Issued in Renton, Washington, on October 3, 2001.

Vi L. Lipski,

Manager, Transport Airplane Directorate, Aircraft Certification Service.

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FEDERAL TRADE COMMISSION

16 CFR Part 6

Ensuring Access to Electronic and Information Technology for Individuals With Disabilities

AGENCY: Federal Trade Commission (FTC).

ACTION: Final rule amendments.

SUMMARY: The FTC is amending its administrative procedures for resolving complaints filed by individuals with disabilities pursuant to the Rehabilitation Act of 1973 with regard to alleged discrimination in Commission programs and activities. These amendments extend the procedures to complaints regarding agency compliance with disability access standards for electronic and information technology, as required by section 508 of the Rehabilitation Act.

EFFECTIVE DATE: October 11, 2001.

ADDRESSES: Comments may be addressed to the Secretary, FTC, 600 Pennsylvania Avenue, NW, Washington, DC 20580, or by TDD (202) 326–2502, or by electronic mail to *508@ftc.gov.*

FOR FURTHER INFORMATION CONTACT: Alex Tang, Attorney, Office of the General Counsel, FTC, 202/326–2447, *atang@ftc.gov.* To listen to an audio version of this document, call (202) 326–2230.

SUPPLEMENTARY INFORMATION: On December 21, 2000, the United States Architectural and Transportation Barriers Compliance Board (''Access Board'') published final disability access standards for federal electronic and information technology (''EIT'') under section 508 of the Rehabilitation Act of 1973, 29 U.S.C. 794d, as amended. *See* 65 FR 80500 (final EIT accessibility standards), *to be codified at* 36 CFR part 1194. Section 508 requires that agencies, when developing, procuring, maintaining or using EIT,[1] ensure that such technology allows individuals with disabilities who are federal employees to have access to and use of information and data that is comparable to the access to and use of such information and data by federal employees without disabilities, unless an undue burden would be imposed on the agency. 29 U.S.C. 794d(a)(1)(A)(i). Likewise, federal agencies are required to ensure that such technology allows individuals with disabilities who are members of the public seeking information or services from the agency 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 members of the public who are not disabled, unless an undue burden would be imposed on the agency. 29 U.S.C. 794d(a)(1)(A)(ii). When it would be an undue burden for the agency to develop, procure, maintain, or use EIT that meets the Access Board's accessibility standards, the agency must provide individuals with disabilities the information and data involved by an alternative means of access that allows such individuals to use that information and data. 29 U.S.C. 794d(a)(1)(B).

To enforce these requirements, section 508 provides that any individual with a disability may file a complaint with the agency alleging that it has failed to comply with such standards with respect to EIT, but only if such EIT was procured by the agency no less than six months after the date that the final standards were published (*i.e.,* June 21, 2001, which is six months after the publication date of December 21, 2000). 29 U.S.C. 794d(f)(1)(A). Section 508 provides that complaints filed under section 508 shall be processed under the administrative procedures established by the agency to implement section 504 of the Rehabilitation Act, which prohibits discrimination against individuals with disabilities in federal programs and activities generally. *See* 29 U.S.C. 794.

The Commission's procedures for processing section 504 complaints are set forth in Part 6 of the Commission's Rules of Practice, 16 CFR part 6. Thus, the Commission is amending Part 6 to accommodate administrative complaints, if any, that may be filed under section 508. The amendments are described below:

Authority citation. This citation now refers to both sections 504 and 508 of the Rehabilitation Act.

Section 6.101: Purpose. The Commission is amending this section to add a reference to section 508.

Section 6.103: Definitions. The Commission is adding definitions of ''electronic and information technology,'' ''information technology,'' and ''section 508.'' These definitions are based on section 508 and the Access Board standards.

Section 6.152: Program accessibility: electronic and information technology. This section, which was previously reserved, sets forth a summary description of the requirement that the agency provide individuals with disabilities access to information and data that is comparable to the access provided to non-disabled individuals whenever the agency develops, procures, maintains, or uses EIT, as required by section 508.

