

PART 152—PRE—EXISTING CONDITION INSURANCE PLAN PROGRAM

■ 1. The authority citation for part 152 continues to read as follows:

Authority: Sec. 1101 of the Patient Protection and Affordable Care Act (Pub. L. 111–148).

■ 2. Section 152.21 is amended by adding paragraph (c) to read as follows.

§ 152.21 Premiums and cost-sharing.

* * * * *

(c) *Prohibition on balance billing in the PCIP administered by HHS.* A facility or provider that accepts payment under § 152.35(c)(2) for a covered service furnished to an enrollee may not bill the enrollee for an amount greater than the cost-sharing amount for the covered service calculated by the PCIP.

■ 3. Section 152.35 is amended by adding paragraph (c) to read as follows.

§ 152.35. Insufficient funds.

* * * * *

(c) *Payment rates for covered services furnished beginning June 15, 2013 to enrollees in the PCIP administered by HHS.* (1) Covered services furnished under the prescription drug, organ/tissue transplant, dialysis and durable medical equipment benefits will be paid at the payment rates that are in effect on June 15, 2013.

(2) With respect to all other covered services, the payment rates will be—

(i) 100 percent of Medicare payment rates; or

(ii) Where Medicare payment rates cannot be implemented by the federally-administered PCIP, 50 percent of billed charges or a rate using a relative value scale pricing methodology.

Dated: May 15, 2013.

Marilyn Tavenner,

Acting Administrator, Centers for Medicare & Medicaid Services.

Dated: May 16, 2013.

Kathleen Sebelius,

Secretary, Department of Health and Human Services.

[FR Doc. 2013–12145 Filed 5–17–13; 4:15 pm]

BILLING CODE 4150–03–P

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Part 14

[CG Docket No. 10–213; WT Docket No. 96–198; and CG Docket No. 10–145; FCC 13–57]

Accessibility Requirements for Internet Browsers

AGENCY: Federal Communications Commission.

ACTION: Final rule.

SUMMARY: In this document, the Commission adopts rules to implement section 718 of the Communications Act of 1934 (the Act), as amended, which was added to the Act by the Twenty-First Century Communications and Video Accessibility Act of 2010 (CVAA). Section 718 of the Act requires Internet browsers built into mobile phones to be accessible to individuals who are blind or visually impaired. In this document, the Commission also affirms that section 716 of the Act requires certain Internet browsers used for advanced communications services to be accessible to people with disabilities.

DATES: Effective October 8, 2013.

FOR FURTHER INFORMATION CONTACT: Eliot Greenwald, Consumer and Governmental Affairs Bureau, Disability Rights Office, at (202) 418–2235 or email Eliot.Greenwald@fcc.gov, or Rosaline Crawford, Consumer and Governmental Affairs Bureau, Disability Rights Office, at (202) 418–2075 or email Rosaline.Crawford@fcc.gov.

SUPPLEMENTARY INFORMATION: This is a summary of the Commission's Second Report Order, document FCC 13–57, adopted on April 26, 2013, and released on April 29, 2013, in CG Docket No. 10–213, WT Docket No. 96–198, and CG Docket No. 10–145. The full text of document FCC 13–57 will be available for public inspection and copying via ECFS, and during regular business hours at the FCC Reference Information Center, Portals II, 445 12th Street SW., Room CY–A257, Washington, DC 20554. It also may be purchased from the Commission's duplicating contractor, Best Copy and Printing, Inc., Portals II, 445 12th Street SW., Room CY–B402, Washington, DC 20554, telephone: (800) 378–3160, fax: (202) 488–5563, or Internet: www.bcpweb.com. Document FCC 13–57 can also be downloaded in Word or Portable Document Format (PDF) at <http://www.fcc.gov/document/section-718-accessibility-requirements-internet-browsers-mobile>. To request materials in accessible formats for people with disabilities (Braille, large

print, electronic files, audio format), send an email to fcc504@fcc.gov or call the Consumer and Governmental Affairs Bureau at (202) 418–0530 (voice) or (202) 418–0432 (TTY).

