

Harbor commencing at Wando River Terminal buoy 4 (Light List Number 2720) at approximate position 32°49.2'N, 079°54.3'W, thence to the upper end of Hog Island Reach at approximate position 32°48.7'N, 079°54.85'W, thence to approximate position 32°48.15'N, 079°54.95'W, below the Cooper River Bridges, thence southeast to approximately two-tenths of a nautical mile north of USS Yorktown at position 32°47.7'N, 079°54.7'W, thence south past the USS Yorktown to approximate position 32°47.2'N, 079°54.7'W, thence west to Custom House Reach at approximate position 32°47.2'N, 079°55.3'W, thence south to 32°45.7'N, 079°55.3'W (approximately one half nautical mile southeast of Battery Point), thence up the Ashley River, and continuing to the finishing point at City Marina (32°46.6'N, 079°57.2'W). All coordinates referenced use datum: NAD 1983.

(c) *Coast Guard Patrol Commander.* The Coast Guard Patrol Commander is a commissioned, warrant or petty officer of the Coast Guard who has been designated by the Commander, Coast Guard Group Charleston, South Carolina.

(d) *Special local regulations.*

(1) Entry into the regulated area by other than authorized parade event participants or official patrol vessels is prohibited, unless otherwise authorized by the Patrol Commander.

(2) After termination of the Charleston Christmas Parade of Boats and departure of parade event participants from the regulated area, all vessels may resume normal operations.

(e) *Effective Dates.* These regulations are effective from 4:30 p.m. to 8:30 p.m. (EST), on December 7, 1996, December 13, 1997, December 12, 1998, December 4, 1999 and December 9, 2000.

Dated: September 4, 1996.

J.D. Hull,

*Captain, U.S. Coast Guard Commander,
Seventh Coast Guard District Acting.*

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ENVIRONMENTAL PROTECTION AGENCY

40 CFR Parts 52 and 81

[WA51-7124b; FRL-5614-1]

Approval and Promulgation of Implementation Plans and Redesignation of Puget Sound, Washington for Air Quality Planning Purposes: Ozone

AGENCY: Environmental Protection Agency (EPA).

ACTION: Proposed rule.

SUMMARY: The EPA proposes to approve the State implementation plan (SIP) revision submitted by the State of Washington through the Washington State Department of Ecology approving the redesignation to attainment and maintenance plan of the Puget Sound area because they meet the maintenance plan and redesignation requirements. EPA also proposes to approve the 1993 baseline emissions inventory of the area. In the final rules section of this Federal Register, the EPA is approving the State of Washington's SIP revision as a direct final rule without prior proposal because the Agency views this as a noncontroversial revision amendment and anticipates no adverse comments. A detailed rationale for the approval is set forth in the direct final rule. If no adverse comments are received in response to that direct final rule, no further activity is contemplated in relation to this proposed rule. If EPA receives adverse comments, the direct final rule will be withdrawn and all public comments received will be addressed in a subsequent final rule based on this proposed rule. The EPA will not institute a second comment period on this document. Any parties interested in commenting on this document should do so at this time.

DATES: To be considered, comments must be received by October 28, 1996.

ADDRESSES: Written comments on this action should be addressed to Montel Livingston, at the EPA Regional Office listed below. Copies of the documents relative to this action are available for public inspection during normal business hours at the following locations. The interested persons wanting to examine these documents should make an appointment with the appropriate office at least 24 hours before the visiting day.

Environmental Protection Agency,
Region X, Office of Air Quality, 1200
6th Ave, Seattle, WA, 98101
Washington State Department of
Ecology, P.O. Box 47600, Olympia,
WA 98504-7600.

FOR FURTHER INFORMATION CONTACT: Stephanie Cooper, EPA Region X Office of Air Quality, at (206) 553-6917 and at the above address.

SUPPLEMENTARY INFORMATION: For additional information see the direct final rule which is published in the rules section of this Federal Register.

Dated: September 16, 1996.

Chuck Clarke,

Regional Administrator.

[FR Doc. 96-24530 Filed 9-25-96; 8:45 am]

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FEDERAL COMMUNICATIONS COMMISSION

47 CFR Chapter I

[WT Docket No. 96-198; FCC 96-382]

Wireless Services; Access to Telecommunications Equipment, Customer Premise Equipment, and Telecommunications Services by People With Disabilities

AGENCY: Federal Communications Commission.

ACTION: Proposed rule; notice of inquiry.

SUMMARY: The Commission adopts a *Notice of Inquiry (NOI)* in this proceeding as a first step toward implementing provisions of Section 255 of the Communications Act and related sections of the Telecommunications Act of 1996 regarding the accessibility of telecommunications equipment and services. In seeking comment from a broad spectrum of affected parties, the Commission hopes to ensure that persons with disabilities, as well as all other Americans, are given the opportunity to participate fully in, and to enjoy and utilize the benefits of the telecommunications infrastructure that has come to play such a prominent role in the Nation's cultural, educational, social, political, and economic life. The Commission believes that the record that will be established in this proceeding in response to the issues raised in this *NOI* will aid the Architectural and Transportation Barriers Compliance Board (Access Board) in implementing decisions.