The revised section also makes clear that, in revising its procedures to accommodate section 508 complaints, the Commission intends in no way to waive or modify the legal or procedural requirements otherwise imposed by section 508, which authorizes complaints only with respect to EIT procured on or after June 21, 2001, as explained earlier.[2] Likewise, the amendment makes clear that the Commission's procedures are not intended to authorize EIT complaints that are otherwise legally exempted under section 508.[3]

Section 6.170: Compliance procedures. The Commission is revising paragraphs (b), (d) and (i) of this section, which describes the administrative procedures to be followed by the agency in resolving complaints of discrimination on the basis of handicap

[1] As defined by the Access Board, EIT includes information technology—i.e., any equipment or interconnected system or subsystem of equipment used in the automatic acquisition, storage, manipulation, management, movement, control, display, switching, interchange, transmission, or reception of data or information, such as computers, ancillary equipment, software, firmware and similar procedures, services (including support services), and related resources—as well as any other equipment or inter-connected system or subsystem of equipment used in the creation, conversion, or duplication of data or information. For instance, EIT includes telecommunications products (e.g., telephones), information kiosks and transaction machines, World Wide Web sites, multimedia, and certain office equipment (e.g., copier and fax machines). *See* 36 CFR 1194.4.

[2] Section 508 does not remove or interfere with any separate or concurrent right, if any, that an individual with disabilities may have to file a complaint regarding EIT procured before June 21, 2001, to the extent, if any, that such complaint is cognizable under section 504, which applies to discrimination in the conduct of agency programs or activities generally, as noted earlier. *See* 66 FR 20894, 20895 (Apr. 25, 2001) (Federal Acquisition Regulation amendments implementing section 508). In this regard, section 508, by its terms, does not limit any right, remedy, or procedure otherwise available under any other provision of federal law that provides ''greater or equal'' protection than section 508 does for the rights of individuals with disabilities. 29 U.S.C. 794d(g).

[3] For example, section 508 expressly exempts EIT procured for national security systems. 29 U.S.C. 794d(a)(5). Also exempted by regulation are: one-time micropurchases under $2,500 prior to January 1, 2003; EIT to be located in spaces frequented only by service personnel for maintenance, repair, or occasional monitoring of the equipment; and EIT acquired by a contractor incidental to a contract. 36 CFR 1194.3 (Access Board standards); 48 CFR 39.204 (Federal Acquisition Regulation).

in programs or activities conducted by the Commission. Paragraph (b), which had referred to complaints alleging employment-related violations of ''section 504,'' is being revised to refer to alleged violations of ''section 504 or 508.'' The Commission is also taking the opportunity to correct a legal citation in paragraph (b) to the relevant Equal Employment Opportunity Commission procedures for processing complaints by individuals with disabilities concerning alleged discrimination in federal employment.

Paragraph (d) addresses the procedures for discrimination complaints unrelated to federal employment (e.g., by members of the general public with disabilities) alleging violations ''prohibited by this part [*i.e.,* Part 6 of the Commission's Rules].'' The Commission finds it unnecessary to amend this language, since violations ''prohibited by this part'' now include section 508 violations in light of the revision to 16 CFR 6.152 discussed earlier. The Commission, however, is conforming its mailing address in paragraph (d)(3) to U.S. Postal Service standards. A similar technical correction is made in paragraph (i)(2) of this section.

Communications by Outside Parties to Commissioners or Their Advisors

Written communications and summaries or transcripts of oral communications respecting the merits of this proceeding from any outside party to any Commissioner or Commissioner's advisor will be placed on the public record. *See* 16 CFR 1.26(b)(5).

Administrative Procedure Act

These amendments are purely procedural and do not materially or substantially alter the legal rights of interested parties. Thus, the Administrative Procedure Act (APA) does not require prior public notice and comment. 5 U.S.C. 553(b)(A) (exempting rules of agency organization, procedure, or practice). Nonetheless, the Commission will consider comments, if any, submitted on these amendments in order to determine whether further action, if any, may be appropriate or necessary.

