U.S. Postal Service, as set forth in Section 508 of the Rehabilitation Act of 1973.

General Requirement (E102)

The draft standards would be applied by Federal agencies so that employees and members of the public with disabilities have access to and use of electronic and information technology

that is comparable to the level of access and usability available to persons without disabilities unless it would be an undue burden to do so. The Board added this provision to clarify these responsibilities. This would not change the scope or application of the standards.

Application (E103)

This section covers application of the standards to information and communication technology procured, developed, maintained, or used by or on behalf of Federal agencies. The phrase “or on behalf of agencies” has been added to cover technologies used by contractors under a contract with a Federal agency. A citation to the statute has been added to this provision. Coverage of agencies is unchanged; however, the draft provision seeks to provide more detail regarding which agencies are covered. The term “Information and Communication Technology (ICT),” as defined in section E111, encompasses both electronic and information technology covered by Section 508 of the Rehabilitation Act and telecommunications products covered by Section 255 of the Telecommunications Act of 1996. The Committee recommended use of the broader term ICT for convenience and clarity since the technical requirements and functional performance criteria apply under both laws and since the term ICT is widely used by most other countries.

Electronic Content (E103.3.1)

The amendments to the Rehabilitation Act require that when developing, procuring, maintaining, or using electronic and information technology, each Federal department or agency shall ensure, unless an undue burden would be imposed on the department or agency, that electronic and information technology allows (regardless of the type of medium) individuals with disabilities 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 others without disabilities (see 29 U.S.C. 794d (a)(1)(A)). The current standards do not adequately address what is meant by comparable access to information and data. There has been much confusion over whether and how such electronic content is addressed.

The draft contains a new provision which the Board is considering to address access to electronic content of certain official communications by Federal agencies or agency representatives. This draft requirement would apply to electronic content

regardless of the method of transmission or storage but is limited to official agency communications. “Official communication” refers specifically to communication by a Federal agency to employees that contains information necessary for those employees to perform their job functions and information relevant to enjoyment of the benefits and privileges of employment or to communication by a Federal agency to members of the general public that contains information necessary for the conduct of official business with the agency. Examples of such electronic content may include email messages, Word documents, and other types and formats. The current standards address access to some types of electronic content, such as web pages, forms, and video productions. A definition of “content,” is included in section E111.

Question 5: The draft requirement which the Board is considering for access to electronic content in the draft is limited to certain official communications by Federal agencies. Other types of communications and electronic content are not addressed. The Board seeks comment on this draft requirement and what other types of content including social media (i.e., YouTube and Twitter) should be addressed and the benefits and costs of extending coverage to other forms of electronic content. The Board is interested in comments from agencies about how this provision could be implemented across large and diverse institutions. How should attachments to official email messages be handled? The Board is also interested in information on the benefits and costs associated with this change, particularly from Federal agencies. How should this provision apply to records requested from the National Archives and Records Administration who is prohibited from altering archival records?

Undue Burden (E104)

Consistent with the Committee’s recommendations, this section in the draft is substantively unchanged from the current standards.

General Exceptions (E105)

The current standards contain six exceptions. In the draft, two of the exceptions are retained unchanged: The prohibition against requiring fundamental alteration in the nature of a product or components; and the statutory exception for products whose function, operation, or use involves national security or cryptographic activities. Another exception concerning ICT acquired by a contractor incidental to a contract has been relocated to the

application section which contains a provision specific to Federal contracts (E103.4.2).

The Board is considering removing three exceptions in the current standards:

- One exception stated that assistive technology need not be provided at all workstations for all Federal employees (1194.3(c)). The current standards require that ICT either be directly accessible or compatible with assistive technology. Since the standards do not require the provision of assistive technology at each work station, the Board considers this exception unnecessary.

- The second exception states that where agencies provide information and data to the public through accessible ICT, the accessible ICT need only be provided at the intended public location (1194.3(d)). The Board is considering removing this exception from the standards because no provision in the standards requires accessible ICT in more than one location. Since these exceptions are contained in the statute, their removal from the standards will not impact application.

- A third exception states that products located in spaces used only by service personnel for maintenance and repair need not be accessible. The Board believes this provision is unnecessary since most functions can be accessed remotely.

Question 6: The Board seeks comment on removing these exceptions and the impact of removing them, including the benefits and costs associated with removing them. Should the exception concerning ICT acquired by a contractor incidental to a contract be repeated in this section and in section E103.4.2?

Equivalent Facilitation (E106)

This section is substantively unchanged from the current standards.

WCAG 2.0 Harmonization (E107)

The Committee recommended that the Board seek to harmonize the standards with the World Wide Web Consortium (W3C) Web Content Accessibility Guidelines 2.0 once they were finalized. The Web Content Accessibility Guidelines (WCAG) 2.0 was published as a W3C recommendation on December 11, 2008; about 8 months after the Committee provided its report to the Board. The Board is considering that web pages, as defined by WCAG 2.0, which are Level AA conformant, be deemed to be in conformance with the provisions noted in the draft.

Question 7: The Board seeks comment on this approach to harmonization with WCAG 2.0 including suggestions for

alternative approaches to achieving harmonization, and comments on the benefits and costs associated with the Board's approach.

Best Meets (E108)

This section is substantively unchanged from the current standards.

Provision of Support Services and Materials (E109)

The Board is considering requiring agencies to provide alternate methods of communication through help desks and technical support services and to provide support services and materials in alternate formats. Chapter 10 of the technical requirements specifies the types of information to be provided, such as descriptions of the built-in accessibility features of a product and information about operation of features that can be accessed from the keyboard.

