

FEDERAL MARITIME COMMISSION**46 CFR Part 501**

[Docket No. 09-06]

RIN 3072-AC37

Recodification of the Shipping Act as Positive Law*Correction*

In rule document E9-22659 beginning on page 50713 in the issue of Thursday, October 1, 2009 make the following correction:

§501.24 [Corrected]

On page 50714 in the table for §501.24(e), in the Add column, the text should read:

“section 5 of the Shipping Act of 1984 (46 U.S.C. 40301(d)–(e), 40302–40303, 40305).”

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FEDERAL COMMUNICATIONS COMMISSION**47 CFR Part 64**

[CG Docket No. 03-123; DA 08-2808]

Telecommunications Relay Services and Speech-to-Speech Services for Individuals With Hearing and Speech Disabilities

AGENCY: Federal Communications Commission.

ACTION: Final rule; extension of waiver.

SUMMARY: In this document, the Consumer and Governmental Affairs Bureau (Bureau) extends for an additional year waivers of certain Telecommunications Relay Services (TRS) mandatory minimum standards for Video Relay Service (VRS) and Internet Protocol Relay (IP Relay). The waived TRS mandatory minimum standards are: One-line voice carry over (VCO); VCO-to-teletypewriter (TTY); VCO-to-VCO; one-line hearing carry over (HCO); HCO-to-TTY; HCO-to-HCO; call release; pay-per-call (900) calls; types of calls; equal access to interexchange carriers; and speech-to-speech (STS). Also, in this document, the Bureau grants a limited extension of the waiver of the speed dialing requirement for IP Relay. The Bureau extends the waivers for one year (four months in the case of speed dialing for IP Relay) because the record demonstrates that it is technologically infeasible for VRS and IP Relay providers to offer these services at this time.

DATES: The waivers of certain TRS mandatory minimum standards for VRS and IP Relay will expire on January 1, 2010, except the limited extension of the waiver of the speed dialing requirement for IP Relay, which expired on May 1, 2009.

ADDRESSES: Parties may submit documentation related to the waivers, identified by [CG Docket No. 03-123 and/or DA 08-2808], by mail, to: Dana Wilson, Consumer and Governmental Affairs Bureau, Disability Rights Office, 445 12th Street, SW., Room 3-C418, Washington, DC 20554.

FOR FURTHER INFORMATION CONTACT:

Gregory Hlibok, Consumer and Governmental Affairs Bureau, Disability Rights Office at (866) 954-4053 (voice), (202) 418-0431 (TTY), or e-mail Gregory.Hlibok@fcc.gov.

SUPPLEMENTARY INFORMATION: This is a summary of the Bureau Order, document DA 08-2808, adopted and released on December 24, 2008, extending certain waivers of TRS mandatory minimum standards to January 1, 2010, and extending waiver of the speed dialing requirement for IP Relay until May 1, 2009. The full text of document DA 08-2808, and copies of any subsequently filed documents in this matter, will be available for public inspection and copying during regular business hours at the FCC Reference Information Center, Portals II, 445 12th Street, SW., Room CY-A257, Washington, DC 20554. Document DA 08-2808, and copies of subsequently filed documents in this matter, also may be purchased from the Commission’s duplicating contractor at Portals II, 445 12th Street, SW., Room CY-B402, Washington, DC 20554. Customers may contact the Commission’s duplicating contractor at its Web site <http://www.bcpweb.com> or by calling 1-800-378-3160. To request materials in accessible formats for people with disabilities (Braille, large print, electronic files, audio format), send an e-mail to fcc504@fcc.gov or call the Consumer and Governmental Affairs Bureau at (202) 418-0530 (voice) or (202) 418-0432 (TTY). Document DA 08-2808 also can be downloaded in Word and Portable Document Format (PDF) at <http://www.fcc.gov/cgb/dro/trs.html>.

Synopsis

- The Commission, in various orders, has waived several TRS mandatory minimum standards for VRS and IP Relay either because, as Internet-based services, it is not technologically feasible to meet the requirement or, in the case of VRS, because VRS is a video-

based service and the communication is via sign language and not text. Most recently, in the *2007 TRS Waiver Order*, the Commission extended certain waivers until January 1, 2009. See *Telecommunications Relay Services and Speech-to-Speech Services for Individuals with Hearing and Speech Disabilities*, CG Docket No. 03-123, Order, adopted and released on December 26, 2007, published at 73 FR 9031, February 19, 2008 (*2007 TRS Waiver Order*). These waivers were conditioned on the filing of annual reports, due April 16, 2008, addressing whether it was necessary for the waivers to remain in effect. All VRS and IP Relay providers have filed reports detailing their progress in meeting the waived requirements. The Bureau reviewed these reports in reaching the conclusions below.