Final Paperwork Reduction Act of 1995 Analysis

Document FCC 13–57 does not contain new or modified information collection requirements subject to the Paperwork Reduction Act of 1995 (PRA), Public Law 104–13. In addition, therefore, it does not contain any new or modified information collection burden for small business concerns with fewer than 25 employees, pursuant to the Small Business Paperwork Relief Act of 2002, Public Law 107–198, 44 U.S.C. 3506(c)(4).

Synopsis

I. Introduction

1. In document FCC 13–57, the Commission implements section 718 of the Act, which was added by section 104 of the CVAA to ensure that people with disabilities have access to emerging and innovative advanced communications technologies. Section 718 of the Act requires mobile phone manufacturers and mobile service providers that include or arrange for the inclusion of an Internet browser on mobile phones to ensure that the functions of the included browser are accessible to and usable by individuals who are blind or have a visual impairment, unless doing so is not achievable. In addition, in document FCC 13–57, the Commission affirms its previous conclusions regarding the coverage of Internet browsers used for ACS under section 716 of the Act, and retains the recordkeeping requirements and deadlines for entities covered under section 718 of the Act.

II. Background

2. On October 7, 2011, the Commission adopted rules, published at 76 FR 82353, December 30, 2011, implementing section 716 of the Act (also added by the CVAA), which requires advanced communications services (ACS) and equipment used for ACS to be accessible to and usable by individuals with disabilities, unless doing so is not achievable. 47 U.S.C. 617; 47 CFR 14.1–14.21 of the Commission's rules. The Commission also adopted rules to implement section 717, which establishes recordkeeping and enforcement requirements for entities covered under sections 255, 716, and 718 of the Act. 47 U.S.C. 618; 47 CFR 14.30–14.52 of the Commission's rules. In addition, the Commission adopted a Further Notice of

Proposed Rulemaking (*ACS FNPRM*), published at 76 FR 82240, December 30, 2011, that sought comment on rules to implement section 718. Among other things, the Commission raised the following issues in the *ACS FNPRM*: (1) Coverage of Internet browsers under section 716 and section 718; (2) the best ways to implement section 718 to achieve compliance by the time the provision goes into effect; (3) accessibility application programming interfaces (APIs); and (4) the recordkeeping requirements.

III. Coverage of Internet Browsers Under Section 716 and Section 718

A. General Coverage of Internet Browsers Under Section 716 of the Act

3. In document FCC 13–57, the Commission affirms its previous conclusion that equipment with manufacturer-installed or included Internet browsers used for ACS are encompassed within the term “equipment used for ACS” subject to section 716 of the Act. Likewise, the Commission affirms that an ACS provider is responsible for the accessibility of the underlying components of its service, including any software, such as an Internet browser, that it provides. Among other things, this means that the functions of an Internet browser—to enable users, for example, to input a uniform resource locator (URL) into the address bar; to identify and activate home, back, forward, refresh, reload, and stop buttons; to view status information; and to activate zooming or other features that are used for ACS—must be accessible to individuals with disabilities, unless doing so is not achievable.

4. In document FCC 13–57, the Commission concludes that Internet browsers do not “pass through” information to independent downstream devices, software, or applications, as that term is used in section 14.20(c) of the Commission’s rules. Nevertheless, the Commission notes that covered entities are not relieved of their obligations to ensure the accessibility of browsers included by manufacturers or service providers under section 716 of the Act. For example, if a covered entity installs or directs the installation of an Internet browser, and the browser supports a specific web standard, approved standards recommendations, or technology that includes the capabilities to support accessibility features and capabilities, it must ensure that the Internet browser can use such capabilities contained in those standards or technologies to support the

intended accessibility features and capabilities in the ACS web application retrieved and displayed by the browser, unless doing so is not achievable. To the extent that an included Internet browser does not support a particular technology that is needed to make web-based information available to the general public, the Commission declines to require covered entities to ensure that such browsers support the technology solely for the purpose of achieving accessibility.