Definitions (E111)

The draft contains a number of new definitions. Most defined terms derive either from the Committee report or from the WCAG 2.0. Consistent with the Committee's report, the draft seeks to minimize deviations from industry usage and understanding of defined terms to ensure consistency with industry standards and best practices.

The draft uses the term "Information and Communication Technology, (ICT)" to refer to both telecommunications products covered by Section 255 of the Telecommunications Act of 1996 and to electronic and information technology covered by Section 508 of the Rehabilitation Act. The Board has defined this term to include existing definitions of "electronic and information technology" and "telecommunications products" in the current standards and guidelines. The definition is intended to encompass a wide expanse of products and the functions for which they are used.

Question 8: The Board is interested in comment on the definition of Information and Communication Technology.

Referenced Standards or Guidelines (E112)

Other standards and guidelines referenced in this draft are based on recommendations from the Committee. The intent is to promote testability and usability of the draft provisions.

255 Chapter 1: Application and Administration

This chapter covers application of the draft to telecommunications and interconnected Voice over Internet Protocol (VoIP) products and Customer

Premises Equipment (CPE) covered by Section 255 of the Telecommunications Act of 1996. It applies to manufacturers of telecommunications equipment or customer premises equipment and requires products to be designed, developed, and fabricated to be accessible to and usable by individuals with disabilities when it is readily achievable to do so; readily achievable means easily accomplishable, without much difficulty or expense.

General Requirement (C102)

This draft provision is substantially unchanged from the current guidelines and the Committee recommendations; the draft provision applies to manufacturers of telecommunications products.

Application (C103)

The draft provisions apply to telecommunications products and interconnected VoIP products and CPE. This section now specifically references interconnected VoIP products, consistent with Federal Communication Commission regulations. An advisory note provides examples of covered technologies, such as instant messaging that supports real-time conversation in other modes, and products beyond those typically thought of as communications devices, such as web interfaces used to access functions in VoIP systems.

Direct Accessibility (C103.4)

This draft provision is updated yet consistent with the current guidelines which require telecommunications equipment and CPE to be directly accessible when it is readily achievable to do so.

Compatibility Design (C103.4.1)

This draft provision is similar to the current guidelines which require telecommunications equipment and CPE to be compatible with peripheral devices and specialized customer premises equipment when it is readily achievable to do so.

Prohibited Reduction of Accessibility (C103.5)

This draft provision is substantially unchanged from the current guidelines.

Information, Documentation, and Training (C104)

This draft provision is substantially unchanged from the current guidelines and would require manufacturers to provide access to information, documentation, and training to their customers. This may be done through help desks and support services and shall include alternate methods of

communication. Chapter 10 of the technical requirements specifies the types of information to be provided, such as descriptions of the built-in accessibility features of a product and information about operation of features that can be accessed from the keyboard.

Equivalent Facilitation (C105)

This section is substantively unchanged from the current guidelines.

WCAG 2.0 Harmonization (C106)

The Committee recommended that the Board harmonize its rule with the World Wide Web Consortium (W3C) Web Content Accessibility Guidelines 2.0 once they were finalized. The Web Content Accessibility Guidelines (WCAG) 2.0 was published as a W3C recommendation on December 11, 2008. The Board is considering that web pages, as defined by WCAG 2.0, which are Level AA conformant, shall be deemed to be in conformance with the provisions noted in the draft.

Product Design, Development, and Evaluation (C107)

This section is substantially consistent with the current guidelines which require manufacturers to evaluate the accessibility, usability, and compatibility of telecommunications products and CPE. It has been revised to include references to VoIP and other technologies.

Definitions (C109)

The draft contains a number of new definitions. Most defined terms derive either from the Committee report or WCAG 2.0. Consistent with the Committee's report, the draft minimizes deviations from industry usage and understanding of defined terms to ensure consistency with industry standards and best practices. The definition of "Interconnected Voice over Internet Protocol (VoIP) Service" derives from FCC regulations and was included in the Committee report.

Question 9: The Board is interested in comment on the proposed definitions.

Referenced Standards or Guidelines (E110)

The external standards and guidelines referenced in the draft are based on recommendations from the Committee. The intent is to promote testability and usability of the provisions of this part.

Chapter 2: Functional Performance Criteria

Functional Performance Criteria (202)

This draft provision is consistent with the recommendation of the Committee to retain all existing functional

performance criteria and to add a provision that addresses color vision deficits and a provision to minimize photosensitive seizure triggers. The Committee and the Board felt it was important that functional performance criteria map to technical specifications.

Question 10: The Board is interested in comment on how the functional performance criteria should be implemented in relation to the technical provisions. Does the approach discussed in E103.5 and C103.6, as a statement of current practice, clarify or confuse the issue? If the approach is confusing, how could it be made less confusing?

General (202.1)

The current standards require products to have at least one mode of operation and information retrieval that meets the functional performance criteria. More and more products are now multi-functional. For example, many devices allow users to make telephone calls, send text messages, and access the Internet. In recognition of this growing multi-functionality of covered products, the Board is considering requiring that each mode of operation of a product meet the functional performance criteria.

Without Vision (202.2)

This provision is substantially unchanged from the current standards and the Committee report, except for the use of the term “non-visual access.”

