

governing body must ensure that the following requirements are met:

(1) Every Medicare patient is under the care of:

\* \* \* \* \*

(vi) A clinical psychologist as defined in § 410.71 of this chapter, but only with respect to clinical psychologist services as defined in § 410.71 of this chapter and only to the extent permitted by State law.

\* \* \* \* \*

(4) A doctor of medicine or osteopathy is responsible for the care of each Medicare patient with respect to any medical or psychiatric problem that—

(i) \* \* \*

(ii) Is not specifically within the scope of practice of a doctor of dental surgery, dental medicine, podiatric medicine, or optometry; a chiropractor; or clinical psychologist, as that scope is—

(A) Defined by the medical staff;

(B) Permitted by State law; and

(C) Limited, under paragraph (c)(1)(v) of this section, with respect to chiropractors.

\* \* \* \* \*

(Catalog of Federal Domestic Assistance Program No. 93.774 Medicare—Supplementary Medical Insurance)

Dated: December 2, 1997.

**Nancy-Ann Min DeParle,**

*Administrator, Health Care Financing Administration.*

Dated: December 11, 1997.

**Donna E. Shalala,**

*Secretary.*

[FR Doc. 98-10591 Filed 4-22-98; 8:45 am]

BILLING CODE 4120-01-P

## FEDERAL COMMUNICATIONS COMMISSION

### 47 CFR Parts 15 and 73

[ET Docket 97-206; FCC 98-36]

### Technical Requirements To Enable Blocking of Video Programming Based on Program Ratings

**AGENCY:** Federal Communications Commission.

**ACTION:** Final rule.

**SUMMARY:** By this *Report and Order* ("R&O"), the Commission is amending the rules to require that television receivers with picture screens 33 cm (13 inches) or greater be equipped with technological features to allow parents to block the display of violent, sexual, or other programming they believe is harmful to their children. These features are commonly referred to as "v-chip" technology. This action is in response to

the Parental Choice in Television Programming requirements. These rules are intended to give parents the ability to block video programming that they do not want their children to watch.

**DATES:** This regulation is effective May 26, 1998. The incorporation by reference of certain publications listed in the rule is approved by the Director of the Office of the Federal Register as of May 26, 1998.

**FOR FURTHER INFORMATION CONTACT:** Neal McNeil, Office of Engineering and Technology, (202) 418-2408, TTY (202) 418-2989.

**SUPPLEMENTARY INFORMATION:** This is a summary of the Commission's *Report and Order*, ET Docket 97-206, FCC 98-36, adopted March 12, 1998 and released March 13, 1998. The full text of this decision is available for inspection and copying during regular business hours in the FCC Reference Center, Room 239, 1919 M Street, NW, Washington, DC. The complete text of this decision also may be purchased from the Commission's duplication contractor, International Transcription Service, Inc., (202) 857-3800, 1231 20th Street, NW, Washington, DC 20036.

### Summary of the Report and Order

1. In section 551(a)(9) of the Telecommunications Act of 1996 ("1996 Act"), Congress determined that parents should be provided "with timely information about the nature of upcoming video programming and with the technological tools that allow them easily to block violent, sexual, or other programming that they believe harmful to their children \* \* \*." Section 551(c) directs the Commission to adopt rules requiring that any "apparatus designed to receive television signals that are shipped in interstate commerce or manufactured in the United States and that have a picture screen 13 inches or greater in size (measured diagonally) \* \* \* be equipped with a feature designed to enable viewers to block display of all programs with a common rating \* \* \*." Section 551(d) states that the Commission must "require that all such apparatus be able to receive the rating signals which have been transmitted by way of line 21 of the vertical blanking interval \* \* \*." That provision also instructs the Commission to oversee "the adoption of standards by industry for blocking technology," and to ensure that blocking capability continues to be available to consumers as technology advances.

2. The *Notice of Proposed Rule Making* ("Notice") in this proceeding, 62 FR 52677, October 9, 1997, began the process of fulfilling the requirements of

section 551. In the *Notice* the Commission proposed to rely on industry standard EIA-608 to provide the methodology for television receivers to decode rating information transmitted on line 21 of the vertical blanking interval ("VBI"). A total of 26 parties filed comments, and 13 parties filed replies to comments in response to the *Notice*.