DATES: Comments are due on or before October 28, 1996, and reply comments are due on or before November 27, 1996.

ADDRESSES: Federal Communications Commission, Washington, DC 20554.

FOR FURTHER INFORMATION CONTACT: Stan Wiggins, Policy Division, Wireless Telecommunications Bureau, (202) 418-1310, or David Siehl, Policy Division, Wireless Telecommunications Bureau, (202) 418-1310.

SUPPLEMENTARY INFORMATION: This is a synopsis of the Commission's *Notice of Inquiry* in WT Docket No. 96-198, FCC 96-382, adopted September 17, 1996, and released September 19, 1996. The complete text of this *NOI* is available for inspection and copying during normal business hours in the FCC Reference Center (Room 239), 1919 M Street, NW., Washington, DC, and also may be purchased from the Commission's copy contractor, International Transcription Service, (202) 857-3800, 2100 M Street, NW., Suite 140, Washington, DC 20037. An unofficial copy of the full text of this *NOI* may be found on the Internet at www.fcc.gov/wtb/winhome.html.

Synopsis of Notice of Proposed Rule Making/*NOI*

1. The Commission adopts a *Notice of Inquiry (NOI)*, the first step towards implementing Section 255 of the Communications Act and related sections of the Telecommunications Act of 1996 (1996 Act), regarding the accessibility of telecommunications equipment and services to persons with disabilities.

2. The Commission describes the requirements of Section 255(b), that a manufacturer of telecommunications equipment or customer premises equipment (CPE) ensure that the equipment is designed, developed, and fabricated to be accessible to and usable by persons with disabilities, if readily achievable. Section 255(c) requires that a provider of telecommunications service shall ensure that the service is accessible to and usable by persons with disabilities, if readily achievable. If accessibility is not readily achievable either with respect to equipment or services, Section 255(d) requires as an alternative that the equipment or service be compatible with existing peripheral devices or specialized CPE commonly used by individuals with disabilities to achieve access, to the extent compatibility is readily achievable. Section 255(a) adopts the definitions of "disability" and "readily achievable" contained in the Americans with Disabilities Act of 1990 (ADA).

3. The statutory requirements, which became effective upon enactment February 8, 1996, include the requirement in Section 255(d) that guidelines for accessibility of equipment, including CPE, be developed within 18 months of enactment by the Access Board, in conjunction with the Commission. Section 255(f) provides that the Commission shall have exclusive jurisdiction with respect to any complaint filed under this provision.

4. The Commission examines threshold jurisdictional issues and states that Section 255 grants the Commission authority to enforce the provisions of that Section and provides the Commission authority to work in conjunction with the Access Board to develop guidelines for the accessibility of telecommunications equipment and CPE. The *NOI* describes other provisions of the Communications Act, which give the Commission options for enforcing Section 255, including Sections 4(i) (general grant of authority to perform any and all acts "as may be necessary in the execution of its functions."); 201 (prescription of rules and regulations for common carriers); and 303 (prescription of services to be rendered by classes of licensed radio stations, and regulations necessary to carry out provisions of the Act). The *NOI* seeks comment on policy reasons for the Commission to exercise various aspects of its authority in order to best effectuate the requirements of Section 255.

5. The Commission seeks comment on whether several definitions in the 1996 Act require further clarification or definition—the terms "provider of telecommunications service," and "telecommunications equipment," and "customer premises equipment"—and the possible need for clarification of the term "manufacturer." The Commission also seeks comment on definitions incorporated in Section 255 from the Americans with Disabilities Act—"disability" and "readily achievable"—and on broader issues raised by the application of ADA terms in the telecommunications sector. For example, the meaning of "readily achievable" is continually changing as technology evolves, and the Commission seeks to recognize market and technical developments without constraining innovation.

6. The Commission also seeks comment on cost issues raised by application of the term "readily achievable," including the types and levels of costs incurred to achieve or improve accessibility of existing offerings, the extent to which this experience may serve as a basis for anticipating costs associated with accessibility standards, and the relationship of costs to different types of accessibility standards—technical or performance standards, as well as more process-oriented standards. The *NOI* recognizes that the financial resources of telecommunications entities, the elements of "readily achievable" under the ADA, and differing regulatory requirements for foreign and domestic

services or equipment also bear on cost issues.