With Limited Vision (202.3)

This provision addresses access to at least one mode of operation for users with limited vision. The Board is considering revising the current specification to require that ICT meet the needs of a greater range of users. The current standards require an accessible mode that accommodates visual acuity up to 20/70. The Board is considering increasing the covered range to 20/200, which is the legal definition of blindness so that more people have the option to use a visual-based mode instead of non-visual accessible modes.

Question 11: The Board is interested in comment on whether and the extent to which this change will sufficiently improve access for people with limited vision and the benefits and costs associated with this change.

Without Perception of Color (202.4)

The Committee’s report recommended the addition of a provision specifying that functionality not be based on the ability to perceive color. This is consistent with the technical provisions in the current standards that prohibit

relying on color alone as the sole means of indicating status or function.

Question 12: The Board is interested in comment on this proposed new provision, including information on the benefits and costs associated with this addition.

Without Hearing (202.5)

This draft provision is substantially consistent with the current standards and the Committee report.

With Limited Hearing (202.6)

This provision seeks to address access for users with limited hearing. The current standards stipulate that at least one mode be provided in “an enhanced auditory fashion.” The provision the Board is considering would require that any auditory features, where provided, include at least one mode of operation that improves clarity, reduces background noise, or allows control of volume. The Board included this change to make the requirement more specific. The Committee considered such a change but did not recommend specific language.

Question 13: The Board is interested in comment on the proposed change to improve access for individuals with hearing impairments, including information on the benefits and costs associated with this change.

Without Speech (202.7)

This provision is substantially unchanged from the current standards and the Committee report.

With Limited Manipulation (202.8) and With Limited Reach and Strength (202.9)

These draft provisions are consistent with a provision in the current standards but the Board has separated them into two distinct provisions. The Board is considering making this change to address issues of fine motor control or simultaneous actions apart from the reach ranges or strength necessary to access and operate controls. These provisions are consistent with technical specifications addressing reach ranges and operable parts.

Without Physical Contact (202.10)

This is a new provision the Board is considering adding due to the significant population of users who are unable to make contact with a product, as well as the many types of technology now available that do not require physical contact, such as Bluetooth and wireless connectivity. The Committee considered, but did not reach consensus, on adding such a requirement. The wording of the

provision derives from that considered by the Committee.

Question 14: The Board is interested in comment on the proposed new provision to improve access for individuals who are unable to make contact with a product, including information on the benefits and costs associated with this change.

Minimize Photosensitive Seizure Triggers (202.11)

This is a new provision which the Board is considering adding to address hazards posed to people with photosensitive epilepsy. The Board added this provision as a functional criterion for consistency with technical specifications for flashing (306).

Question 15: The Board is seeking comment on whether cognitive disabilities are sufficiently addressed in the functional performance provisions and seeks suggestions on how the requirements might better address the accessibility needs of individuals with cognitive disabilities.

Chapter 3: Common Functionality

This chapter covers those common features of information and communication technology which are found across a variety of platforms, formats, and media. The draft requirements of this chapter which the Board is considering derive from provisions for self-contained closed products and desktop and portable computers in the current standards. The Board organized this chapter to cover all technical requirements that address elements or functionality common to ICT. These requirements apply generally to all types of ICT.

Closed Functionality (302)

The Board is considering this draft provision to require that ICT with closed functionality be usable by people with disabilities without requiring assistive technology other than personal headsets. The current standards address this only in relation to self-contained closed products. The Committee recommended this change since closed functionality is not product or function specific and may be found in many contexts, due to either design or policy considerations. For example, self-contained closed products such as kiosks may be closed due to design, while software applications may have certain limitations imposed on functionality due to policy considerations, such as maintaining security.

Question 16: The Board is interested in comments on how closed functionality is covered in the draft.

Should other means of assistive technology besides personal headsets be permitted to provide access to ICT with closed functionality?

Biometrics (303)

The Committee recommended that the current requirements for biometric identification be expanded to allow for alternate forms of user identification or control which may be either biometric or non-biometric. The requirement for a non-biometric form of user identification or control is retained. The Board is considering a requirement for an alternate biometric that uses dissimilar characteristics to the default biometric.

Preservation of Information Provided for Accessibility (304)

This draft provision is substantially unchanged from the current standards and the Committee recommendations.

Color (305)

This draft provision is substantially unchanged from the current requirements and the Committee recommendations.

Flashing (306)

In this draft provision the Board is considering specifying a maximum 3-per-second flash rate for ICT light flashes. This differs from the current standards which specify that “products shall be designed to avoid causing the screen to flicker with a frequency greater than 2 Hz and lower than 55 Hz.” The Committee recommended this change because the current provision is too restrictive in prohibiting flashing within a certain range with no consideration for the size of the flashing area. The provision is consistent with WCAG 2.0.

Operable Parts (307)

In this draft provision the Board is considering addressing controls and keys, tactile discernability, key repeat and adjustability functions, non-mechanical controls, and accessible reach ranges. The Board is considering revising the provision to reference specifications for reach ranges in the Board’s Americans with Disabilities Act (ADA) and Architectural Barriers Act (ABA) Accessibility Guidelines for buildings and facilities, which address both forward and side reach ranges, since some products may require a variety of approaches. The current standards only specify side reach ranges. The ADA and ABA guidelines specify a maximum side reach height that is lower than the maximum height specified in the current standards (48

inches maximum instead of 54 inches). This would eliminate any potential conflict between the ICT requirements and the ADA and ABA accessibility guidelines.

Chapter 4: Platforms, Applications, and Interactive Content

General (401)

This chapter provides technical requirements for platforms, applications, and interactive content. The Board separated these requirements from those for static electronic documents (Chapter 5). These provisions are harmonized with WCAG 2.0.