3. Comments received in response to the *Notice* were uniform in support of the Commission's proposal to adopt EIA-608 and EIA-744 as the transmission standards for program rating information. No commenters suggested other transmission standards that the Commission should consider. The Commission continues to believe that EIA-608 provides an appropriate means of transmitting program rating information on line 21. Therefore, the Commission is amending its rules to require that all television receivers with picture screens 33 cm (13 inches) or larger, measured diagonally, shipped in interstate commerce or manufactured in the United States, receive program ratings transmitted pursuant to industry standards EIA-608 and EIA-744 and block both the video and the associated audio on the main and second audio program (SAP) channels, based on a rating level specified by the user of the television receiver. By adopting EIA-608 and EIA-744 we are fulfilling our mandate under section 551(d) to oversee the adoption of standards by industry for blocking technology. The Commission is incorporating EIA-608 and EIA-744 into its rules by reference. To incorporate EIA-608-B by reference we will publish notice of the change in the **Federal Register** and amend the CFR.

4. The Commission is requiring that television manufacturers include blocking technology on at least half of their new product models with a picture screen 33 cm (13 inches) or greater in size by July 1, 1999. The remainder of the models would be required to contain blocking technology by January 1, 2000.

### Final Regulatory Flexibility Analysis

5. As required by the Regulatory Flexibility Act ("RFA"),<sup>1</sup> an Initial Regulatory Flexibility Analysis ("IRFA") was incorporated in the *Notice of Proposed Rule Making*

<sup>1</sup> See 5 U.S.C. 603. The RFA, see 5 U.S.C. 601 *et seq.*, has been amended by the Contract with America Advancement Act of 1996, Pub. L. 104-121, 110 Stat 847 (1996) (CWAAA). Title II of the CWAAA is the Small Business Regulatory Enforcement Fairness Act of 1996 (SBREFA).

(Notice)).<sup>2</sup> The Commission sought written public comment on the proposals in the Notice, including comment on the IRFA. The Commission's Final Regulatory Flexibility Analysis ("FRFA") in this Report and Order conforms to the RFA.<sup>3</sup>

#### A. Need for and Objective of the Rules

6. The rules adopted in this *Report and Order* are intended to give parents the ability to block video programming that they do not want their children to watch. This action is taken in response to the Parental Choice in Television Programming requirements contained in sections 551 (c), (d), and (e) of the Telecommunications Act of 1996 (the "1996 Act").<sup>4</sup> As described in the present *Notice*, Congress determined that parents should be provided "with timely information about the nature of upcoming video programming and with the technological tools that allow them to block violent, sexual, or other programming that they believe harmful to children." Section 551(c) of the 1996 Act directs the Commission to adopt rules requiring that any "apparatus designed to receive television signals that are shipped in interstate commerce or manufactured in the United States and that have a picture screen 13 inches or greater in size (measured diagonally) \* \* \* be equipped with a feature designed to enable viewers to block display of all programs with a common rating." Section 551(d) states that the Commission must "require that all such apparatus be able to receive the rating signals which have been transmitted by way of line 21 of the vertical blanking interval." That provision also instructs the Commission to oversee "the adoption of standards by industry for blocking technology," and to ensure that blocking capability continues to be available to consumers as technology advances.

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

7. No comments were filed in direct response to the IRFA. Commenters, including possible small entity commenters, wrote general comments regarding the deadlines for compliance with the blocking technology rules.<sup>5</sup>

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

8. This action requires television manufacturers to include program blocking technology in television receivers that have a display size of 33 cm (13 inches) or larger. Personal computers that have a display size of 33 cm (13 inches) or larger and include the ability to receive NTSC or DTV TV signals (i.e., television broadcasting) are also subject to the requirement to include program blocking technology. The requirements do not apply to computers receiving video transmissions over the Internet or via computer networks.

9. The RFA generally defines the term "small entity" as having the same meaning as the terms "small business," "small organization," and "small governmental jurisdictions." In addition, the term "small business" has the same meaning as the term "small business concern" under the Small Business Act, 15 U.S.C. 632, unless the Commission has developed one or more definitions that are appropriate to its activities.<sup>6</sup> 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) meets any additional criteria established by the Small Business Administration (SBA).<sup>7</sup>

10. The Commission has not developed a definition of small entities applicable to V-chip technology. Therefore, the Commission will utilize the SBA definition applicable to manufacturers of Radio and Television Broadcasting and Communications Equipment. According to the SBA's regulations, television equipment manufacturers must have 750 or fewer employees in order to qualify as a small business concern.<sup>8</sup> Census Bureau data indicates that there are 858 U.S. companies that manufacture radio and television broadcasting and communications equipment, and that 778 of these firms have fewer than 750 employees and would be classified as small entities.<sup>9</sup> The Census Bureau category is very broad, and specific figures are not available as to how many of these firms are manufacturers of television equipment. However, we believe that many of the companies that

manufacture television equipment may qualify as small entities.