B. Overlapping Coverage of Internet Browsers Under Sections 716 and 718 of the Act

5. In document FCC 13–57, the Commission finds that, with respect to individuals with disabilities generally, section 716(a) of the Act covers manufacturers of all equipment (including mobile phones) that include an Internet browser used for ACS, and section 716(b) of the Act covers ACS providers (including mobile service providers that provide ACS) that provide or require the installation and use of an Internet browser as an underlying component of their ACS. The Commission further finds that, specifically with respect to individuals who are blind or visually impaired, section 718 of the Act covers manufacturers of mobile phones that include an Internet browser used for any purpose, as well as mobile service providers who arrange for the inclusion of an Internet browser used for any purpose.

IV. Implementation of Section 718

6. Except as otherwise noted, in document FCC 13–57, the Commission adopts rules for section 718 of the Act that are analogous to the Commission’s Part 14 rules implementing section 716. Specifically, the rules adopted define the terms “accessible” and “usable” as the Commission previously defined these terms when implementing sections 716(a)(1) and (b)(1) and sections 255(b) and (c) of the Act. The Commission also adopts key requirements similar to those in its section 255 and section 716 rules regarding product design, development, and evaluation. Entities subject to section 718 of the Act must consider performance objectives at the design stage as early as possible and identify barriers to accessibility and usability as part of their evaluation when considering implementation of the accessibility performance objectives. 47 CFR 14.20(a) and (b) of the Commission’s rules. Entities subject to section 718 of the Act must also ensure that information and documentation

that they provide to customers are accessible, if achievable. 47 CFR 14.20(d) of the Commission’s rules.

7. The Commission declines to apply the information pass-through requirement in section 14.20(c) of the Commission’s rules to entities covered under section 718 of the Act. Nevertheless, the Commission notes that covered entities are not relieved of their obligations under section 718 of the Act. A covered entity that installs or directs the installation of an Internet browser that supports a specific web standard, approved standards recommendations, or technology that includes the capabilities to support accessibility features and capabilities, must ensure that the Internet browser can use such capabilities contained in those standards or technologies to support the intended accessibility features and capabilities in the web application retrieved and displayed by the browser, unless doing so is not achievable. To the extent that an included Internet browser does not support a particular technology that is needed to make web-based information available to the general public, the Commission declines to require covered entities to ensure that such browsers support the technology solely for the purpose of achieving accessibility.

8. Section 716(g) of the Act defines the term “achievable” for the purposes of both section 716 and section 718 to mean “with reasonable effort or expense, as determined by the Commission” and requires consideration of four specific factors when making such determinations. In document FCC 13–57, the Commission defines and applies the term “achievable” to entities covered under section 718(a) of the Act in the same manner as this term is defined in section 716(g) of the Act and as it is applied to entities covered under sections 716(a)(1) and (b)(1) of the Act.

9. In document FCC 13–57, the Commission defines and applies the industry flexibility provisions contained in section 718(b) of the Act in the same manner as these provisions are defined and applied in sections 716(a)(2) and (b)(2) of the Act. These provisions allow industry the flexibility to satisfy their respective accessibility requirements with or without the use of third party applications, peripheral devices, software, hardware, or customer premises equipment that are available to consumers at nominal cost and that individuals with disabilities can access.

10. The Commission does not apply the compatibility provision contained in section 716(c) of the Act—requiring that, if compliance with the accessibility

requirements for ACS and equipment used for ACS is not achievable, then such equipment or services must be compatible with existing peripheral devices or specialized customer premises equipment commonly used by individuals with disabilities to achieve access, unless doing so is not achievable—to entities covered under section 718 of the Act, because there is no provision in section 718 parallel to section 716(c) of the Act that would demonstrate Congress's intent for such a requirement. However, the Commission notes that mobile phones that include Internet browsers are generally also subject to the compatibility requirements of section 716(c) of the Act to the extent the mobile phones are used for ACS, such as electronic messaging, and of section 255(d) of the Act to the extent the mobile phones are used for telecommunications service.

11. The Commission also does not apply the provisions in section 716 of the Act governing exemptions from the accessibility requirements for customized equipment or services, and waivers for small entities and multipurpose services and equipment to section 718 of the Act, because section 718 contains no parallel exemption or waiver provisions. Nevertheless, the Commission notes that an entity covered by section 718 of the Act may petition for a waiver of the Commission's rules implementing section 718 pursuant to the Commission's general waiver provisions contained at 47 CFR 1.3 of the Commission's rules.