Non-Text Content (402)

In this draft section the Board is considering providing technical requirements for non-text content, including audio and visual content and CAPTCHA (Completely Automated Public Turing Test to tell Computers and Humans Apart). It references specifications for non-text content in Chapter 5 and requirements for audio and video content in Chapter 6. Specifications for all other types of interactive content are contained in this chapter.

Distinguishable Content (403)

In this section the Board is considering new requirements to address the difficulties persons with hearing loss or low vision may experience in distinguishing between foreground and background content, whether that content is audio (background music to an audio track of speakers) or text. These draft requirements are based on recommendations from the Committee. The Board is also considering adding a provision for resizable text for consistency with WCAG 2.0.

Keyboard Operation (404)

This draft section is substantively unchanged from the current standards and is consistent with recommendations from the Committee.

Time Limits (405)

This draft section is substantively unchanged from the current standards and is consistent with recommendations from the Committee.

Navigation (406)

In this draft section the Board is considering addressing navigation and includes substantive changes from the current standards and the Committee’s recommendations. A provision to bypass blocks of content (406.2), consistent with the current standards

was recommended for deletion in the Committee report. The Board is considering retaining this provision for consistency with WCAG 2.0. The Board is also considering adding a provision on focus order (406.3) for the same reason, and a new provision covering multiple ways to locate content (406.4), which was recommended by the Committee.

Question 17: The draft includes three provisions (406.2, 406.3, and 406.4) not included in the Committee report but that are consistent with WCAG 2.0. Are these provisions important enough for end-users to be included for the sake of harmonization with other standards? The Board seeks comment on the benefits and costs of these additions.

Predictability (407), Input Assistance (408), User Preferences (409), and Interoperability With Assistive Technology (410)

These draft sections are substantively unchanged from the current standards and are consistent with recommendations from the Committee.

Compatible Technologies (411)

This draft section is consistent with the current standards and contains provisions that are closely adapted from provisions the Committee considered but did not reach consensus on.

Assistive Technology Function (412)

The Board is considering a new requirement that closely reflects recommendations the Committee considered but did not agree on. The Board added this provision because it believes it is important to address how applications use platform accessibility services to make information about components programmatically determinable.

Question 18: The draft includes a requirement for ICT which provides an assistive technology function. Should the requirements apply to assistive technology? The Board seeks comment on the benefits and costs on including explicit requirements for assistive technology.

Authoring Tools (413)

In this new section the Board is considering requiring that for all formats supported by an authoring tool, the authoring tool must provide a mode of operation that supports the creation of electronic documents that conform to the ICT accessibility requirements. The Committee recommended that authoring tools be required to support the ability to improve the accessibility of content.

Question 19: Do the proposed provisions for authoring tools reflect

features that many authoring tools already provide? If not, could such features be added to authoring tools relatively easily? The Board seeks comment on the benefits and costs of including such requirements for authoring tools.

Chapter 5: Electronic Documents

The Board is considering separating requirements that generally apply to non-interactive content (Chapter 5) from those that generally apply to interactive interfaces (Chapter 4). Chapter 5 covers access to electronic documents which contain mostly static, read-only, non-interactive electronic content. Electronic content covered by this chapter includes most non-paper documents and web content, regardless of format. Examples include word processing files (such as Word and WordPerfect), Portable Document Format (PDF), presentations (such as Power Point), spreadsheets (such as Excel), and simple web pages not containing embedded objects (such as Flash, Silverlight, or Air). All of these elements are covered in this chapter. In addition, electronic documents may also contain some modest interactive components such as hypertext links, buttons, and form elements or fields. These common elements are covered in this chapter as well. The draft provisions of this chapter derive from requirements in the current standards for web-based intranet and internet information and applications. Whereas the current standards focus on web-based documents, this chapter would apply to a wide range of content formats.

Question 20: The Board seeks comment on whether there is a better way to distinguish between requirements for software applications covered by Chapter 4 and electronic documents covered by Chapter 5.

Non-Text Content (502)

This provision is consistent with the current standards but provides more detail on what constitutes a "text equivalent" for many common situations.

Adaptable Presentation of Content (503)

In this section the Board is considering addressing adaptable presentation of content, including features which allow content to be presented in different ways without losing or changing information or the structure of the content, such as contrast options for viewing websites. Other elements of presentation include the ability to programmatically determine the information, structure, and relationships implied by visual or

auditory formatting. When a screen reader reads content, the presentation format of the content changes, but the information provided and the structure or relationships of the content do not. For example, columns in a table should still be distinguishable from rows, separate paragraphs of information should still be separate, and the arrangement of the content should still be apparent. This draft section contains specifications based on the current standards for data tables, scripts, and forms, but includes new provisions for logically correct reading sequence and sensory characteristics.

Distinguishable Presentation of Text Content (504)

This draft section is based on requirements in the current standards for web-based intranet and internet information and applications but includes new specifications for contrast and text enlargement. The Committee recommended contrast ratios for text and images of text of at least 4.5:1. The draft includes a requirement that text be easily resizable for consistency with WCAG 2.0 which the Board is considering.

Navigation and Orientation (505)

In this draft section the Board is considering addressing navigation and orientation and stems from the current standards but includes new requirements regarding link purpose in context, headings, and labels. The draft contains new requirements which the Board is considering which state that the purpose of each link shall be determinable from the link text alone, or from the link text together with its programmatically determined link text, unless the author intends the purpose of the link to be ambiguous. The reason for this requirement is to allow users to understand the purpose of each link so they can determine whether they want to follow the link. In addition, the Committee report included an advisory note recommending that specifications for document titles (505.2) apply not just to frames, as in the current standards, but broadly to all document types. The Board also has included this provision as a requirement for greater consistency with WCAG 2.0.