11. According to SBA regulations, a computer manufacturer must have 1,000 or fewer employees in order to qualify as a small entity.<sup>10</sup> Census Bureau data indicates that there are 716 firms that manufacture electronic computers. Of those, 659 have fewer than 500 employees and qualify as small entities.<sup>11</sup> The remaining 57 firms have 500 or more employees; however, we were unable to determine how many of those have 1,000 or fewer employees and therefore also qualify as small entities under the SBA definition.

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

12. The Commission's rules require television receivers to be verified for compliance with applicable FCC technical requirements. See 47 CFR 15.101, 15.117, and 2.951, *et seq.* Documentation concerning the verification must be kept by the manufacturer or importer. The rules adopted in this proceeding require that television receivers comply with industry-developed standards for blocking display of video programming based on program ratings. However, verification testing regarding program blocking is not necessary because compliance with the industry-developed standards, and the associated Commission rules, can be determined easily during the television receiver design process. The Commission may, of course, ask manufacturers and importers to document upon occasion how a particular television receiver complies with the program blocking requirements.

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

13. In the *Notice* we invited comment regarding the existence of such alternate blocking technologies and whether it would be appropriate to permit them at this time in lieu of ratings-based blocking technology. In order to evaluate possible alternative blocking technologies, we solicited information regarding the cost of any alternative blocking technology as well as the cost of implementing ratings-based technology pursuant to EIA-608.

14. EIA-608 has provided television programmers, closed-captioning service

<sup>2</sup> See ET Docket 97-206, 12 FCC Rcd 15573 (1997), Appendix A.

<sup>3</sup> See 5 U.S.C. 604.

<sup>4</sup> Pub. L. 104-104, 111 Stat. 56 (1996).

<sup>5</sup> See FRFA Section E, *infra*, "Steps Taken to Minimize Significant Economic Impact on Small Entities and Significant Alternatives Considered."

<sup>6</sup> See 5 U.S.C. 601(3).

<sup>7</sup> 15 U.S.C. 632.

<sup>8</sup> 13 CFR 121.201, (SIC) Code 3663.

<sup>9</sup> U.S. Department of Commerce, 1992 *Census of Transportation, Communications, and Utilities*, SIC Code 3663 (issued May 1995).

<sup>10</sup> 13 CFR 121.201, (SIC) Code 3571.

<sup>11</sup> U.S. Small Business Administration 1995 Economic Census Industry and Enterprise Report, Table 3, SIC Code 3571. (Bureau of the Census data adapted by the Office of Advocacy of the U.S. Small Business Administration).

providers and television receiver manufacturers with a standard method for transmitting and using data information transmitted on line 21. It ensures compatibility between the various uses of this information and minimizes the need for government regulation in this area. In the *Notice* we recognized the broad acceptance of EIA-608 for transmission of data on line 21. Accordingly, we proposed to amend our rules to require that most television receivers receive program ratings information transmitted pursuant to EIA-608 and block video programming based on a ratings level specified by the user. To accomplish this, we proposed to incorporate the appropriate provisions of EIA-608 into our regulations. We invited comment on whether other technical standards for blocking technology were being developed or have been developed, and whether they should be used instead of or in addition to EIA-608.

15. Commenters were uniform in their support of our proposal to adopt EIA-608 as the transmission standard for program ratings information. No commenters suggested other transmission standards that the Commission should consider. We continue to believe that EIA-608 provides an appropriate means of transmitting program ratings information on line 21. Therefore, we are amending our rules to require that all television receivers with picture screens 33 cm (13 inches) or larger, measured diagonally, shipped in interstate commerce or manufactured in the United States, receive program ratings transmitted pursuant to industry standard EIA-608 and block both the video and the associated audio on the main and second audio program (SAP) channels, based on a ratings level specified by the user of the television receiver. We are also incorporating the relevant parts of EIA-608 into our rules, along with EIA-744 which contains a proposed amendment to EIA-608 that will include pertinent information on transmission of program ratings information.

16. In the *Notice* we also proposed to require television manufacturers to include blocking technology on at least half of their product models with a picture screen 33 cm (13 inches) or greater in size by July 1, 1998. The remainder of the models would be required to contain blocking technology by July 1, 1999. While all commenters agree that program blocking technology should be made available to the public as soon as possible, television manufacturers contend that the

deadlines proposed by the Commission are impossible to meet.