7. The Commission notes that the statutory phrase "accessible to and usable by" is itself taken from the ADA statute, and suggests some interpretive difficulties that arise in the context of Section 255. It recognizes that physical access to telecommunications equipment and services is a genuine issue, but believes that Section 255 reaches only those aspects of accessibility to telecommunications that entities subject to the Commission's authority have direct control over. It seeks comment on whether each equipment or service offering must be accessible to persons with varied disabilities, or whether an equipment manufacturer or service provider might satisfy the statute by accommodating persons with disabilities through selected items in its offerings, and how alternative or modular-design approaches should be regarded under the "readily achievable" standard.

8. As to the alternative, compatibility requirement, the Commission asks commenters to consider the definition and examples of "existing peripheral devices" and "specialized CPE" referenced in the statute, and how to determine when such equipment is "commonly used." The Commission also asks commenters to address the relationship of Section 251(a)(2) of the Communications Act, which requires telecommunications carriers "not to install network features, functions or capabilities that do not comply with the guidelines and standards established pursuant to Section 255 or 256[.]" to the accessibility requirement imposed on equipment manufacturers by Section 255.

9. The *NOI* seeks comment on several different approaches to the implementation and enforcement of Section 255 requirements. It first requests comment on how the Commission should carry out its duty to resolve complaints filed under Section 255, and notes that the Commission could: (1) resolve complaints on a case-by-case basis, (2) issue voluntary guidelines as a policy statement to help service providers understand their obligations under Section 255, or (3) promulgate rules to assist in resolving complaints. Under each approach to complaints, the Commission seeks comment on the possible exemption of small businesses or other entities, and the relationship between obligations of service providers and equipment manufacturers, including the possibility of complaints when equipment guidelines are in place but no service guidelines have been adopted.

10. The *NOI* asks commenters to consider several aspects of the Commission's relationship with the Access Board. Should the Commission refer the record from this proceeding, and comment on the Board's guidelines, or adopt the Board's guidelines as Commission rules after appropriate proceedings? And, if the Commission adopts separate guidelines, policy statements, or rules with regard to complaints, should they apply to equipment manufacturers as well as service providers? Generally, the Commission seeks comment on the most appropriate way to provide guidance on the inter-related service and equipment issues.

11. The *NOI* considers procedural aspects of the complaint process. It asks for general comment on the implications of the Commission's view that Section 255 creates a substantive legal right to file complaints before the Commission, independent of the Section 208 complaint process and other enforcement provisions of the statute. Because Section 255(f) prohibits private rights of action, the Commission seeks comment on the Congressional intent evidenced by reference in the Conference Report to Section 207, which affords individuals the right to file suit in Federal court. The Commission also seeks comment on whether it should establish specific procedural rules for Section 255 complaints, either as to services or equipment, or whether it should adopt the existing complaint process in subpart E of part 1 of the Commission's Rules, 47 CFR §§ 1.711 through .735.

Should those rules be applied on an interim basis, while the Access Board develops equipment guidelines, or should specific interim rules be applied? The Commission requests proposals for interim rules, if commenters consider them advisable, and seeks comment whether the Commission should provide additional interim guidance regarding complaints.

12. Finally, the *NOI* seeks comment on how statutory responsibility should be apportioned between equipment manufacturers and service providers, and how joint enforcement action may affect determination of what is readily achievable compared to separate review of each entity's conduct. The Commission also asks how specific determinations of accountability should be made when both service and equipment providers are contributing to an accessibility problem, and whether and how such entities may both be held responsible for implementing remedial steps as well as fines or other penalties. Similarly, the Commission seeks comment on whether, and in what circumstances, a defense to an accessibility complaint directed at a service provider might be that accessibility could be, or could have been, achieved through equipment design, as well as the converse situation, in which an equipment provider might defend against a complaint by contending that accommodation could be, or could have been, accomplished by the service provider.

Procedural Matters

13. Pursuant to applicable procedures set forth in §§ 1.415 and 1.419 of the

Commission's Rules, 47 CFR §§ 1.415 and 1.419, interested parties may file comments on or before October 28, 1996, and reply comments on or before November 27, 1996. To file formally in this proceeding, you must file an original plus four copies of all comments and reply comments. If you want each Commissioner to receive a personal copy of your comments, you must file an original plus nine copies. You should send comments and reply comments to Office of the Secretary, Federal Communications Commission, Washington, D.C. 20554. Comments and reply comments will be available for public inspection during regular business hours in the FCC Reference Center (Room 239), 1919 M Street, N.W., Washington, D.C. 20554.

Ordering Clauses

14. Accordingly, IT IS ORDERED that pursuant to Sections 1, 4, 201-205, 251(a)(2), 255, 303, and 403 of the Communications Act of 1934, 47 U.S.C. 151, 154, 201, 205, 215, 251(a)(2), 255, 303, and 403, a Notice of Inquiry IS HEREBY ADOPTED.

15. IT IS FURTHER ORDERED that NOTICE IS HEREBY GIVEN of the inquiry described above, and that COMMENT IS SOUGHT on the questions raised in the inquiry.

Federal Communications Commission.

Shirley S. Suggs,

Chief, Publications Branch.

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