Readability (506)

This draft provision which the Board is considering is new and requires that the language of documents and changes in language be identified. It is consistent with WCAG 2.0.

Input Assistance (507)

This draft provision is consistent with requirements in the current standards for web based forms but has been revised to apply to all types of forms.

Compatible Technologies (508)

In this new draft section the Board is considering requiring that content using mark up languages, such as XML or HTML, use that language according to specification when creating electronic content so that user agents, such as assistive technology like screen readers, will be able to properly interpret and read the content. The Committee noted that a screen reader may be unable to properly interpret content which has been improperly coded, so this provision is intended to address that issue. The Committee recommended this addition as an advisory (non-mandatory) provision, but the Board is considering the addition as a requirement to better harmonize the draft with WCAG 2.0.

Chapter 6: Synchronized Media Content and Players

Chapter 6 addresses audio and visual electronic content as well as players of that content. Other forms of electronic content are addressed in Chapter 4 (Platforms, Applications, and Interactive Content) and Chapter 5 (Electronic Documents). In order to address the broader range of content now in use, references to "multimedia video" have been replaced by the term "synchronized media," as recommended by the Committee. The Board recognizes that while much of the draft maintains a functional approach to the requirements, Chapters 6 through 9 adopt a more product oriented approach.

Question 21: The Board seeks comment on whether this proposed approach is successful in making the document more understandable and useful. The Board welcomes alternatives to this organizational approach.

Video or Audio Content With Interactive Elements (602)

This is a new provision which the Board is considering to address technology that allows users to interact with video or audio content. It was recommended by the Committee to address a new development in technology that occurred after the current standards were issued.

Captions and Transcripts for Audio Content (603)

This draft provision is derived substantively from the current standards but has been reorganized for clarity. It

distinguishes pre-recorded content from real-time content and audio-only content from synchronized media.

Question 22: The Board is interested in comments on whether there is a voluntary consensus standard which could address some issues related to captioning quality, such as the degree of synchronization required and an allowable error rate.

Video Description and Transcripts for Video Content (604)

The term “video description” was recommended by the Committee to replace the term “audio description.” Video description is used to refer to the process whereby visual content is made accessible by the insertion of verbal or auditory description of on-screen visuals intended to describe important visual details. “Video description” is the preferred terminology.

This draft provision derives substantively from the current standards, but has been reorganized for clarity. It distinguishes pre-recorded content from real-time content and visual-only content from synchronized media.

The Board is considering adding a new provision on multiple visual areas of focus to address a problem experienced by persons with disabilities when there are multiple, simultaneous sources of information and data being provided on-screen. People with disabilities may miss some of the information displayed simultaneously on a screen, when some, but not all, of the information is described. A typical example is text on screen that states the name and title of the person speaking, but the text is not included in the main audio output. This provision is intended to address that concern.

The Board departed from a Committee recommendation for video description of pre-recorded content by keeping it as an unconditional requirement, consistent with the current standards. The Committee recommended an option for providing a text description of video content where space is not available in the main program for synchronized video descriptions. However, new technology for “extended description” may support conformance to this provision without fundamentally altering pre-recorded synchronized media. Extended description allows users to pause a video to listen to a description and resume playing the video.

Caption Processing Technology (605)

This draft provision addresses technologies that display and process captions and is distinct from provisions

for caption content (603). The Committee recognized that current audio visual players and displays may be separate components of a larger system.

Video Description Processing Technology (606)

This draft provision addresses technologies that play and process video descriptions and is distinct from requirements for video description of content (604). It is substantively consistent with the current standards but specifies distinct provisions to be followed for both analog signal tuners and digital television tuners.

User Controls for Captions and Video Description (607)

This draft provision covers user controls for captions as well as video descriptions and differs from the current standards which only address video description controls and are not as comprehensive in scope. As recommended by the Committee, this provision addresses on-screen menus, a new technology not addressed by the current standards.

Audio Track and Volume Control (608)

This is a new provision being considered by the Board to address the issue of background audio as a barrier to understanding speech in video content. It reflects the new digital television standard that allows separating audio content into separate tracks. Rather than applying a requirement on content authoring, this provision requires ICT that displays and processes synchronized media to allow user adjustment and selection for multi-channel videos.

Question 23: The Board seeks comment on any impact this approach may have on manufacturers of hardware or software for audio video players.

Chapter 7: Hardware Aspects of ICT

This chapter covers those features of ICT relating to hardware. The requirements of this chapter derive from provisions for self contained closed products, desktop and portable computers, and telecommunication products in the current standards, as well as provisions for output, display, and control functions in the guidelines. The Committee sought to cover all requirements specifically related to hardware in one chapter.

Reach Ranges for Installed or Free-Standing ICT (702)

The Committee recommended that specifications for reach ranges in the current ADA and ABA Accessibility

Guidelines, which address both forward and side reach ranges, be referenced due to technologies that may require a variety of approaches. This is a change from the current standards which only addressed side reach ranges. In addition, the ADA and ABA Accessibility Guidelines specify a maximum side reach height that is lower than the maximum height specified in the current standards (48 inches maximum instead of 54 inches).