17. CEMA states that the design cycle for a television receiver model takes approximately 18–24 months. According to CEMA, “The cycle generally begins in January, and leads to product introduction the summer of the following year in time for the holiday buying season.” Other commenters state that this production cycle can not be compressed without creating the possibility of releasing an inferior product to the market. Additionally, CEMA, Philips, and Thomson also state that the Commission must release final rules in both this proceeding and CS Docket 97–55 before the production cycle may begin for v-chip equipped televisions. They request that the Commission delay the implementation deadline for at least one year subsequent to the release of rules in these proceedings.

18. After reviewing all of the comments filed in this proceeding, we conclude that it is appropriate to delay our implementation deadlines. Manufacturers were consistent in describing typical design and production schedules for TV receivers. We believe that our rules should conform with these schedules and provide a smooth transition for product introduction. We realize that, given these schedules, manufacturers are well into the production phase of sets that will be released in July 1998. Therefore, it would be infeasible to demand that these sets contain blocking technology. Furthermore, it would be detrimental to consumer confidence if forced compression of manufacturer design schedules resulted in the release of an unsatisfactory product. Accordingly, we are revising the implementation schedule proposed in the *Notice* to require that television manufacturers include blocking technology on at least half of their new product models with a picture screen 33 cm (13 inches) or greater in size by July 1, 1999. The remainder of the models would be required to contain blocking technology by January 1, 2000.

#### Report to Congress

The Commission will send a copy of the Report and Order, including this FRFA, in a report to Congress pursuant to the Small Business Regulatory Enforcement Fairness Act of 1996, see 5 U.S.C. 801(a)(1)(A). A copy of the Report and Order and this FRFA (or summary thereof) will also be published in the **Federal Register**, see 5 U.S.C. 604(b), and will be sent to the Chief Counsel for Advocacy of the Small Business Administration.

#### List of Subjects

##### 47 CFR Part 15

Communications equipment, Computer technology, Incorporation by reference.

##### 47 CFR Part 73

Communications equipment, Television.

Federal Communications Commission.

**Magalie Roman Salas,**  
Secretary.

#### Rule Changes

For the reasons discussed in the preamble part 15 and 73 of title 47 of the Code of Federal Regulations, are amended as follows:

#### PART 15—RADIO FREQUENCY DEVICES

1. The authority citation for part 15 continues to read as follows:

**Authority:** 47 U.S.C. 154, 302, 303, 304, 307 and 544A.

2. A new § 15.120 is added to read as follows:

##### § 15.120 Program blocking technology requirements for television receivers.

(a) Effective July 1, 1999, manufacturers of television broadcast receivers as defined in section 15.3(w) of this chapter, including personal computer systems meeting that definition, must ensure that one-half of their product models with picture screens 33 cm (13 in) or larger in diameter shipped in interstate commerce or manufactured in the United States comply with the provisions of paragraphs (c), (d), and (e) of this section.

**Note:** This paragraph places no restrictions on the shipping or sale of television receivers that were manufactured before July 1999.

(b) Effective January 1, 2000, all TV broadcast receivers as defined in section 15.3(w) of this chapter, including personal computer systems meeting that definition, with picture screens 33 cm (13 in) or larger in diameter shipped in interstate commerce or manufactured in the United States shall comply with the provisions of paragraphs (c), (d), and (e) of this section.

(c) Transmission format.

(1) Analog television program rating information shall be transmitted on line 21 of field 2 of the vertical blanking interval of television signals, in accordance with § 73.682(a)(22) of this chapter.

(2) [Reserved]

(d) Operation.

(1) Analog television receivers will receive program ratings transmitted

pursuant to industry standard EIA-744 "Transport of Content Advisory Information Using Extended Data Service (XDS)", October 1997, Electronics Industries Association and EIA-608 "Recommended Practice for Line 21 Data Service", September 1994, Electronics Industries Association. This incorporation by reference was approved by the Director of the Federal Register in accordance with 5 U.S.C. 552(a) and 1 CFR part 51. Blocking of programming shall occur when a program rating is received that meets the pre-determined user requirements. Copies of EIA-744 and EIA-608 may be obtained from: Global Engineering Documents, 15 Inverness Way East, Englewood, Co 80112-5704. Copies of EIA-744 and EIA-608 may be inspected during normal business hours at the following locations: Federal Communications Commission, 2000 M Street, NW, Technical Information Center (Suite 230), Washington, DC, or the Office of the Federal Register, 800 North Capitol Street, NW, suite 700 Washington, DC.

(2) Digital television receivers shall react in a similar manner as analog televisions when programmed to block specific rating categories.