Regulatory Flexibility Act

The requirements for initial and final regulatory analyses of the small business impact of these rule amendments, pursuant to the Regulatory Flexibility Act, are not applicable, because that Act does not require analyses for matters that are exempt from notice-and-comment under the APA. 5 U.S.C. 605. Moreover, the Act does not require such analyses when an agency certifies that the rule will not have a significant economic impact on a substantial number of small entities. *Id.* The Commission hereby certifies that these amendments will not have such an impact, because the procedures apply only to individuals with disabilities, who are not small businesses within the meaning of the Act. This document serves as notice of this certification to the Small Business Administration.

Paperwork Reduction Act

The rule amendments contain no information collection requirements (i.e., reporting, recordkeeping, or disclosure) subject to prior review and approval by the Office of Management and Budget under the Paperwork Reduction Act, 44 U.S.C. 3501–3518.

List of Subjects in 16 CFR Part 6

Blind, Civil rights, Computer technology, Deaf, Disabled, Discrimination against handicapped, Employment, Equal employment opportunity, Federal buildings and facilities, Government employees, Government procurement, Handicapped.

For the reasons set forth in the preamble, the Federal Trade Commission amends Chapter I of Title 16, Code of Federal Regulations, as follows:

PART 6—ENFORCEMENT OF NONDISCRIMINATION ON THE BASIS OF HANDICAP IN PROGRAMS OR ACTIVITIES CONDUCTED BY THE FEDERAL TRADE COMMISSION

1. Revise the authority citation for Part 6 to read as follows:

Authority: 29 U.S.C. 794, 794d.

2. Amend § 6.101 by adding a new sentence to the end of the section:

§ 6.101 Purpose.

* * * This part also implements section 508 of the Rehabilitation Act of 1973, as amended, with respect to the accessibility of electronic and information technology developed, procured, maintained, or used by the agency.

3. Amend § 6.103 by inserting the following new paragraphs in alphabetical order, between existing definitional paragraphs:

§ 6.103 Definitions.

For purposes of this part, the term—

* * * * *

''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 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 electronic and information technology.

* * * * *

''Information technology'' means any equipment or interconnected system or subsystem of equipment that is used in the automatic acquisition, storage, manipulation, management, movement, control, display, switching, interchange, transmission, or reception of data or information. The term ''information technology'' includes computers, ancillary equipment, software, firmware and similar procedures, services (including support services), and related resources.

* * * * *

''Section 508'' means section 508 of the Rehabilitation Act of 1973, as amended.

4. Revise § 6.152, which was previously reserved, to read as follows:

§ 6.152 Program accessibility: electronic and information technology.

(a) When developing, procuring, maintaining, or using electronic and information technology, the Commission shall ensure, unless an undue burden would be imposed on the agency, that the electronic and information technology allows, regardless of the type of medium of the technology:

(1) individuals with disabilities who are 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 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 members of the public who are not individuals with disabilities.

(b) When the development, procurement, maintenance, or use of electronic and information technology that meets the standards published by the Architectural and Transportation Barriers Compliance Board pursuant to section 508(a)(2) of the Rehabilitation Act of 1973, as amended, would impose an undue burden on the Commission, the Commission shall provide individuals with disabilities covered by paragraph (a) of this section with the information and data involved by an alternative means of access that allows such individuals to use the information and data.

(c) This section shall not apply to any matter legally exempted by section 508, by the standards referenced in paragraph (b) of this section, or by other applicable law or regulation. Nothing in this section shall be construed to limit any right, remedy, or procedure otherwise available under any provision of federal law (including sections 501 through 505 of the Rehabilitation Act of 1973, as amended) that provides greater or equal protection for the rights of individuals with disabilities than section 508.

5. Amend § 6.170 by adding two new sentences to the end of paragraph (b), and by revising paragraphs (d)(3) and (i)(2) to read as follows:

§ 6.170 Compliance procedures.

(b) * * * The Commission shall apply the same procedures to process complaints alleging violations of section 508. Complaints alleging a violation of section 508 may not be filed with respect to any exempted matters as described in § 6.152(c) of this chapter, and may be filed only with respect to electronic and information technology procured by the Commission on or after June 21, 2001.