Standard Connections (703)

This provision derives from the Committee report and current standards and addresses reach ranges for free-standing ICT. The Board is considering modifying the provision by replacing references to “slots, ports and connectors,” with the term “connection points” which encompasses a wider variety of possible ways of connecting to devices, such as infrared and Bluetooth.

Question 24: The Board seeks comment on whether this change in terminology is sufficient, or if it will result in any confusion or unintended implementation issues. Should this term be defined?

Text, Images of Text, and Symbols for Product Use (704)

This is a new provision that would require that when text, images of text, and symbols are provided on hardware for product use, they must provide one mode of operation which provides the same information in electronic format, unless an exception applies. Without the addition of a provision to make the information available electronically, someone who is blind would not be able to independently read information on the bottom of products such as symbols describing various ports on a portable computer. In addition, text, images of text, and symbols must conform to minimum requirements for size and contrast ratio. This provision was recommended by the Committee. The Board added measurement specifications on text attributes, derived from the ADA and ABA Accessibility Guidelines.

Chapter 8: Audio Output From Hardware

Following recommendations from the Committee to orient requirements to functions of products, the Board has organized criteria for audio output functionality into a separate chapter. As structured, this chapter is a departure from the current standards and guidelines which located volume control provisions in separate sections associated with different product types. The provisions of this chapter address

the audio output functionality of products such as telephones and information kiosks, as well as media products, such as portable music players.

Interactive ICT Within Reach (802)

This draft provision being considered by the Board applies to those products that have audio output, are adjustable by the user, and are within the reach of the user, such as telephones and information kiosks. Consistent with a Committee recommendation for audio connection, this provision requires products with audio output to provide a means of listening through a handset, jack, or connection adaptor. It would also require that features be provided to control volume through hardware such as jacks and speakers, as well as software controls for audio.

ICT Typically Held to the Ear (803)

The Board is considering this provision to address requirements for volume gain in products with audio output (either two way voice communication or one way audio output), that are typically held to the ear. It specifies a minimum adjustable gain level of 18 dB, with a baseline to ensure measurability and consistency among products. These specifications differ from the current standards and guidelines (which require a gain adjustable up to a minimum of 20 dB but do not specify a baseline). In addition, the provision differs from the recommendation of the Committee.

The Committee recommended harmonization with the current FCC Part 68 regulation, which requires a gain adjustable up to a minimum of 18 dB gain for analog telephones and a 15 dB minimum gain for other telephones. However, FCC Part 68 specifies 12 dB as an allowable minimum gain. The Board is concerned that a product designed with a 12 dB or 15 dB minimum gain will not sufficiently meet the needs of individuals with hearing impairments.

This section also includes requirements for incremental volume control and automatic reset that are consistent with the current standards and guidelines. An exception for reset manual override was added at the recommendation of the Committee and is consistent with FCC policy (see FCC Memorandum Opinion and Order, DA 01-578, March 5, 2001; http://fjallfoss.fcc.gov/edocs_public/attachmatch/DA-01-578A1.doc). The requirements specified in the FCC Memorandum Opinion and Order have been included in the draft.

Requirements for magnetic coupling and minimized interference (803.5) are

also included in this section and are consistent with the standards and guidelines. The Board departed from the recommendations of the Committee by including a requirement for magnetic coupling to apply to headsets because they are part of telecommunications products. The draft extends the minimized interference requirement to ICT that may not necessarily be used for telecommunications, such as wands used for listening to museum audio tours.

Question 25: The Board is interested in comment on these provisions, including information on the benefits and costs associated with the proposed requirement for volume gain. In addition, the Board seeks comment on whether the specified volume gain for cellular and landline telephones should be consistent since the amplification needs of people who are hard of hearing are the same for both products.

ICT Not Typically Held to the Ear (804)

This section addresses volume gain, incremental volume control, and automatic reset in products that are not typically held to the ear. The Board departed from Committee recommendations and did not differentiate requirements for products designed for personal use, such as speaker telephones, from products designed for communal use, such as information transaction machines.

Chapter 9: Conversation Functionality and Controls

This chapter addresses products that support a telecommunications conversation, whether it is in an audio, text, or video format.

Real-Time Text Functionality (902)

This section contains detailed specifications being considered by the Board for real-time text (RTT) and for hardware and software systems that support its functionality. Products covered include terminals, such as telephones, as well as pass-through products, including routers. These specifications are based on recommendations from the Committee and are considerably more comprehensive than those of the current standards and guidelines that only address TTY text.

The Board considered referencing the RFC-4103 standard for VoIP systems that connect to other VoIP systems using session initiation protocol (SIP). (RFC is otherwise known as the Request for Comments—a series of Internet standards and protocols distributed by the Internet Assigned Numbers Authority; see <http://>

datatracker.ietf.org/doc/rfc4103/).

However, since the RFC-4103 was not developed through a standards development organization, the Board did not include a reference to it in this draft.

Question 26: Is there a similar standard to the RFC-4103 standard that has been published by a standards development organization that the Board could reference?

Voice Mail, Messaging, Auto-Attendant, Conferencing and Interactive Voice Response (903)

This provision corresponds to specifications in the current standards for interactive voice response TTY compatibility but also applies to other real time text. The Committee recommended that this provision reference G.711 specifications for audio intelligibility in the ITU-T Standard (International Telecommunication Union Telecommunication Standardization Sector). Instead, the Board has chosen to reference the G.722 standard which provides greater accessibility through superior clarity. As recommended by the Committee, this section also includes a new provision for message and prompt navigation.

