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ARCHITECTURAL AND TRANSPORTATION BARRIERS COMPLIANCE BOARD

36 CFR Parts 1193 and 1194

RIN 3014-AA37

Information and Communication Technology (ICT) Standards and Guidelines

AGENCY: Architectural and Transportation Barriers Compliance Board.

ACTION: Final rule; delay of effective date.

SUMMARY: The Architectural and Transportation Barriers Compliance Board (Access Board) is briefly postponing the effective date of its recently-promulgated final rule that establishes revised accessibility standards and guidelines for information and communication technology (ICT). The ICT final rule was published in the Federal Register on January 18, 2017, and is scheduled to become effective on March 20, 2017. A brief postponement of this effective date is necessitated by the memorandum from the Assistant to the President and Chief of Staff, entitled “Regulatory Freeze Pending Review” (Jan. 20, 2017), which generally calls on Federal agencies to delay the effective

dates of published, but not-yet-effective, final rules for 60 days from the date of the memorandum. The ICT final rule will take effect on March 21, 2017.

DATES: The effective date of the final rule published on January 18, 2017 at 82 FR 5790 is delayed to March 21, 2017. However, compliance with the section 508-based standards is not required until January 18, 2018, which is one year after the final rule's original publication date. Compliance with the section 255-based guidelines is not required until the guidelines are adopted by the Federal Communications Commission. The incorporation by reference of certain publications listed in the final rule published on January 18, 2017 at 82 FR 5790 is approved by the Director of the Federal Register as of March 21, 2017.

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SUPPLEMENTARY INFORMATION: On January 18, 2017, the Access Board issued a final rule that revised and updated, in a single rulemaking, our existing standards for information and technology (ICT) covered by section 508 of the Rehabilitation Act of 1973 (which includes, among other things, ICT developed, procured, maintained, or used by Federal agencies) (hereafter, "Revised 508 Standards"), and our existing guidelines for telecommunications equipment and customer premises equipment covered by Section

255 of the Communications Act of 1934 (hereafter, “Revised 255 Guidelines.”). See Information and Communication Technology Standards and Guidelines, 82 FR 5790 (Jan. 18, 2017) (to be codified at 36 CFR parts 1193 and 1194). The published notice for the ICT final rule provided that the rule would take effect on March 20, 2017.

Subsequently, on January 20, 2017, the Assistant to the President and Chief of Staff, issued a memorandum entitled “Regulatory Freeze Pending Review.” This memorandum instructed Federal departments and agencies, among other things, to temporarily postpone for 60 days (dating from the date of the memorandum) the effective dates of their respective regulations that had been published in the Federal Register but were not yet effective.

In accordance with the January 20 memorandum, the Access Board is briefly postponing the effective date of the ICT final rule until March 21, 2017, which represents a one-day delay in the effective date of this final rule relative to its originally-scheduled effective date. There is no change to the substance of the Revised 508 Standards or Revised 255 Guidelines. Nor does this brief postponement of the effective date alter the compliance date for certain ICT covered by the Revised 508 Standards, which remains January 18, 2018 (i.e., one year after original publication date of ICT final rule).

Pursuant to the Administrative Procedure Act (APA) (5 U.S.C. 553), the Access Board generally provides interested parties the opportunity to comment on proposed regulations and publishes rules not less than 30 days before their effective dates.

However, the APA provides that an agency is not required to conduct notice-and-comment rulemaking or delay effective dates when the agency, for good cause, finds that these procedural requirements would be impracticable, unnecessary, or contrary to the public interest. See 5 U.S.C. 553(b)(B) and (d)(3). Here, a one-day postponement of the effective date of the ICT final rule, as called for in the January 20 memorandum, would neither delay the final rule's implementation to any material degree nor alter the originally-established compliance date for the Revised 508 Standards. Accordingly, because a one-day delay in the effective date of the ICT final rule will have no material impact on its implementation, the Access Board finds that good cause exists to exempt the instant rule from notice-and-comment requirements. See 5 U.S.C. 553(b)(B). Additionally, because a one-day postponement of the ICT final rule's originally-published effective date will have no substantive impact, the instant rule is being made effective upon publication in the Federal Register and, in any event, a 30-day delay in its effective date would be impracticable and unnecessary in these circumstances. See 5 U.S.C. 553(d)(3) (exempting substantive rules from requisite 30-day delay in effective date upon finding of good cause).

David M. Capozzi,

Executive Director.

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