- One-line VCO, VCO-to-TTY, and VCO-to-VCO.* VCO is a type of traditional TTY-based TRS that can be used by persons with a hearing disability but who can speak. See 47 CFR 64.601(27); 47 CFR 64.604(a)(3)(v). The Commission waived these requirements for IP Relay providers because the voice leg of a VCO call could not be supported over the Internet. The Commission similarly waived these requirements for VRS. The Bureau extends the waivers of these requirements for one year. The Bureau notes that the April 16, 2008 waiver reports reflected that VRS and IP Relay providers cannot provide these services because the Internet cannot support the voice leg of a VCO call with the necessary call quality. These waivers were again conditioned on the filing of reports, due April 16, 2009, addressing whether it is necessary for the waivers to remain in effect.

- One-line HCO, HCO-to-TTY, and HCO-to-HCO.* One-line HCO is a type of traditional TTY-based TRS that can be used by persons with a speech disability but who can hear. See 47 CFR 64.604(9); 47 CFR 64.604(a)(3)(v). For the same reason the Commission waived the VCO requirements for IP Relay, it did so with respect to the HCO requirements. The Commission similarly waived these requirements for VRS. Consistent with the Bureau’s treatment of VCO, and for the same reasons, the Bureau extends the waivers of these requirements for one year. The Bureau also notes that the April 16, 2008 waiver reports reflected that VRS and IP Relay providers could not provide these services. These waivers were also conditioned on the filing of reports, due April 16, 2009, addressing whether it is necessary for the waivers to remain in effect.

4. *Call Release.* Call release allows a communications assistant (CA) to set up a TTY-to-TTY call that, once established, does not require the CA to relay the conversation. *See* 47 CFR 64.604(a)(3)(vi). The Commission waived this requirement for VRS and IP Relay. The Bureau extends the waivers of this requirement for one year due to technological infeasibility. This conclusion is supported by the providers' April 16, 2008 waiver reports, which reflect that the Internet leg of the call (via video or text) cannot support call release functionality. These waivers were also conditioned on the filing of reports, due April 16, 2009, addressing whether it is necessary for the waivers to remain in effect.

5. *Pay-Per-Call (900) calls.* Pay-per-call (900) calls are calls that the person making the call pays for at a charge greater than the basic cost of the call. *See* 47 CFR 64.604(a)(3)(iv). The Commission waived this requirement for VRS and IP Relay. The Bureau extends the waivers of this requirement for VRS and IP Relay for one year. The providers' April 16, 2008 waiver reports reflected that there was still no billing mechanism available to handle the charges associated with pay-per-calls. These waivers were also conditioned on the filing of reports, due April 16, 2009, addressing whether it is necessary for the waivers to remain in effect.

6. *Types of Calls (Operated Assisted Calls and Long Distance Calls).* Commission rules require TRS providers to handle any type of call normally handled by common carriers. *See* 47 CFR 64.604(a)(3). The requirement that VRS providers offer operator-assisted calls and bill certain types of calls to the end user has been waived because it was not possible to determine if a VRS call is local or long distance. The providers' April 16, 2008 waiver reports reflected that it remained technologically infeasible for VRS providers to offer operator-assisted calls and to bill for certain types of long distance calls because one leg of the VRS call is transmitted over the Internet. Based on the record, the Bureau therefore extends waivers of this requirement for VRS for one year as long as providers allow calls to be placed using calling cards and/or provide free long distance calls. This waiver was also conditioned on the filing of a report, due April 16, 2009, addressing whether it is necessary for the waiver to remain in effect. Although this issue has not been raised, the Bureau understands that IP Relay providers, for the same reasons as VRS providers, cannot provide these services. Therefore, to avoid any future uncertainty or

compliance issues, the Bureau waives on its own motion this requirement for IP Relay as long as the providers allow calls to be placed using calling cards and/or to provide free long distance calls. The Bureau notes, however, that with the advent of ten-digit numbering for VRS and IP Relay, which became effective December 31, 2008, providers will be able to determine the geographic location of both parties to the call. Therefore, in their April 2009 waiver report, providers were to specifically address the effect of the numbering and registered location requirements on the continued need for this waiver.

7. *Equal Access to Interexchange Carriers.* The TRS rules require that providers offer TRS users their interexchange carrier of choice to the same extent that such access is provided to voice users. *See* 47 CFR 64.604(b)(3). The Commission has waived this requirement for VRS providers, noting that it was not possible to determine if a call is long distance and, in any event, the providers could not automatically route the calls to the caller's long distance carrier of choice. The Commission also noted that this waiver was contingent on VRS providers providing long distance services free of charge to the caller. The Commission waived this requirement for IP Relay indefinitely.