V. Accessibility Application Programming Interfaces

12. An API is software that an application program uses to request and carry out lower-level services performed by the operating system of a computer or telephone. An accessibility API, in turn, is a specialized interface developed by a platform owner which can be used to communicate accessibility information about user interfaces to assistive technologies. Because there are various methods to achieve compliance with the section 718 of the Act requirements, and there is a need to afford covered entities flexibility on how to comply, the Commission, at this time, does not mandate that covered entities include accessibility APIs in mobile phones. Further, at this time, the Commission declines to establish the inclusion of an accessibility API in a mobile phone as a safe harbor for compliance with section 718 of the Act.

VI. Recordkeeping Requirements

13. Section 717(a)(5)(A) of the Act requires, beginning January 30, 2013, each manufacturer and service provider subject to sections 255, 716, and 718 of the Act to maintain records of its efforts to implement sections 255, 716, and 718, including the following: information about its efforts to consult with individuals with disabilities; descriptions of the accessibility features of its products and services; and information about the compatibility of its products and services with equipment commonly used by individuals with disabilities to achieve access. In October 2011, the Commission adopted recordkeeping requirements implementing this statutory requirement. In the *ACS FNPRM*, the Commission sought comment on whether these recordkeeping requirements should be retained or altered for entities covered under section 718 of the Act. In document FCC 13–57, the Commission retains the recordkeeping requirements as adopted and declines to delay implementation for entities covered under section 718 of the Act.

Final Regulatory Flexibility Analysis

14. As required by the Regulatory Flexibility Act of 1980, as amended (RFA), 5 U.S.C. 603, an Initial Regulatory Flexibility Analysis (IRFA) was included in the *ACS FNPRM* in CG Docket No. 10–213, WT Docket No. 96–198, and CG Docket No. 10–145. The Commission sought written public comment on the proposals in these dockets, including comment on the IRFA. This Final Regulatory Flexibility Analysis (FRFA) conforms to the RFA.

A. Need for, and Objectives of, the Second Report and Order

15. In document FCC 13–57, the Commission adopts rules to implement section 718 of the Act, which was added by the CVAA. Specifically, section 718(a) of the Act requires a mobile phone manufacturer that includes an Internet browser or a mobile phone service provider that arranges for an Internet browser to be included on a mobile phone to ensure that the browser functions are accessible to and usable by individuals who are blind or have a visual impairment, unless doing so is not achievable. Under section 718(b) of the Act, mobile phone manufacturers or service providers may achieve compliance with or without the use of third party applications, peripheral devices, software, hardware, or customer premises equipment. Congress provided that the effective date for these

requirements is three years after the enactment of the CVAA, which is October 8, 2013.

16. In document FCC 13–57, the Commission finds that sections 716 and 718 of the Act, which were both adopted by the CVAA, have overlapping requirements. Specifically, section 716 of the Act applies to all Internet browsers that are built into equipment and used for ACS or that may be required to be installed by ACS equipment manufacturers or providers. Section 718 of the Act applies only to the discrete category of Internet browsers built into mobile phones used for any purpose (not just to access ACS) by a discrete group of individuals with disabilities, that is, people who are blind or have a visual impairment.

17. In document FCC 13–57, the Commission adopts rules for section 718 of the Act that are consistent with the Commission's rules implementing section 716 of the Act. 47 CFR 14.1–14.21 of the Commission's rules. For the purpose of applying section 718(a) of the Act, the terms “accessible” and “usable” are defined in the same manner as these terms are applied to entities covered under sections 716(a)(1) and (b)(1) of the Act. Because section 716(g) of the Act defines “achievable” for purposes of both sections 716 and 718, the Commission defines and applies the term “achievable” to entities covered under section 718 of the Act in the same manner as entities covered under section 716 of the Act. Because sections 716(a)(2) and (b)(2) of the Act are virtually identical to section 718(b) of the Act, the Commission defines and applies the industry flexibility provisions contained in section 718(b) of the Act in the same manner as these provisions are defined and applied in section 716 of the Act.