* * * * *

(d) * * *

(3) The complaint must be addressed to the Director of Equal Employment Opportunity, Federal Trade Commission, 600 Pennsylvania Avenue, NW., Washington, DC 20580.

* * * * *

(i) * * *

(2) The appeal must be addressed to the General Counsel, Federal Trade Commission, 600 Pennsylvania Avenue, NW., Washington, DC 20580.

* * * * *

By direction of the Commission.

Donald S. Clark,

Secretary.

[FR Doc. 01–25550 Filed 10–10–01; 8:45 am]

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DEPARTMENT OF THE TREASURY

Customs Service

19 CFR Part 10

[T.D. 01–74]

RIN 1515–AC89

Preferential Treatment of Brassieres Under the United States-Caribbean Basin Trade Partnership Act

AGENCY: U.S. Customs Service, Department of the Treasury.

ACTION: Interim regulations; corrections.

SUMMARY: This document makes corrections to the document published in the **Federal Register** on October 4, 2001, as T.D. 01–74 which set forth interim amendments to the Customs Regulations to implement those provisions within the United States-Caribbean Basin Trade Partnership Act (the CBTPA) that establish standards for preferential treatment for brassieres imported from CBTPA beneficiary countries.

EFFECTIVE DATE: These corrections are effective October 4, 2001.

FOR FURTHER INFORMATION CONTACT: Cynthia Reese, Office of Regulations and Rulings (202–927–1361).

SUPPLEMENTARY INFORMATION:

Background

On October 4, 2001, Customs published in the **Federal Register** (66 FR 50534) T.D. 01–74 to set forth interim amendments to the Customs Regulations to implement those provisions within the United States-Caribbean Basin Trade Partnership Act (the CBTPA) that establish standards for preferential treatment for brassieres imported from CBTPA beneficiary countries. The interim regulatory amendments contained in T.D. 01–74 involve specifically the methods, procedures and related standards that will apply for purposes of determining compliance with the 75 percent aggregate U.S. fabric components content requirement for CBTPA brassieres which went into effect on October 1, 2001. The interim amendments took effect on the date of publication.

This document makes three corrections to cross-reference citations within paragraph (c)(3)(ii) of § 10.228.

PART 10—[CORRECTED]

Corrections of Publication

The document published in the **Federal Register** as T.D. 01–74 on October 4, 2001 (66 FR 50534) is corrected as set forth below.

§ 10.228 [Corrected]

1. On page 50541, in the first column, in § 10.228, the introductory text of paragraph (c)(3)(ii) is corrected by removing the reference ''paragraph (c)(3)'' and adding, in its place, the reference ''paragraph (c)(3)(i)''.

2. On page 50541, in the first column, in § 10.228, paragraph (c)(3)(ii)(E) is corrected by removing the reference ''paragraph (b)(1)'' and adding, in its place, the reference ''paragraph (b)(1)(i)'' and by removing the reference ''paragraph (b)(2)'' and adding, in its place, the reference ''paragraph (b)(1)(ii)''.

Dated: October 5, 2001.

Harold M. Singer,

Chief, Regulations Branch.

[FR Doc. 01–25532 Filed 10–10–01; 8:45 am]

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PENSION BENEFIT GUARANTY CORPORATION

29 CFR Chapter XL

Disaster Relief Relating to PBGC Deadlines in Response to Terrorist Attacks of September 11, 2001

AGENCY: Pension Benefit Guaranty Corporation.

ACTION: Notice of disaster relief relating to PBGC deadlines.

SUMMARY: The Pension Benefit Guaranty Corporation is extending deadlines and providing relief from penalties in response to the major disasters declared by the President of the United States on account of the terrorist attacks of September 11, 2001.

FOR FURTHER INFORMATION CONTACT: Harold J. Ashner, Assistant General Counsel, Office of the General Counsel, Suite 340, Pension Benefit Guaranty Corporation, 1200 K Street, NW., Washington, DC 20005, 202–326–4024. (For TTY and TDD, call 800–877–8339 and request connection to 202–326–4024.)

SUPPLEMENTARY INFORMATION:

Introduction

The Pension Benefit Guaranty Corporation administers the pension plan termination insurance program under Title IV of the Employee