

## § 13.215

(f) Agree not to administer an examination to an employee, relative, or relative of an employee.

### § 13.215 Question pools.

The question pool for each written examination element will be composed of questions acceptable to the FCC. Each question pool must contain at least five (5) times the number of questions required for a single examination. The FCC will issue public announcements detailing the questions in the pool for each element. COLEMs must use only currently-authorized (through public notice or other appropriate means) question pools when preparing a question set for a written examination element.

[73 FR 4479, Jan. 25, 2008]

### § 13.217 Records.

Each COLEM recovering fees from examinees must maintain records of expenses and revenues, frequency of examinations administered, and examination pass rates. Records must cover the period from January 1 to December 31 of the preceding year and must be submitted as directed by the Commission. Each COLEM must retain records for 1 year and the records must be made available to the FCC upon request.

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

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AUTHORITY: 47 U.S.C. 151–154, 255, 303, 403, 503, 617, 618 unless otherwise noted.

SOURCE: 76 FR 82389, Dec. 30, 2011, unless otherwise noted.

### Subpart A—Scope

#### § 14.1 Applicability.

Except as provided in §§ 14.2, 14.3, 14.4 and 14.5 of this chapter, the rules in this part apply to:

(a) Any manufacturer of equipment used for advanced communications services, including end user equipment, network equipment, and software, that such manufacturer offers for sale or otherwise distributes in interstate commerce;

(b) Any provider of advanced communications services that such provider offers in or affecting interstate commerce.

#### § 14.2 Limitations.

(a) Except as provided in paragraph (b) of this section no person shall be

liable for a violation of the requirements of the rules in this part with respect to advanced communications services or equipment used to provide or access advanced communications services to the extent such person—

(1) Transmits, routes, or stores in intermediate or transient storage the communications made available through the provision of advanced communications services by a third party; or

(2) Provides an information location tool, such as a directory, index, reference, pointer, menu, guide, user interface, or hypertext link, through which an end user obtains access to such advanced communications services or equipment used to provide or access advanced communications services.

(b) The limitation on liability under paragraph (a) of this section shall not apply to any person who relies on third party applications, services, software, hardware, or equipment to comply with the requirements of the rules in this part with respect to advanced communications services or equipment used to provide or access advanced communications services.

(c) The requirements of this part shall not apply to any equipment or services, including interconnected VoIP service, that were subject to the requirements of Section 255 of the Act on October 7, 2010, which remain subject to Section 255 of the Act, as amended, and subject to the rules in parts 6 and 7 of this chapter, as amended.

#### **§ 14.3 Exemption for Customized Equipment or Services.**

(a) The rules in this part shall not apply to customized equipment or services that are not offered directly to the public, or to such classes of users as to be effectively available directly to the public, regardless of the facilities used.

(b) A provider of advanced communications services or manufacturer of equipment used for advanced communications services may claim the exemption in paragraph (a) of this section as a defense in an enforcement proceeding pursuant to subpart D of this part, but is not otherwise required

to seek such an affirmative determination from the Commission.

#### **§ 14.4 Exemption for Small Entities.**

(a) A provider of advanced communications services or a manufacturer of equipment used for advanced communications services to which this part applies is exempt from the obligations of this part if such provider or manufacturer, at the start of the design of a product or service:

(1) Qualifies as a business concern under 13 CFR 121.105; and

(2) Together with its affiliates, as determined by 13 CFR 121.103, meets the relevant small business size standard established in 13 CFR 121.201 for the primary industry in which it is engaged as determined by 13 CFR 121.107.

(b) A provider or manufacturer may claim this exemption as a defense in an enforcement proceeding pursuant to subpart D of this part, but is not otherwise required to seek such an affirmative determination from the Commission.

(c) This exemption will expire no later than October 8, 2013.

#### **§ 14.5 Waivers—Multipurpose Services and Equipment.**

(a) *Waiver.* (1) On its own motion or in response to a petition by a provider of advanced communications services, a manufacturer of equipment used for advanced communications services, or by any interested party, the Commission may waive the requirements of this part for any feature or function of equipment used to provide or access advanced communications services, or for any class of such equipment, for any provider of advanced communications services, or for any class of such services, that—

(i) Is capable of accessing an advanced communications service; and

(ii) Is designed for multiple purposes, but is designed primarily for purposes other than using advanced communications services.

(2) For any waiver petition under this section, the Commission will examine on a case-by-case basis—

(i) Whether the equipment or service is designed to be used for advanced communications purposes by the general public; and