18. Section 716 of the Act includes specific exemptions for customized equipment or services, and gives the Commission authority to waive accessibility requirements for small entities and multipurpose services and equipment. Because section 718 of the Act contains no parallel exemption or waiver provisions, the Commission finds insufficient basis to establish similar exemptions and waiver provisions specific to the requirements of section 718 of the Act. Nevertheless, an entity covered by section 718 of the Act could petition for a waiver of the Commission's rules implementing section 718 pursuant to the Commission's general waiver provisions requiring petitioners to show good cause to waive the rules, and a showing that the particular facts of the petitioner's circumstances make compliance

inconsistent with the public interest. 47 CFR 1.3 of the Commission's rules.

19. In document FCC 13–57, the Commission also declines to require accessibility APIs because there are various methods to achieve compliance with the section 718 of the Act requirements, and there is a need to afford covered entities flexibility on how to comply. Lastly, in document FCC 13–57, the Commission retains the recordkeeping requirements previously adopted for manufacturers and service providers covered under section 718 of the Act. 47 CFR 14.31 of the Commission's rules.

B. Summary of the Significant Issues Raised by the Public Comments in Response to the IRFA

20. No party filing comments in this proceeding responded to the IRFA in regard to implementation of section 718 of the Act, and no party filing comments in this proceeding otherwise addressed whether the policies and rules proposed in this proceeding regarding implementation of section 718 of the Act would have a significant economic impact on a substantial number of small entities.

C. Description and Estimate of the Number of Small Entities to Which the Rules Will Apply

21. The RFA directs agencies to provide a description of, and where feasible, an estimate of the number of small entities that face possible significant economic impact by the adoption of proposed rules. The RFA generally defines the term “small entity” as having the same meaning as the terms “small business,” “small organization,” and “small governmental jurisdiction.” In addition, the term “small business” has the same meaning as the term “small business concern” under the Small Business Act. A “small business concern” is one that (1) Is independently owned and operated; (2) is not dominant in its field of operation; and (3) satisfies any additional criteria established by the SBA. Nationwide, there are a total of approximately 27.9 million small businesses, according to the SBA.

22. The following entities have been identified as entities in which a majority of businesses in each category are estimated to be small. NAICS codes are provided where applicable.

- Radio and Television Broadcasting and Wireless Communications Equipment Manufacturing (334220)
- Wireless Telecommunications Carriers (except satellite) (517210)

D. Description of Projected Reporting, Recordkeeping, and Other Compliance Requirements

23. *Recordkeeping.* In document FCC 13–57, the Commission retains the recordkeeping requirements previously adopted, which requires, beginning January 30, 2013, that each service provider and each equipment manufacturer subject to sections 255, 716, and 718 of the Act maintain certain records. 47 CFR 14.31 of the Commission's rules. These records document the efforts taken by a manufacturer or service provider to implement sections 255, 716, and 718 of the Act, and specifically include: (1) Information about the manufacturer's or provider's efforts to consult with individuals with disabilities; (2) descriptions of the accessibility features of its products and services; and (3) information about the compatibility of such products and services with peripheral devices or specialized customer premise equipment commonly used by individuals with disabilities to achieve access.

24. *Annual Certification Obligations.* The CVAA and the Commission's rules require an officer of each service provider and equipment manufacturer subject to sections 255, 716, and 718 of the Act to submit to the Commission an annual certificate that records are kept in accordance with the above recordkeeping requirements. The certification must be filed with the Consumer and Governmental Affairs Bureau on or before April 1 each year for records pertaining to the previous calendar year. In document FCC 13–57, the Commission makes no changes to these requirements.

25. *Achievability Analysis.* Section 718(a) of the Act requires that the functions of Internet browsers included in mobile telephones “are accessible to and usable by individuals who are blind or have a visual impairment, unless doing so is not achievable. . . .” Section 716(g) of the Act, in turn, defines achievable as meaning “with reasonable effort or expense. . . .” The statute goes on to provide a four factor test to assess achievability. Two of the factors—(1) the nature and costs of the steps needed to meet the requirements with respect to the specific equipment or service in question and (2) the technical and economic impact on the operation of the manufacturer or provider and on the operation of the specific equipment or service in question, including on the development and deployment of new communications technologies—specifically take into account the cost of meeting the requirements and the