8. The providers' April 16, 2008 waiver reports again reflected that because they cannot determine whether a particular call is local or long distance, they cannot offer carrier of choice but instead do not charge consumers for long distance. Based on the record, the Bureau therefore extends this waiver for VRS for one year as long as the providers provide free long distance calls. This waiver was also conditioned on the filing of a report, due April 16, 2009, addressing whether it is necessary for the waiver to remain in effect. Again, however, as noted above, providers were to specifically address the effect of the numbering and registered location requirements on the continuing need for this waiver.

9. *Speech-to-Speech.* In 2000, the Commission recognized STS as a form of TRS and required that it be offered as a mandatory service. The Commission waived this requirement indefinitely for VRS, noting that STS is speech-based service, whereas VRS is a visual service using interpreters to interpret in sign language over a video connection. The requirement for IP Relay was waived until January 1, 2009, because of the technical difficulties with respect to voice-initiated calls and the Internet. The Bureau extends the waiver of this requirement for IP Relay for one year.

Providers continued to report that this service, like the VCO and HCO services, cannot be provided via IP Relay because of erratic voice quality. The waiver was also conditioned on the filing of a report, due April 16, 2009, addressing whether it is necessary for the waiver to remain in effect.

10. *Speed Dialing.* Speed dialing allows a TRS user to give the CA a "short-hand" name or number (e.g., "call Mom") for the user's most frequently called telephone numbers. *See* 47 CFR 64.604(a)(3)(vi). This feature permits a person making a TRS call through a CA to place the call without having to remember or locate the number he or she desires to call. The Commission waived this requirement for IP Relay. The waiver of the speed dialing requirement for VRS expired on April 30, 2008. *See Telecommunications Relay Services and Speech-to-Speech Services for Individuals with Hearing and Speech Disabilities*, CG Docket No. 03-123, Order, adopted and released on January 8, 2008, published at 73 FR 9031, February 19, 2008.

11. Based on the record, the Bureau granted a limited extension of this requirement for IP Relay until April 30, 2009. The record indicated that all IP Relay providers except AT&T are offering speed dialing. In November 2008, AT&T filed a request to extend this waiver for 90 days, noting that it has recently "upgraded" its service "from a web-based service to an IM-based service," and is phasing out use of its web-based IP Relay service that lacks a speed dialing feature. AT&T therefore requested a waiver of the speed dialing feature "solely [for] its web-based IP Relay service through March 31, 2009, at which time AT&T will have ceased providing the service." AT&T asserted that granting the limited waiver is in the public interest, as it allows existing users of its web-based service a reasonable timeframe to migrate to other types of IP Relay services that offer a speed dialing feature, such as AT&T's IM-based IP Relay service. The Bureau agreed that, in these circumstances, a limited 90 day extension of the waiver of the speed dialing requirement for AT&T's Web-based IP Relay service was appropriate. For this reason, the Bureau granted AT&T's request for an extension of this waiver through April 30, 2009. After that date, all IP Relay providers must offer this feature.

Ordering Clauses

12. Pursuant to section 225 of the Communications Act of 1934, as amended, 47 U.S.C. 225, and §§ 0.141,

0.361, and 1.3 of the Commission's rules, 47 CFR 0.141, 0.361, and 1.3, document DA 08-2808 is adopted.

13. For VRS, the waivers of the one-line VCO, VCO-to-TTY, and VCO-to-VCO; one-line HCO, HCO-to-TTY, and HCO-to-HCO; call release; pay-per-call (900) calls, types of calls, and equal access to interexchange carrier requirements are hereby extended for one year, until January 1, 2010, conditioned on the filing of a report, due April 16, 2009, addressing whether it is necessary for the waivers to remain in effect.

14. For IP Relay, the waivers of the one-line VCO, VCO-to-TTY, and VCO-to-VCO; one-line HCO, HCO-to-TTY, and HCO-to-HCO; call release; pay-per-call (900) calls; and STS requirements are hereby extended for one year until January 1, 2010, conditioned on the filing of a report, due April 16, 2009, addressing whether it is necessary for the waivers to remain in effect. The waiver of the speed dialing requirement for IP Relay is extended until May 1, 2009.

15. AT&T's Request for Extension of Waiver is granted.

Federal Communications Commission.

Mark Stone,

Deputy Chief, Consumer and Governmental Affairs Bureau.