(e) All television receivers as described in paragraph (a) of this section shall block programming as follows:

(1) *Channel Blocking.* Channel Blocking should occur as soon as a program rating packet with the appropriate Content Advisory or MPAA rating level is received. Program blocking is described as a receiver performing all of the following:

- Muting the program audio.
- Rendering the video black or otherwise indecipherable.
- Eliminating program-related captions.

(2) *Default State.* The default state of a receiver (i.e., as provided to the consumer) should not block unrated programs. However, it is permissible to include features that allow the user to reprogram the receiver to block programs that are not rated.

(3) *Picture-In-Picture (PIP).* If a receiver has the ability to decode program-related rating information for the Picture-In-Picture (PIP) video signal, then it should block the PIP channel in the same manner as the main channel. If the receiver does not have the ability to decode PIP program-related rating information, then it should block or otherwise disable the PIP if the viewer has enabled program blocking.

(4) *Selection of Ratings.* Each television receiver, in accordance with user input, shall block programming

based on the age based ratings, the content based ratings, or a combination of the two.

(i) If the user chooses to block programming according to its age based rating level, the receiver must have the ability to automatically block programs with a more restrictive age based rating. For example, if all shows with an age-based rating of TV-PG have been selected for blocking, the user should be able to automatically block programs with the more restrictive ratings of TV-14 and TV-MA.

(ii) If the user chooses to block programming according to a combination of age based and content based ratings the receiver must have the ability to automatically block programming with a more restrictive age rating but a similar content rating. For example, if all shows rated TV-PG-V have been selected for blocking, the user should be able to block automatically shows with the more restrictive ratings of TV-14-V and TV-MA-V.

(iii) The user should have the capability of overriding the automatic blocking described in paragraphs (e)(4)(i) and (4)(ii) of this section.

## PART 73—RADIO BROADCAST SERVICES

1. The authority citation for part 73 continues to read as follows:

**Authority:** 47 U.S.C. 154, 303, 334 and 336.

2. Section 73.682 is amended by revising paragraphs (a)(22)(i) and (a)(24)(iii)(A) to read as follows:

### § 73.682 TV transmission standards.

(a) \* \* \*

(22)(i) Line 21, in each field, may be used for the transmission of a program-related data signal which, when decoded, provides a visual depiction of information simultaneously being presented on the aural channel (captions). Line 21, field 2 may be used for transmission of a program-related data signal which, when decoded, identifies a rating level associated with the current program. Such data signals shall conform to the format described in figure 17 of § 73.699 of this chapter, and may be transmitted during all periods of regular operation. On a space available basis, line 21 field 2 may also be used for text-mode data and extended data service information.

**Note:** The signals on Fields 1 and 2 shall be distinct data streams, for example, to supply captions in different languages or at different reading levels.

\* \* \* \* \*

(24) \* \* \*

(iii) \* \* \*

(A) The use of such signals shall not result in significant degradation to any portion of the visual, aural, or program-related data signals of the television broadcast station;

\* \* \* \* \*

[FR Doc. 98-10742 Filed 4-22-98; 8:45 am]

BILLING CODE 6712-01-P

## DEPARTMENT OF TRANSPORTATION

### Research and Special Programs Administration

#### 49 CFR Part 192

[Docket PS-118A; Amendment 192-83]

RIN 2137-AC55

### Excess Flow Valve—Customer Notification

**AGENCY:** Research and Special Programs Administration (RSPA), DOT.

**ACTION:** Final rule; correction.

**SUMMARY:** This document corrects the Amendment number of final rule [Docket No. PS-118A; Amdt. 192-82], published in the **Federal Register** on February 3, 1998 (63 FR 5464). In the document heading on page 5464, the "Amendment 192-82" is changed to read "Amendment 192-83". Also in the same final rule [63 FR 5464: 2/3/98] this document corrects metric units for pressure from "m" to "kPa".

**EFFECTIVE DATES:** April 23, 1998.

**FOR FURTHER INFORMATION CONTACT:** Mike M. Israni, telephone (202) 366-4571.

### SUPPLEMENTARY INFORMATION:

#### Background

On February 3, 1998, RSPA issued a final rule [63 FR 5464] requiring operators of natural gas distribution systems to provide certain customers with information about excess flow valves (EFV's). In that final rule on page 5471 under § 192.383(b)—Which customers must receive notification, in the first sentence the service line pressure of not less than 68.9 kPa (10 psig) was erroneously labeled "68.9 m (10 psig)".

#### Need for Correction

As published, the final rule contains an error in metric units which may confuse and is in need of clarification.

#### List of Subjects in 49 CFR Part 192

Pipeline safety, Reporting and recordkeeping requirements.