financial resources available to the equipment manufacturer or service provider. As a result, the initial cost of compliance is to perform the achievability analysis itself, which we estimate to be a small incremental cost when compared to the cost of developing the Internet browser. After the achievability analysis is conducted, the additional cost of making the equipment or service accessible to and usable by individuals who are blind or have a visual impairment is fact specific—it is dependent upon the design of the Internet browser and the accessibility features that are needed. In this regard, because the Internet browser is required to be accessible only if achievable, and because the achievability analysis takes into consideration the cost of providing accessibility as well as the financial resources of the manufacturer or service provider, the requirement to undertake an achievability analysis prevents the accessibility requirements adopted in document FCC 13–57 from having a significant economic impact on small entities.

E. Steps Taken To Minimize Significant Economic Impact on Small Entities and Significant Alternatives Considered

26. The RFA requires an agency to describe any significant alternatives it considered in developing its approach, which may include the following four alternatives, among others: “(1) The establishment of differing compliance or certification requirements or timetables that take into account the resources available to small entities; (2) the clarification, consolidation, or simplification of compliance and certification requirements under the rule for such small entities; (3) the use of performance rather than design standards; and (4) an exemption from coverage of the rule, or any part thereof, for such small entities.”

27. In document FCC 13–57, the Commission continues and preserves the steps taken previously to minimize adverse economic impact on small entities. Specifically, in document FCC 13–57, the Commission continues to promote flexibility for all entities in several ways. The rules require covered entities to ensure that Internet browsers included in mobile phones are accessible, unless not achievable. This is a statutory requirement; therefore no alternatives were considered. However, this requirement has built-in flexibility. All entities, including small entities, may build accessibility features into the product or may rely on third party applications, peripheral devices, software, hardware, or customer

premises equipment to meet their obligations under section 718 of the Act, if achievable. Achievability is determined through a four factor analysis, described above. Through this analysis, an otherwise covered entity can demonstrate that accessibility is not achievable. Two of the four factors are particularly relevant to small entities: the nature and cost of the steps needed to meet the section 716 of the Act requirements and the technical and economic impact on the entity's operations. If achievability is overly expensive or has some significant negative technical or economic impact on a covered entity, the entity can show that accessibility was not achievable as a defense to a complaint. This achievability analysis, therefore, provides a statutorily based means of minimizing the economic impact of the CVAA's requirements on small entities.

28. The rules adopted in document FCC 13-57 require covered entities to consider performance objectives at the design stage as early and consistently as possible. This requirement is necessary to ensure that accessibility is considered at the point where it is logically best to incorporate accessibility. The CVAA and document FCC 13-57 are performance-driven and avoid mandating particular designs. Instead, they focus on an entity's compliance with the accessibility requirements through whatever means the entity finds necessary to make its product or service accessible, unless not achievable. This provides flexibility by allowing each entity, including small entities, to individually meet its obligations through what works best for that given entity (given the accessibility needs of the consumers being served), instead of mandating a rigid requirement that applies to all covered entities.

29. In document FCC 13-57, the Commission also leaves unchanged the requirements adopted previously that allow covered entities to keep records in any format they wish, because this flexibility affords small entities the greatest flexibility to choose and maintain the recordkeeping system that best suits their resources and their needs. The Commission found that this approach takes into account the variances in covered entities (e.g., size, experience with the Commission), recordkeeping methods, and products and services covered by the CVAA. Moreover, the Commission found that it provided the greatest flexibility for small businesses and minimized the economic impact that the statutorily mandated requirements impose on small businesses. Correspondingly, the Commission considered and rejected the

alternative of imposing a specific format or one-size-fits-all system for recordkeeping that could potentially impose greater burdens on small businesses. In addition, in document FCC 13-57, the Commission leaves unchanged the certification requirement, which is also required by the statute.

30. Although section 718 of the Act contains no exemption or waiver provisions comparable to those in section 716 of the Act, in document FCC 13-57, the Commission notes that an entity covered by section 718 of the Act may petition for a waiver of the Commission's rules implementing section 718 pursuant to the general waiver provisions in section 1.3 of the Commission's rules, which requires a showing of good cause to waive the rules, as well as a showing that particular facts make compliance inconsistent with the public interest. Section 1.3 of the Commission's rules therefore affords small entities additional compliance flexibility.