[FR Doc. E9-25690 Filed 10-23-09; 8:45 am]

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GENERAL SERVICES ADMINISTRATION

48 CFR Parts 532 and 552

[**GSAR Amendment 2009-13; GSAR Case 2006-G515 (Change 41) Docket 2008-0007; Sequence 8]**

RIN 3090-AI75

General Services Administration Acquisition Regulation; GSAR Case 2006-G515; Rewrite of GSAR Part 532, Contract Financing

AGENCIES: General Services Administration (GSA), Office of Acquisition Policy.

ACTION: Final rule.

SUMMARY: The General Services Administration (GSA) is amending the General Services Administration Acquisition Regulation (GSAR) to update Part 532, Contract Financing, of the regulation. This project is part of the GSAM rewrite Project, in which all parts of the regulation are being reviewed and updated to include new statutes, legislation, and policies.

DATES: *Effective Date:* November 25, 2009.

FOR FURTHER INFORMATION CONTACT: For clarification of content, contact Edward Chambers, Procurement Analyst, at (202) 501-3221. For information pertaining to status or publication schedules, contact the Regulatory Secretariat (VPR), Room 4041, 1800 F Street, NW., Washington, DC 20405, (202) 501-4755. Please cite Amendment 2009-13, GSAR case 2006-G515 (Change 41).

SUPPLEMENTARY INFORMATION:

A. Background

The GSA is amending the GSA Acquisition Regulation (GSAR) to update the text addressing contract financing. This rule is a result of the GSA Acquisition Manual (GSAM) rewrite initiative undertaken by GSA to revise the GSAM to maintain consistency with the Federal Acquisition Regulation (FAR) and implement streamlined and innovative acquisition procedures that contractors, offerors, and GSA contracting personnel can utilize when entering into and administering contractual relationships. The GSAM incorporates the GSAR as well as internal agency acquisition policy.

The GSA will rewrite each part of the GSAR and GSAM, and as each GSAR part is rewritten, will publish it in the **Federal Register**.

This rule covers the rewrite of GSAR Part 532, Contract Financing. A proposed rule was published in the **Federal Register** at 73 FR 58515 on October 7, 2008. Three comment letters, with 23 comments, were received in response to the proposed rule.

Many of the comments apply solely to construction and architect-engineer contracts. Two of these comments were referred to the GSAM Part 536 team for consideration in the rewrite of that part. These dealt with the Public Building Service's unique requirement for progress payment meetings and the need to have contractor involvement in such meetings. These comments will be addressed in the final rule for GSAM Part 536, Construction and Architect-Engineer Contracts. The responses to the balance of the construction-related comments were coordinated with the GSAM Part 536 team.

Comment: The commenter believes that GSA Form 1142, Release of Claims, is an unauthorized form. Commenter notes that there is no Office of Management and Budget (OMB) control number and no indication that a Regulatory Flexibility Act analysis was ever performed. Commenter also notes

that the form fails to advise contractors that, by signing the form, they forfeit certain rights.

Response: Currently, use of this form is prescribed at GSAR 532.904(a). The commenter is correct that there is no OMB control number on the GSA Form 1142, and GSAM Part 532 drafters cannot find any record of a Regulatory Flexibility Act analysis ever having been performed for this pre-GSAM Rewrite requirement. Further, the form has not been revised since December 1974. The material on the "form" is minimal, and neither the FAR nor the GSAM require specific wording for the contractor's release of claims. Therefore, the GSA Form 1142 will be cancelled, and GSAR 532.904(a) of the proposed rule is deleted.

Comment: Given that the requirement for a release of claims stems from FAR 52.232-26 and 52.232-27, commenter believes it would be more appropriate for the FAR Council to develop a standard form to be used by all agencies in accordance with FAR 1.304(c), because it is not just pertinent to GSA.

Response: This comment pertains to whether the GSA Form 1142 should be retained or a Standard Form should be designed as a FAR Part 32 change. Given that neither FAR clause designates specific wording for the contractor's release of claims, it does not appear to be an appropriate candidate for a standard form.

Comment: Commenter believes that the FAR Council should consider allowing contractors to submit the release jointly along with the electronic submission of a final invoice request.

Response: This is outside the scope of the GSAM Rewrite.

Comment: Commenter believes that, under GSAR 532.904, contracting officers' repeated attempts to obtain release of claims from contractors could be considered coercion penalizing contractors by withholding funds. Commenter thinks that GSAM should justify the reasonableness of withholding final payments.

Response: Because the GSA Form 1142 has been cancelled, the balance of GSAR 532.904(a) should also be deleted. Further, obtaining a release of claims is a FAR requirement, not a GSA requirement.

Comment: Commenter believes that the GSAM should provide guidance for contracting officers to initiate an action for architect-engineer (A-E) design services in advance of approved appropriations. Many find nothing in the FAR that precludes contracting officers from selecting an A-E using Brooks Act procedures through the solicitation and negotiation phase up to