Information About Call Status and Functions (904)

This section addresses caller identification and similar functions and is substantially similar to specifications in the current standards. An advisory note clarifies other types of call status information covered.

Video Communications Support (905)

This is a new provision recommended by the Committee to require interoperable technology support for people who use sign language to communicate via telecommunications. It addresses signals as well as terminals and includes a provision that supports audio input and output. The Board enhanced specifications for video communication quality by adding requirements for data stream and display screens, including the provision of an alternate video display screen, and revised requirements for speed and resolution. In addition, the Board added a requirement for an indication of camera status for security reasons and specifications for end-user controls to help ensure privacy. At the recommendation of the Committee, the Board also included a provision to support a non-auditory alerting system.

Question 27: The Board seeks comment on this requirement. Are the specifications for video quality sufficient to support accessibility? Are

there other ways of addressing video communications that are less complex?

Audio Clarity for Interconnected VoIP (906)

This is a new section which the Board is considering that addresses the ability to enhance clarity in audio through VoIP systems. This requirement is based on a recommendation from the Committee report, but the Board has revised it to reference the G.722 standard instead of the G.711 standard to provide greater accessibility.

Alternate Alerting for VoIP Telephone Systems (907)

As recommended by Committee, in this new section the Board is considering requiring that a signal be provided to indicate incoming calls on VoIP systems. This requirement can be met through either built-in or compatible signaler solutions. Advisory notes clarify sufficiency of audible and visual signaling technology.

Question 28: The Board seeks comment on the requirement that a signal be provided on all incoming calls on VoIP systems. Should the requirement be limited, or should it apply to all such calls? Should this feature be selectable by the user?

Chapter 10: ICT Support Documentation and ICT Support Services

This chapter covers product support documentation and services and is largely consistent with requirements in the current standards and guidelines. The Board is considering new provisions to enhance specifications for documentation (1002) and support services (1003).

ICT Support Documentation (1002)

This section addresses documentation for accessibility features (1002.2) and provision of product documentation in alternate formats (1002.3). The overall requirements of this section remain substantively unchanged.

Accessibility Documentation (1002.2)

The Board is considering revising the provision for documentation to specifically require that product documentation address those features that support accessibility, including the capability to change settings, and those features that support compatibility with assistive technology (1002.2.2). This revision, as recommended by the Committee, represents a change from the current standards, which do not include such a requirement, and the guidelines, which require a description of the compatibility features of a

product upon request. In addition, the Board included a new requirement that when product components are intended to be integrated as part of a system, information must be provided on how to configure the system to support accessibility (1002.2.3).

Question 29: The Board seeks comment on the benefits and costs of the increased requirements for documentation.

The Board is also considering adding a new provision that would require that documentation be provided on all features using only the keyboard (1002.2.4). This includes information on available keyboard commands and keyboard navigation. The Committee discussed this change, but did not achieve consensus on it.

Alternate Formats (1002.3)

This provision requires that product documentation be made available in alternate formats. It has been revised to require that alternate formats meet relevant specifications for electronic documents in Chapter 5.

ICT Support Services (1003)

This section addresses access to product support services where provided, such as help desks and technical support services. It has been revised, as recommended by the Committee to require that help desk and technical support services provide information on ICT accessibility features through a referral to a point of contact, and that information on a contact method be provided (1003.2.2). The Board clarified the requirement that help desks and technical support services shall provide information and training on ICT accessibility features directly to the end user, where appropriate (1003.2.1). The current standards only generally require that support services accommodate the communication needs of end-users with disabilities, while the guidelines require provision of contact information for manufacturers of telecommunications products.

The requirement that help desk and technical support services provide alternate methods of communication (1003.2) is consistent with the provisions in the current standards and guidelines. Documentation on ICT accessibility features must be provided by help desks and technical support services in alternate formats upon request. In addition, alternate methods of communication, such as in-person and remote communication is required.

Amendments to the Americans With Disabilities Act Accessibility Guidelines

Automatic Teller Machines, Fare Machines, and Self-Service Machines (220)

As part of this advance notice, the Board proposes to supplement provisions in its ADA Accessibility Guidelines (ADAAG) to address access to self-service machines used for ticketing, check-in or check-out, seat selection, boarding passes, or ordering food in restaurants and cafeterias.

The Board maintains similar guidelines under the Architectural Barriers Act (ABA) which applies to facilities that are federally funded. Since the section 508 standards apply to ICT in the Federal sector, corresponding changes to the ABA guidelines are not considered necessary. ADAAG already addresses access to automated teller machines (ATMs) and to fare vending machines and provides scoping requirements (section 220) and technical specifications (section 707) for such devices. In its update of ADAAG in 2004, the Board considered supplementing these provisions to cover other types of interactive transaction machines (ITMs). The Board opted to defer action at that time to monitor the application of the section 508 standards to ITMs in the Federal sector.

In the draft, the Board is considering extending coverage of ADAAG section 220 beyond ATMs and fare vending machines to other kinds of self-service machines. The ADAAG changes being considered by the Board would apply relevant requirements of the section 508 standards to these types of machines but would not change existing requirements for ATMs or fare vending machines. The provision references chapters 3 through 9 of the standards.

The changes being considered by the Board would supplement ADAAG 220 to specifically cover self-service machines used for ticketing, check-in or check-out, seat selection, boarding passes, or ordering food in restaurants and cafeterias (220.2). Two exceptions are being considered. One exception notes that self-service machines are not required to comply with sections 302; 409–412; 503.1–503.3; 506; 508; 703; 802.2.3; and 802.2.4 of the draft. These provisions generally address requirements for products to interoperate with assistive technology and therefore are not appropriate for self-service machines. A second exception exempts drive-up only self-service machines.