F. Federal Rules that May Duplicate, Overlap, or Conflict With Proposed Rules

31. Section 255(e) of the Act, as amended, directs the Architectural and Transportation Barriers Compliance Board (Access Board) to develop equipment accessibility guidelines "in conjunction with" the Commission, and periodically to review and update those guidelines. The Commission views the Access Board's current guidelines as well as its proposed guidelines as starting points for our interpretation and implementation of sections 716, 717, and 718 of the Act, as well as section 255 of the Act. As such, our rules do not overlap, duplicate, or conflict with either existing or proposed Access Board guidelines on section 255 of the Act.

Congressional Review Act

32. The Commission will send a copy of document FCC 13-57 in a report to be sent to Congress and the Government Accountability Office pursuant to the Congressional Review Act. 5 U.S.C. 801(a)(1)(A).

Ordering Clauses

33. Pursuant to sections 4(i), 303(r), 716, 717, and 718 of the Communications Act of 1934, as amended, 47 U.S.C. 154(i), 303(r), 617, 618, and 619, document FCC 13-57 is hereby *adopted*.

List of subjects in 47 CFR Part 14

Advanced communications services equipment, Individuals with

disabilities, Manufacturers of equipment used for advanced communications services, Providers of advanced communications services, Recordkeeping and enforcement requirements.

Federal Communications Commission.

Marlene H. Dortch,
Secretary.

Final Rules

For the reasons discussed in the preamble, the Federal Communications Commission amends 47 CFR part 14 as follows:

PART 14—ACCESS TO ADVANCED COMMUNICATIONS SERVICES AND EQUIPMENT BY PEOPLE WITH DISABILITIES

■ 1. The authority citation for part 14 is revised to read as follows:

Authority: 47 U.S.C. 151-154, 255, 303, 403, 503, 617, 618, 619 unless otherwise noted.

■ 2. Add subpart E to read as follows:

Subpart E—Internet Browsers Built Into Telephones Used With Public Mobile Services.

Sec.

14.60 Applicability.

14.61 Obligations with respect to internet browsers built into mobile phones.

§ 14.60 Applicability.

(a) This subpart E shall apply to a manufacturer of a telephone used with public mobile services (as such term is defined in 47 U.S.C. 710(b)(4)(B)) that includes an Internet browser in such telephone that is offered for sale or otherwise distributed in interstate commerce, or a provider of mobile services that arranges for the inclusion of a browser in telephones to sell or otherwise distribute to customers in interstate commerce.

(b) Only the following enumerated provisions contained in this part 14 shall apply to this subpart E.

(1) The limitations contained in § 14.2 shall apply to this subpart E.

(2) The definitions contained in § 14.10 shall apply to this subpart E.

(3) The product design, development and evaluation provisions contained in § 14.20(b) shall apply to this subpart E.

(4) The information, documentation, and training provisions contained in § 14.20(d) shall apply to this subpart E.

(5) The performance objectives provisions contained in § 14.21(a), (b)(1)(i), (b)(1)(ii), (b)(1)(iii), (b)(2)(i), (b)(2)(ii), (b)(2)(iii), (b)(2)(vii), and (c) shall apply to this subpart E.

(6) All of subpart D shall apply to this subpart E.

§ 14.61 Obligations with respect to internet browsers built into mobile phones.

(a) *Accessibility.* If on or after October 8, 2013 a manufacturer of a telephone used with public mobile services includes an Internet browser in such telephone, or if a provider of mobile service arranges for the inclusion of a browser in telephones to sell to customers, the manufacturer or provider shall ensure that the functions of the included browser (including the ability to launch the browser) are accessible to and usable by individuals who are blind or have a visual impairment, unless doing so is not achievable, except that this subpart shall not impose any requirement on such manufacturer or provider—

(1) To make accessible or usable any Internet browser other than a browser that such manufacturer or provider includes or arranges to include in the telephone; or

(2) To make Internet content, applications, or services accessible or usable (other than enabling individuals with disabilities to use an included browser to access such content, applications, or services).

(b) *Industry flexibility.* A manufacturer or provider may satisfy the requirements of this subpart with respect to such telephone or services by—

(1) Ensuring that the telephone or services that such manufacturer or provider offers is accessible to and usable by individuals with disabilities without the use of third-party applications, peripheral devices, software, hardware, or customer premises equipment; or

(2) Using third-party applications, peripheral devices, software, hardware, or customer premises equipment that is available to the consumer at nominal cost and that individuals with disabilities can access.

[FR Doc. 2013-12202 Filed 5-21-13; 8:45 am]

BILLING CODE 6712-01-P

DEPARTMENT OF DEFENSE**Defense Acquisition Regulations System****48 CFR Part 204**

RIN 0750-AH80

Defense Federal Acquisition Regulation Supplement: Clarification of “F” Orders in the Procurement Instrument Identification Number Structure (DFARS Case 2012-D040)

AGENCY: Defense Acquisition Regulations System, Department of Defense (DoD).

ACTION: Final rule.

SUMMARY: DoD is issuing a final rule amending the Defense Federal Acquisition Regulation Supplement (DFARS) to update instructions for assigning basic and supplementary procurement instrument identification numbers.

DATES: *Effective:* May 22, 2013.

FOR FURTHER INFORMATION CONTACT: Fernell Warren, telephone 571-372-6089.

SUPPLEMENTARY INFORMATION:**I. Background**

DoD published a proposed rule in the **Federal Register** at 77 FR 51957 on August 28, 2012, to update instructions for assigning basic and supplementary procurement instrument identification numbers (PIIN) by limiting the use of “F” in the 9th position of the PIIN to those orders and calls issued by DoD under indefinite delivery type contracts and agreements issued by departments or agencies outside the DoD. Two respondents submitted public comments in response to the proposed rule.

II. Discussion and Analysis of the Public Comments

DoD reviewed the public comments in the development of the final rule. A discussion of the comments is provided.

A. Summary of Changes from the Proposed Rule

There were no changes made from the proposed rule as a result of the comments.

B. Analysis of public comments**1. Information technology**

Comment: One respondent was concerned that if AbilityOne and FPI vendors were no longer identified by an “F” in the 9th position of the PIIN, field activities would no longer be able to pull data relating to these awards. The

respondent asked what office would be responsible for retrieving such data, and whether a particular system, EProcurement/Records Management, allows for data retrieval via Data Universal Numbering System number and/or Commercial and Government Entity code.

Response: The “F” in the 9th position has not been exclusively utilized for AbilityOne and FPI awards; therefore retrieving data by the “F” in 9th position does not provide a sufficiently discrete result. DoD uses other data elements, such as specific DUNS numbers and validations from the Ability One Program, as indicators for awards to Federal Prison Industries and Ability One vendors.

2. Implementation impact

Comment: One respondent stated that standardizing identification systems would benefit DoD. However, the respondent was concerned that the rule could have an adverse impact on smaller, i.e. AbilityOne and FPI, vendors. The respondent inquired as to whether implementation of the rule would apply to existing awards, and if so, might cause an additional adverse impact.

Response: The revision of the use of “F” in PIINs will have no impact on the smaller AbilityOne and FPI vendors; it is simply an award identifier. DoD uses other data elements, such as specific DUNS numbers and validations from the Ability One Program, as indicators for awards to Federal Prison Industries and Ability One vendors. The final rule is a prospective change to DFARS. Existing award and order numbers will not be changed. DoD anticipates no adverse impacts from implementation of this rule.

III. Executive Orders 12866 and 13563

Executive Orders (E.O.s) 12866 and 13563 direct agencies to assess all costs and benefits of available regulatory alternatives and, if regulation is necessary, to select regulatory approaches that maximize net benefits (including potential economic, environmental, public health and safety effects, distributive impacts, and equity). E.O. 13563 emphasizes the importance of quantifying both costs and benefits, of reducing costs, of harmonizing rules, and of promoting flexibility. This is not a significant regulatory action and, therefore, was not subject to review under section 6(b) of E.O. 12866, Regulatory Planning and Review, dated September 30, 1993. This rule is not a major rule under 5 U.S.C. 804.