Question 30: The Board seeks comment from users and manufacturers of self-service machines on their

experiences in using or designing accessible machines and the benefits and costs associated with the proposed requirements.

Impact on Small Entities

The Board is interested in receiving comments on the potential impact of this rule on small entities pursuant to the Regulatory Flexibility Act (RFA). In particular, the Board is seeking input on the numbers of small entities that may be impacted by this rulemaking, and the potential compliance costs to these small entities. Section 601 of the RFA defines small entities as small businesses (defined by the U.S. Small Business Administration), small not-for-profit organizations, and small governmental jurisdictions with a population of less than 50,000. The Board is also seeking comment on any significant alternatives that can minimize the economic impact of this rulemaking on small entities while accomplishing the Board's objectives.

Question 31: The Board is interested in comment on the impact on small entities of the provisions implementing section 508 of the Rehabilitation Act for technology procured, developed, maintained, or used by or on behalf of Federal agencies. The phrase "or on behalf of agencies" covers technologies used by contractors under a contract with a Federal agency. How many contractors and subcontractors would be considered small entities under the SBA small business size standards? What types of compliance costs will these contractors and subcontractors face in developing the technologies covered by section 508? For example, will small contractors and subcontractors face capital costs for equipment, or hiring professional expertise or extra staff to comply with the requirements? Will the cost of implementation create a competitive disadvantage for small contractors versus large contractors? (i.e., will a small contractor become less likely to win a Federal contract based on price?) Should the Board establish different compliance or reporting requirements for small contractors and subcontractors? Does the Board need to clarify or simplify the compliance requirements for small contractors or exempt certain small contractors from these requirements?

Question 32: The Board is interested in comment on the impact on small entities (manufacturers of telecommunications products) of the provisions implementing section 255 of the Telecommunications Act of 1996. How many manufacturers of telecommunications products would be considered small entities, particularly

with the application of this rule to interconnected VoIP products? What types of compliance costs will small manufacturers face? The Board is interested in small business estimates for services required by this rule such as providing access to information, documentation, and training of customers (for example through help desks and support services). Will this section require extra technology, professional expertise or extra staff? Are there alternative ways that small manufacturers can provide information and training at lower costs? Should the Board establish different compliance or reporting requirements for small manufacturers?

Question 33: The Board is interested in comment on the impact on small entities (places of public accommodations and state and local government entities) of the provisions for self-service machines under the Americans With Disabilities Act. How many and what types of small entities utilize self-service machines, and what types of machines do they use? How many small manufacturers make these types of machines? How many of the small entities that use or manufacture self-service machines have machines that are accessible? How much will it cost to develop and produce the technology that would meet the proposed provisions? Should the Board establish different compliance requirements for small entities to have accessible machines? Does the Board need to clarify or simplify the requirements for small entities or exempt certain types of machines from these requirements?

The Board will hold a public hearing to provide an opportunity for comment. The hearing will take place on March 25, 2010 from 9 a.m. to Noon in conjunction with the 25th Annual International Technology & Persons with Disabilities Conference. It will be held at the Manchester Grand Hyatt Hotel, Elizabeth Ballroom, One Market Place, San Diego, CA 92101. The hearing location is accessible to individuals with disabilities. Sign language interpreters and real-time captioning will be provided. For the comfort of other participants, persons attending the hearing are requested to refrain from using perfume, cologne, and other fragrances. To pre-register to testify please contact Kathy Johnson at (202) 272-0041 or Johnson@access-board.gov.

David M. Capozzi,
Executive Director.

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BILLING CODE 8150-01-P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[EPA-R09-OAR-2009-0080; FRL-9128-7]

Disapproval of California State Implementation Plan Revisions, Monterey Bay Unified Air Pollution Control District

AGENCY: Environmental Protection Agency (EPA).

ACTION: Proposed rule.

SUMMARY: EPA is proposing to disapprove a revision to the Monterey Bay Unified Air Pollution Control District (MBAPCD) portion of the California State Implementation Plan (SIP). This revision concerns opacity standards related to multiple pollutants, including particulate matter (PM) emissions from several different types of sources, ranging from fugitive dust to gas turbine generators. We are proposing action on a local rule that regulates these emission sources under the Clean Air Act as amended in 1990 (CAA or the Act). We are taking comments on this proposal and plan to follow with a final action.

DATES: Any comments must arrive by April 21, 2010.

ADDRESSES: Submit comments, identified by docket number EPA-R09-OAR-2009-0080, by one of the following methods:

1. *Federal eRulemaking Portal:* <http://www.regulations.gov>. Follow the on-line instructions.
2. *E-mail:* steckel.andrew@epa.gov.
3. *Mail or deliver:* Andrew Steckel (Air-4), U.S. Environmental Protection Agency Region IX, 75 Hawthorne Street, San Francisco, CA 94105-3901.

Instructions: All comments will be included in the public docket without change and may be made available online at <http://www.regulations.gov>, including any personal information provided, unless the comment includes Confidential Business Information (CBI) or other information whose disclosure is restricted by statute. Information that you consider CBI or otherwise protected should be clearly identified as such and should not be submitted through <http://www.regulations.gov> or e-mail. <http://www.regulations.gov> is an "anonymous access" system, and EPA will not know your identity or contact information unless you provide it in the body of your comment. If you send e-mail directly to EPA, your e-mail address will be automatically captured and included as part of the public comment.